



LAWS OF ALASKA

1977

Source

Chapter No.

CSSB 128 (Finance)

105

AN ACT

Relating to commercial fishing licensing; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 16.05.065 is amended to read:

Sec. 16.05.065. APPLICATION EXTENSION. (a) The commissioner shall extend the time and dates during which application may be made for fish or game registration if he finds that

(1) the conservation and management of the fish or game resource will not be affected adversely; and

(2) the failure to timely apply is the result of excusable neglect.

(b) The fee for an extension granted under this section is \$45.

(c) As used in this section, "excusable neglect" does not include unfamiliarity with or ignorance of applicable laws and regulations. In order to show excusable neglect, a person must have demonstrated, before the registration deadline, an intent to harvest fish or game.

* Sec. 2. AS 16.05.450(a) is amended to read:

ARTICLE 4. LICENSING OF COMMERCIAL FISHING CREWMEMBERS AND VESSELS.

(a) The commissioner of revenue or his authorized agent shall issue a crewmember fishing license under sec. 480 of this chapter to each qualified person who files a written application at a place in the state designated by

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the commissioner, containing the reasonable information required by the commissioner together with the required fee. The application shall be simple in form and shall be executed by the applicant under the penalty of perjury.

* Sec. 3. AS 16.05.450(b) is repealed and re-enacted to read:

(b) The Commercial Fisheries Entry Commission shall issue a vessel license under sec. 490 of this chapter to each qualified vessel for which a written application has been filed at a place in the state designated by the commission, containing the reasonable information required by the commissioner together with the required fee. The application shall be simple in form and shall be executed by the applicant under the penalty of perjury.

* Sec. 4. AS 16.05.460 is amended to read:

Sec. 16.05.460. COMMISSIONER OF REVENUE MAY APPOINT AGENTS. The commissioner of revenue may appoint qualified persons as his agents to receive applications, issue licenses, and collect license fees under secs. 440 - 480 of this chapter, and to assist in the completion of annual application or renewal forms for interim-use permits and entry permits issued under ch. 43 of this title.

* Sec. 5. AS 16.05.470 is amended to read:

Sec. 16.05.470. FEE FOR ISSUANCE OF LICENSES AND INTERIM-USE OR ENTRY PERMITS. (a) A person appointed and authorized by the commissioner of revenue to sell licenses under secs. 440 - 480 of this chapter, except salaried employees of the state, shall retain the sum of 15 per cent of the fee for the issuance of a license. An agent shall transmit monthly to the commissioner all license fees collected by him, less the authorized commission, together with a full accounting of the fees. The commissioner shall make monthly remittances of the fees collected to the proper state official. The commissioner is not liable for defalcation or failure to account for the fees collected by an agent, but he shall require a bond in the sum he considers adequate, conditioned upon the faithful accounting of money collected.

* Sec. 6. AS 16.05.470 is amended by adding a new subsection to read:

(b) A person appointed by the commissioner of revenue under sec. 460 of this chapter to issue licenses under secs. 440 - 480 of this chapter, except salaried employees of the state, shall retain the sum of 15 per cent of the interim-use or entry permit fee for assisting in completion of the annual application or renewal form for the interim-use or entry permit. An agent shall transmit promptly to the Commercial Fisheries Entry Commission all application or renewal forms and fees collected by him, less the authorized commission, together with a full accounting of the fees. The commissioner and the Commercial Fisheries Entry Commission are not liable for defalcation or failure to account for the fees collected by an agent, but the commissioner shall require a bond in the sum he considers ade-

quate, conditioned upon the faithful accounting of money collected.

* Sec. 7. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.475. REGISTRATION OF FISHING VESSELS. (a) It is unlawful for any person to employ a fishing vessel in the water of Alaska unless it is registered under the laws of the state. Vessels registered under the laws of another state, and persons residing in another state, are not excused from this provision.

(b) The term "employ", as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under the Administrative Procedure Act (AS 44.62). The definition may include any activities involving the use or navigation of fishing vessels.

(c) The term "registered under the laws of the state", as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under the Administrative Procedure Act (AS 44.62). The definition may include any existing requirements regarding registration, licenses, permits, and similar matters imposed by law or regulation together with modifications of them and with any additional requirements the board finds necessary to maximize the authority of the state to apply and enforce fisheries regulations under the Fishery Conservation and Management Act of 1976 (P.L. 94-265, 90 Stat. 331, 16 U.S.C. 1801 et seq.).

(d) The term "fishing vessel", as used in this section, means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for

- (1) fishing, or
- (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

* Sec. 8. AS 16.05.480 is amended to read:

Sec. 16.05.480. CREWMEMBER FISHING LICENSE. (a) A commercial fisherman who does not hold a permit issued under ch. 43 of this title shall obtain a crewmember fishing license. ~~The fee for the license is \$10 for residents, and \$30 for nonresidents. All crewmember fishing licenses are nontransferable and shall be retained in the possession of the licensee, readily accessible for inspection at all times.~~

(b) A person applying for a resident crewmember license under this section shall provide the proof of residence which the department requires by regulation.

(c) The commissioner of revenue or his authorized agent may issue a duplicate crewmember fishing license as a replacement for a license issued under (a) of this section.

