

SENATE BILL NO. 90

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR MICCICHE

Introduced: 3/13/19

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission;**
2 **relating to administrative areas for regulation of certain commercial set net entry**
3 **permits; establishing a buy-back program for certain set net entry permits; providing**
4 **for the termination of state set net tract leases under the buy-back program; closing**
5 **certain water to commercial fishing; and providing for an effective date."**

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

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the East Side of Cook Inlet Set Net Fleet
10 Reduction Act.

11 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 LEGISLATIVE FINDINGS AND INTENT. (a) The Alaska State Legislature finds

1 that it is in the public interest to reduce the number of commercial set net fishers and decrease
 2 the pressure of commercial fishing on the east side of Cook Inlet, to create a more
 3 economically viable and sustainable set net fishery, and to allow more fish for in-river users.

4 (b) It is the intent of the legislature that the program established by this Act will not
 5 have an adverse effect on the state treasury.

6 * **Sec. 3.** AS 16.43.200(b) is amended to read:

7 (b) The commission may modify or change the boundaries of **an**
 8 **administrative area or divide an existing administrative area into two or more**
 9 **separate administrative** areas when necessary and consistent with the purposes of
 10 this chapter.

11 * **Sec. 4.** AS 16.43.200 is amended by adding new subsections to read:

12 (c) Notwithstanding (a) and (b) of this section, for the purposes of issuing
 13 entry permits and controlling entry into the commercial set net fishery on the east side
 14 of Cook Inlet, the commission shall establish the area administered on December 31,
 15 2019, identified by the Department of Fish and Game as of January 1, 2019, as
 16 statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of the Eastern
 17 Set Net Subdistrict of the Cook Inlet Central District as a distinct administrative area
 18 separate from the Cook Inlet Central District.

19 (d) An individual who holds an entry permit that entitles the person to set net
 20 commercially in the area that was administered on December 31, 2019, by the
 21 commission as the Cook Inlet Central District may not set net commercially in the
 22 area established under (c) of this section.

23 * **Sec. 5.** AS 16.43 is amended by adding a new section to article 4 to read:

24 **Sec. 16.43.332. Commercial shore set net entry permit buy-back program.**

25 (a) In addition to the buy-back provisions under AS 16.43.310 and 16.43.320, an
 26 individual who is qualified under this section may sell the individual's entry permit to
 27 the commission under the conditions established in this section. To participate, an
 28 individual must

29 (1) hold a commercial fishing set net entry permit for the
 30 administrative area established under AS 16.43.200(c);

31 (2) provide proof satisfactory to the commission of the individual's

1 participation in the fishery identified by the Department of Fish and Game as of
2 January 1, 2019, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-
3 42 of the Eastern Set Net Subdistrict of the Cook Inlet Central District within the two
4 years preceding December 31, 2018; and

5 (3) apply to the commission.

6 (b) Participation in the buy-back program established under this section is
7 voluntary. An individual qualified under this section may apply electronically on a
8 form provided by the commission to have the individual's entry permit purchased
9 under this section. The commission shall provide each applicant with an electronic
10 receipt evidencing the date and time the individual's application was received. Subject
11 to appropriation, the commission shall buy back 200 unencumbered entry permits in
12 the order in which applicant names are drawn by a lottery. If an applicant whose
13 permit has been selected for purchase elects not to participate in the buy-back
14 program, fails to sign the contract of sale within a period specified by the commission,
15 or fails to provide the information required under (g) of this section, the commission
16 shall offer to buy back the entry permit of the applicant whose name was next selected
17 in the lottery.

18 (c) The commission shall cancel an entry permit purchased under this section.
19 The commission may not reissue a permit or issue another permit in the place of a
20 cancelled permit.

21 (d) Subject to appropriation, the commission shall

22 (1) buy back the entry permit of an applicant selected in the lottery
23 under this section for \$260,000, less administrative costs; and

24 (2) provide each applicant whose entry permit is purchased by the
25 commission under this section the option of accepting payment in three annual
26 installments.

