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Source

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Chapter No.

34

AN ACT

Authorizing the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into the Southeast Alaska dungeness crab fishery and certain other commercial fisheries, relating to petitions by the commissioner of fish and game for the establishment of a moratorium, and relating to qualifications for entry permits; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 12, 1991
Actual Effective Date: June 13, 1991

AN ACT

1 Authorizing the Alaska Commercial Fisheries Entry Commission to establish a
2 moratorium on new entrants into the Southeast Alaska dungeness crab fishery and
3 certain other commercial fisheries, relating to petitions by the commissioner of fish and
4 game for the establishment of a moratorium, and relating to qualifications for entry
5 permits; and providing for an effective date.
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9 * Section 1. FINDINGS. The legislature finds that

10 (1) the continuation of a new and emerging commercial fishery may be threatened by the
11 lack of adequate biological and resource management information necessary to determine the amount
12 of fishing effort that a fishery resource can sustain;

13 (2) the continuation of a new and emerging commercial fishery may be threatened by an
14 increase in fishing effort that is coupled with a lack of sufficient biological and resource management
15 information necessary to ascertain, consistent with the principles of sustained yield, whether the fishery
16 can support additional fishing effort;

17 (3) the provisions of the current commercial fisheries limited entry statutes, developed
18 for commercial salmon fisheries, may not be appropriate for certain new and emerging commercial
19 fisheries in the state;

20 (4) the time consuming process required to consider, adopt, and implement a limited entry
21 program for a fishery, coupled with public discussion of a proposal for limiting entry into the fishery,

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1 can stimulate a rush of new entrants into the fishery before the limited entry program can be
2 implemented.

3 * Sec. 2. AS 16.05.050 is amended by adding a new paragraph to read:

4 (20) to petition the Alaska Commercial Fisheries Entry Commission, unless the
5 Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on
6 new entrants into commercial fisheries

7 (A) that have experienced recent increases in fishing effort that are beyond
8 a low, sporadic level of effort;

9 (B) that have achieved a level of harvest that may be approaching or
10 exceeding the maximum sustainable level for the fishery; and

11 (C) for which there is insufficient biological and resource management
12 information necessary to promote the conservation and sustained yield management of the
13 fishery.

14 * Sec. 3. AS 16.05.251 is amended by adding a new subsection to read:

15 (g) The Board of Fisheries shall consider a request of the commissioner for approval of
16 a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on
17 new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special
18 meeting that follows the receipt by the board of the request for approval of the petition and that
19 allows time for the notice required under this subsection. The board may consider the request
20 of the commissioner for approval of the petition only after 15 days' public notice of the board's
21 intention to consider approval of the petition. The board shall consider whether the
22 commissioner, in support of the request for approval of the petition, has adequately shown that
23 the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board
24 by a majority vote of its members at the meeting when the petition must be considered shall
25 approve or disapprove the petition.

26 * Sec. 4. AS 16.43.100(a) is amended to read:

27 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall [:]

28 (1) regulate entry into the commercial fisheries for all fishery resources in the
29 state;

30 (2) establish priorities for the application of the provisions of this chapter to the

1 various commercial fisheries of the state;

2 (3) establish administrative areas suitable for regulating and controlling entry into
3 the commercial fisheries;

4 (4) establish, for all types of gear, the maximum number of entry permits for each
5 administrative area;

6 (5) designate, when necessary to accomplish the purposes of this chapter,
7 particular species for which separate interim-use permits or entry permits will be issued;

8 (6) establish qualifications for the issuance of entry permits;

9 (7) issue entry permits to qualified applicants;

10 (8) issue interim-use permits as provided in AS 16.43.210, [AND] 16.43.220, and
11 16.43.225;

12 (9) establish, for all types of gear, the optimum number of entry permits for each
13 administrative area;

14 (10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320
15 to reduce the number of outstanding entry permits to the optimum number of entry permits;

16 (11) provide for the transfer and reissuance of entry permits to qualified
17 transferees;

18 (12) provide for the transfer and reissuance of entry permits for alternative types
19 of legal gear, in a manner consistent with the purposes of this chapter;

20 (13) administer the collection of the annual fees provided for in AS 16.43.160;

21 (14) administer the issuance of commercial fishing vessel licenses under
22 AS 16.05.490;

23 (15) issue educational entry permits to applicants who qualify under the provisions
24 of AS 16.43.340 - 16.43.390;

25 (16) establish reasonable user fees for services;

26 (17) issue landing permits under [IN ACCORDANCE WITH] AS 16.05.675 and
27 regulations adopted under that section; [AND]

28 (18) establish and collect annual fees for the issuance of landing permits that
29 reasonably reflect the costs incurred in the administration and enforcement of provisions of law
30 related to landing permits; and

1 (2) the commission finds that

2 (A) the fishery has reached a level of participation that may threaten the
3 conservation and the sustained yield management of the fishery resource and the
4 economic health and stability of commercial fishing; and

5 (B) the commission has insufficient information to conclude that the
6 establishment of a maximum number of entry permits under AS 16.43.240 would further
7 the purposes of this chapter.

