

ALASKA STATE LEGISLATURE



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**REPRESENTATIVE PEGGY WILSON
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SPONSOR STATEMENT FOR CSHB 478-FSH

An Act relating to the issuance of commercial fishing interim-use permits.

CSHB 478-FSH is a housekeeping measure designed to affirm, and clarify, that the Commercial Fisheries Entry Commission (CFEC) has the authority to issue interim-use permits in each fishery that is not subject to a maximum number (limited entry). This clarification is consistent with the intent of the original statute. The clarification is necessary, however, because the Court of Appeals recently held that the CFEC does not have the authority to issue interim-use permits to fishermen who catch halibut or sablefish beyond the three-mile limit of state waters, and then bring those halibut or sablefish into state waters for delivery and sale.

Current statutes require that fishermen in those circumstances have a state permit, AS 16.05.675. The permit requirement promotes enforcement, promotes resource data collection, and facilitates revenue collection. However, three fishermen who lacked a permit recently prevailed in the Court of Appeals by arguing that the only permit available to them was an interim-use permit, and that the Commercial Fisheries Entry Commission lacks the authority to issue interim-use permits in fisheries that it cannot limit to a maximum number of participants. *State v. Dupier*, 74 P.2d 933 (Alaska App. 2003). The Court of Appeals decision is currently under review by the Alaska Supreme Court. Regardless of the outcome in this case, clarification of the statute is desirable.

CSHB 478-FSH amends the statute, so that it clearly authorizes the CFEC to issue interim-use permits in fisheries that have not been the subject of a maximum number (limited entry). This clarification is consistent with the original intent and purpose of the current statute, and it will more clearly authorize the issuance of permits in all Alaska fisheries despite the recent Court of Appeals decision.

The inclusion of a retroactive clause demonstrates the agreement of the Legislature that the changes put forward in this bill are consistent with the initial intent, and purpose, of the original statute. The changes contained within this bill are not intended to alter the purpose, or effect, of the statute. These changes are intended to clarify the statute, and affirm the practices of the CFEC relating to interim-use permit issuance, which have been on-going in good faith for 30 years.