27 (e) When the commission purchases an entry permit under (b) of this section
28 from an individual who

29 (1) holds a lease under AS 38.05.082, the commission shall provide
30 the Department of Natural Resources with notice of the sale, the seller's identity, and
31 the affected lease under AS 38.05.082;

1 (2) fishes the individual's entry permit from a tract leased from a
2 municipality or from other unleased public or private land, the commission shall
3 provide the Department of Natural Resources and the Department of Fish and Game
4 with notice of the sale, the seller's identity, and information concerning the leased tract
5 provided by the individual under (g) of this section.

6 (f) Upon notice from the commission under (e) of this section, and
7 notwithstanding AS 38.05.085, the Department of Natural Resources shall

8 (1) without penalty or charge, terminate all land leases held under
9 AS 38.05.082 used to fish an entry permit purchased by the commission under (b) of
10 this section; and

11 (2) provide the Department of Fish and Game with the geographic and
12 legal boundaries of a tract for which a lease is cancelled under (1) of this subsection.

13 (g) An individual who applies to take part in the buy-back program under this
14 section and who

15 (1) leases land from a municipal government to fish the individual's set
16 net entry permit shall provide the commission with the geographic location and
17 boundaries of the leased tract;

18 (2) fishes the individual's set net entry permit from public land without
19 a lease or other contract shall provide the commission with a site survey and other
20 geographic information required by the commission.

21 (h) Upon receiving from the Department of Natural Resources the information
22 required under (f)(2) of this section, or from the commission the information required
23 under (e)(2) of this section, the Department of Fish and Game shall, in accordance
24 with AS 44.62 (Administrative Procedure Act), close to commercial fishing the water
25 that could be commercially fished, under the authority of the repurchased set net entry
26 permit, from the affected public land, municipal lease, or terminated state lease tract
27 under the regulations of the Department of Fish and Game that were in effect at the
28 time the set net entry permit was purchased by the commission.

29 (i) When the commission purchases an entry permit from an individual who
30 fished the entry permit from land leased from a municipality, the commission shall
31 notify the Department of Natural Resources and the municipality of the purchase and

1 of the geographic boundaries of the water that will be closed to commercial fishing
2 under (g) of this section.

3 (j) The acquisition of an entry permit under this section is not subject to
4 AS 36.30 (State Procurement Code).

5 (k) Proof of an individual's participation in the fishery described in (a)(2) of
6 this section may include a shore fisheries lease, an area registration, or previous
7 submission of fishing statistics for the area.

8 * **Sec. 6.** AS 16.43.332 is repealed June 30, 2026.

9 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 TRANSITION: REASSIGNMENT OF COOK INLET CENTRAL DISTRICT SET
12 NET ENTRY PERMITS. (a) On January 1, 2020, an individual holding an entry permit for
13 the Cook Inlet set net fishery shall be reassigned an entry permit for the Cook Inlet Central
14 District set net fishery, consistent with the boundaries of that administrative area established
15 under AS 16.43.200, as amended by secs. 3 and 4 of this Act, unless the individual provides
16 proof satisfactory to the Alaska Commercial Fisheries Entry Commission of the individual's
17 participation in the fishery in the areas identified by the Department of Fish and Game as of
18 January 1, 2019, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of
19 the Eastern Set Net Subdistrict of the Cook Inlet Central District within the two years
20 preceding December 31, 2019. Proof satisfactory of participation under this subsection may
21 include a shore fisheries lease, an area registration, or previous submission of fishing statistics
22 for the area.

23 (b) An individual who provides proof satisfactory to the Alaska Commercial Fisheries
24 Entry Commission of the individual's participation in the fishery in the areas identified by the
25 Department of Fish and Game as of January 1, 2019, as statistical areas 244-21, 244-22, 244-
26 31, 244-32, 244-41, and 244-42 of the Eastern Set Net Subdistrict of the Cook Inlet Central
27 District under (a) of this section shall be reassigned an entry permit on January 1, 2020, for
28 the new administrative area established under AS 16.43.200(c), enacted by sec. 4 of this Act.

29 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 ELECTION FOR COMMERCIAL SET NET FISHING PERMIT BUY-BACK

1 PROGRAM. (a) On March 1, 2020, the commission, with the cooperation of the Department
2 of Natural Resources, shall conduct an election among individuals qualified under (b) of this
3 section on the question of whether to establish an entry permit buy-back program under
4 AS 16.43.332, enacted by sec. 5 of this Act.