A fee of \$2 shall be charged for each duplicate license, and the duplicate may not be issued unless the commissioner or his agent is satisfied that the original has been lost or destroyed.

* Sec. 9. AS 16.05.520 is amended to read:

Sec. 16.05.520. NUMBER PLATE. (a) The vessel license includes a permanent number plate. The number plate shall be accompanied by a tab affixed to it designating the year to be fished. A number plate is not transferable, and it shall be considered a permanent fixture upon the vessel upon which it is originally placed. It shall be securely fastened well forward on the port side in plain sight. On a vessel with a superstructure the plate shall be fastened on the port side of the superstructure. A number plate remains the property of the state. If a permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall immediately apply for and may obtain a duplicate upon furnishing the Commercial Fisheries Entry Commission with the pertinent facts and a payment of \$2.

(b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner shall immediately report the loss, destruction, or sale to the Commercial Fisheries Entry Commission.

* Sec. 10. AS 16.05.530 is amended to read:

Sec. 16.05.530. ANNUAL RENEWAL OF VESSEL LICENSE. Upon annual payment of a license fee of \$20, and filing of the name and address of the owner or his authorized agent of the vessel, the name and number of the vessel, a description of the vessel, vessel license number, if any, the area to be fished, and other reasonable information required by the Commercial Fisheries Entry Commission, the commission shall issue a number plate and a vessel license. If the vessel has a number plate, the commission shall issue a vessel license and tab designating the year. The tab shall be placed in the space provided on the permanent number plate.

* Sec. 11. AS 16.05.680 is amended to read:

Sec. 16.05.680. UNLAWFUL PURCHASES. It is unlawful for a person, his agent, or his representative

(1) to have in his employ, in the harvesting, transporting or purchasing of fish, a fisherman who neither is licensed under sec. 480 of this chapter nor is the holder of a permit issued under ch. 43 of this title,

(2) to purchase fish from a fisherman who neither is the holder of a permit issued under ch. 43 of this title, nor is exempt under sec. 660 of this chapter, or

(3) to purchase fish from an association other than one to which a permit has been issued under sec. 662 of this chapter.

- * Sec. 12. AS 16.05.940(2) is amended to read:

(2) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

- * Sec. 13. AS 16.10.310(a)(1)(A) is amended to read:

(A) individual commercial fishermen who have been state residents for a continuous period of five years and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under ch. 43 of this title for three years, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of entry permits and gear, and for the construction and purchase of vessels; and

- * Sec. 14. AS 16.43.100(a) is amended by adding a new paragraph to read:

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490.

- * Sec. 15. AS 16.43.160 is amended to read:

Sec. 16.43.160. FEES. (a) The commission shall establish annual fees for the issuance and annual renewal of entry permits or interim-use permits. Fees collected under this section shall be paid into the general fund, except for an amount equal to 60 per cent of the fee each permit holder would otherwise be obligated to pay for a crewmember license under sec. 480 of this chapter which shall be paid into the fishermen's fund under AS 23.35.060.

(b) Annual fees established under this section shall be no less than \$10 and no more than \$750 and shall reasonably reflect the different rates of economic return for different fisheries.

(c) The resident holder of an entry permit or interim-use permit who has a net family income falling within the Federal Community Services Administration poverty guidelines, adjusted by the commission to reflect appropriate cost-of-living differentials, is subject to a maximum annual fee of \$15.

- * Sec. 16. AS 23.35.060 is amended to read:

Sec. 23.35.060. CREATION AND ADMINISTRATION OF FISHERMEN'S FUND. There is created a fund, designated as the "fishermen's fund." The Department of Revenue is the custodian of the fund and the Department of Labor shall administer it. The fund shall be composed of 60 per cent

of the money derived by the state from each crewmember fishing license issued under AS 16.05.480, an equal amount of the money derived by the state from each commercial fisherman who is issued a permit under AS 16.43, and money appropriated to carry out the purpose of secs. 10 - 150 of this chapter.

* Sec. 17. AS 23.35.150(4) is amended to read:

(4) "fisherman" means a person who is licensed by the state to engage in commercial fishing under AS 16.05.480 or who is the holder of a permit issued under AS 16.43 and who, at the time injury is sustained or illness is contracted, is actually so engaged or is occupied in Alaska in preparing or dismantling boats or gear used in commercial fishing;

* Sec. 18. AS 44.25.020(2) is amended to read:

(2) collect, account for, have custody of, invest, and manage all state funds and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department, except that the Department of Revenue shall issue fish and game licenses other than vessel licenses under AS 16.05.490 - 16.05.530, collect fish and game license revenues other than revenues from vessel licenses under AS 16.05.490 - 16.05.530, and do all other acts incidental to the performance of these functions;

* Sec. 19. AS 16.05.450(c), 16.05.490(b), (c), (d), and (e), 16.05.500, 16.05.540 - 16.05.650, and 16.05.670 are repealed.

* Sec. 20. Section 7 of this Act takes effect immediately in accordance with AS 01.10.070(c). Sections 1 - 6 and 8 - 19 of this Act take effect January 1, 1978.