8 (c) The commission may establish a moratorium under this section for a continuous
9 period of up to four years. A fishery that has been subject to a moratorium under this section
10 may not be subjected to a subsequent moratorium under this section unless five years have
11 elapsed since the previous moratorium expired.

12 (d) While a moratorium is in effect, the commission shall conduct investigations to
13 determine whether a maximum number of entry permits should be established under
14 AS 16.43.240 by

15 (1) conducting research into conditions in the fishery;

16 (2) consulting with the Department of Fish and Game and the Board of Fisheries;

17 and

18 (3) consulting with participants in the fishery.

19 (e) The commission shall establish by regulation the qualifications for applicants for an
20 interim-use permit for a fishery subject to a moratorium under this section. The qualifications
21 must include the minimum requirements for past or present participation and harvest in the
22 fishery. The commission may not issue an interim-use permit for a fishery subject to a
23 moratorium under this section unless the applicant can satisfy the qualifications established under
24 this subsection and establish the present ability and intent to participate actively in the fishery.

25 Sec. 16.43.227. SOUTHEAST ALASKA DUNGENESS CRAB FISHERY. (a) The
26 commission may establish a moratorium on new entrants into the southeast Alaska dungeness
27 crab fishery for a continuous period of up to four years without complying with
28 AS 16.43.225(a) - (c). While the moratorium is in effect, the commission shall

29 (1) conduct the investigation required under AS 16.43.225(d);

30 (2) establish by regulation the qualifications for an interim-use permit for the

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1 fishery, including minimum requirements for past or present participation and harvest in the
2 fishery; and

3 (3) issue interim-use permits for the fishery to applicants who satisfy the
4 qualifications established under (2) of this subsection and who establish the present ability and
5 intent to participate actively in the fishery.

6 (b) Notwithstanding AS 16.43.225, for the purposes of this chapter

7 (1) an interim-use permit issued under this section shall be treated as an interim-
8 use permit issued under AS 16.43.225;

9 (2) a moratorium established under this section shall be treated as a moratorium
10 established under AS 16.43.225.

11 * Sec. 8. AS 16.43.240(b) is amended to read:

12 (b) When the commission finds that a fishery, not designated as a distressed fishery under
13 AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has reached levels of
14 participation that [WHICH] require the limitation of entry in order to achieve the purposes of
15 this chapter, the commission shall establish the maximum number of entry permits for that
16 fishery.

17 * Sec. 9. AS 16.43.240 is amended by adding a new subsection to read:

18 (c) When the commission finds that a fishery subject to a moratorium under
19 AS 16.43.225 has reached levels of participation that require the limitation of entry in order to
20 achieve the purposes of this chapter, the commission shall establish the maximum number of
21 entry permits for that fishery.

22 * Sec. 10. AS 16.43.260(a) is amended to read:

23 (a) The commission shall accept applications for entry permits only from applicants who
24 have harvested fishery resources commercially while participating in the fishery as holders of
25 gear licenses issued under AS 16.05.536 - 16.05.670 or [AND] interim-use permits under
26 AS 16.43.210(a) or 16.43.225 before the qualification date established in (d), [OR] (e), or (f) of
27 this section. The commission may specify by regulation the calendar years of participation that
28 will be considered for eligibility purposes.

29 * Sec. 11. AS 16.43.260(d) is amended to read:

30 (d) Except as provided in (e) or (f) of this section, an applicant shall be assigned to a

1 priority classification based solely upon the applicant's qualifications as of January 1, 1973.

2 * Sec. 12. AS 16.43.260(e) is amended to read:

3 (e) Except as provided in (f) of this section, when [WHEN] the commission establishes
4 the maximum number of entry permits for a particular fishery under AS 16.43.240 after
5 January 1, 1975, an applicant shall be assigned to a priority classification based solely upon the
6 applicant's qualifications as of January 1 of the year during which the commission establishes
7 the maximum number of entry permits for the fishery for which application is made.

8 * Sec. 13. AS 16.43.260 is amended by adding a new subsection to read:

9 (f) When the commission establishes the maximum number of entry permits under
10 AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225, an applicant for
11 an entry permit for the fishery shall be assigned to a priority classification based solely upon the
12 applicant's qualifications as of the effective date of the regulation establishing the moratorium.

13 * Sec. 14. This Act takes effect immediately under AS 01.10.070(c).