5 (b) An individual is eligible to vote in the election conducted under (a) of this section
6 if the individual holds an entry permit for set net fishing in the administrative area established
7 under AS 16.43.200(c), enacted by sec. 4 of this Act.

8 (c) In conducting the election under this section, the commission shall adopt the
9 following procedures:

10 (1) not less than 30 days before the date on which ballots must be postmarked
11 to be counted in the election, the commission shall hold at least one public meeting to explain
12 the buy-back program to eligible voters and other interested persons and to explain the
13 registration and voting procedure to be used in the election; the commission shall provide
14 notice of the meeting by

15 (A) mailing the notice to each eligible entry permit holder;

16 (B) posting the notice in at least three public places in the voting
17 region; and

18 (C) publishing the notice in at least one newspaper of general
19 circulation in the voting region at least once a week for two consecutive weeks before
20 the meeting;

21 (2) the commission shall mail two ballots to each eligible entry permit holder;
22 the commission shall mail the first ballot not more than 45 days before the date on which
23 ballots must be postmarked to be counted in the election; the commission shall mail the
24 second ballot not less than 15 days before the date on which ballots must be postmarked to be
25 counted in the election; the commission shall adopt procedures to ensure that only one ballot
26 from each eligible entry permit holder is counted in the election;

27 (3) the ballot must

28 (A) ask whether the buy-back program established under
29 AS 16.43.332, enacted by sec. 5 of this Act, should be implemented;

30 (B) indicate the boundaries of the region in which the buy-back
31 program would apply;

1 (C) clarify the details of the buy-back program, including which set net
 2 entry permit holders are eligible to participate and the entry permit buy-back price to
 3 be offered by the commission under AS 16.43.332, enacted by sec. 5 of this Act, if the
 4 program is approved;

5 (D) provide an effective date for the initiation of the entry permit buy-
 6 back program if the program is approved; and

7 (E) indicate the date on which returned ballots must be postmarked in
 8 order to be counted;

9 (4) the ballots must be returned by mail and counted by the commission or a
 10 person approved by the commission.

11 (d) If the commission determines that the procedural requirements of (c) of this
 12 section have been satisfied, the commission shall certify the results of the election within 45
 13 days after the date on which ballots must be postmarked.

14 (e) In this section, "commission" means the Alaska Commercial Fisheries Entry
 15 Commission established under AS 16.43.020.

16 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 **REPORT TO LEGISLATURE.** The Alaska Commercial Fisheries Entry Commission
 19 shall provide a written report to the legislature on the status of the entry permit buy-back
 20 program established under AS 16.43.332, enacted by sec. 5 of this Act, including the number
 21 of permits purchased. The commission shall deliver the report to the senate secretary and the
 22 chief clerk of the house of representatives not later than January 15, 2026, and notify the
 23 legislature that the report is available.

24 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 **NOTIFICATION TO LIEUTENANT GOVERNOR AND REVISOR OF**
 27 **STATUTES.** The chair of the Alaska Commercial Fisheries Entry Commission shall provide
 28 written notice before June 1, 2020, to the lieutenant governor and revisor of statutes of the
 29 outcome of the election held under sec. 8 of this Act relating to the buy-back program
 30 established under AS 16.43.332, enacted by sec. 5 of this Act.

31 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REVISOR'S INSTRUCTION. The revisor of statutes is requested to change the
3 heading of art. 4 of AS 16.43 from "Reduction to Optimum Number of Entry Permits" to
4 "Optimum Number of Entry Permits, Entry Permit Buy-back Programs, and Issuance of
5 Certain New Entry Permits."

6 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 CONDITIONAL EFFECT. Sections 1, 2, 5, 6, 9, and 11 of this Act take effect only if
9 the chair of the Alaska Commercial Fisheries Entry Commission provides notice under sec.
10 10 of this Act that the buy-back program established under AS 16.43.332, enacted by sec. 5 of
11 this Act, was approved.

12 * **Sec. 13.** Section 4 of this Act takes effect January 1, 2020.

13 * **Sec. 14.** If secs. 1, 2, 5, 6, 9, and 11 of this Act take effect under sec. 12 of this Act, they
14 take effect July 1, 2020.

15 * **Sec. 15.** Except as provided in secs. 13 and 14 of this Act, this Act takes effect July 1,
16 2019.