CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 397(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 2/21/96
Referred: Rules

Sponsor(s): REPRESENTATIVE AUSTERMAN
SENATOR Zharoff

A BILL

FOR AN ACT ENTITLED

"An Act relating to the fisheries resource landing tax and to the seafood marketing assessment; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS, INTENT, AND PURPOSE. (a) The legislature finds that

(1) the state has various research, management, and enforcement responsibilities in connection with the offshore fisheries;
(2) through transfer of processed products, taking on and disembarking crew, taking on fuel and supplies, obtaining vessel and gear repairs, discharging wastes, and seeking protection in sheltered water, the exclusive economic zone catcher-processor fleet has a significant presence in the state; and
(3) the state and its municipalities and unincorporated communities are affected by the additional burdens placed by the exclusive economic zone catcher-processor fleet on educational facilities and services, road maintenance, public safety, airport and dock facilities,
hospitals and health facilities, and other programs.

(b) The fisheries resource landing tax

(1) is both designed as and intended to be a compensatory tax that complements the fisheries business tax levied and collected under AS 43.75;

(2) is intended

(A) to compensate the state for the burdens that the exclusive economic zone catcher-processor fleet places on the state and its municipalities and unincorporated communities; and

(B) to require the exclusive economic zone catcher-processor fleet to bear a portion of the costs of services received from the state and its municipalities and unincorporated communities; and

(3) attempts to achieve a rough equality of treatment between local and interstate commerce among those engaged in fisheries resource businesses in the state in that the tax imposes a burden, comparable to that borne by in-state processors through payment of the fisheries business tax, for the burdens attributable to the activities of the exclusive economic zone catcher-processor fleet on the state and the benefits that the fleet receives from the state.

* Sec. 2. AS 16.51.120(a) is amended to read:

(a) A seafood marketing assessment shall be levied on the value of seafood products produced [PURCHASED] in Alaska as provided in (b), (c), (d), or (e) of this section if an election is held under [IN ACCORDANCE WITH] AS 16.51.140 at which the assessment is approved by eligible processors who together produce [PURCHASE] at least 51 percent of the value of seafood products produced [PURCHASED] in Alaska in the calendar year.

* Sec. 3. AS 16.51.120(b) is amended to read:

(b) Each processor [WHO PURCHASES AT LEAST $50,000 OR MORE OF SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of .1 percent of the value of seafood products produced in Alaska [PAID] by the processor.

* Sec. 4. AS 16.51.120(c) is amended to read:

(c) Each processor [WHO PURCHASES AT LEAST $50,000 OR MORE OF
SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of .2 percent of the value of seafood products produced in Alaska [PAID] by the processor.

* Sec. 5. AS 16.51.120(d) is amended to read:

(d) Each processor [WHO PURCHASES AT LEAST $50,000 OR MORE OF SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of .3 percent of the value of seafood products produced in Alaska [PAID] by the processor.

* Sec. 6. AS 16.51.120(e) is amended to read:

(e) Each processor [WHO PURCHASES AT LEAST $50,000 OR MORE OF SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of .4 percent of the value of seafood products produced in Alaska [PAID] by the processor.

* Sec. 7. AS 16.51.120 is amended by adding a new subsection to read:

(g) Notwithstanding (a) - (e) of this section and AS 16.51.150(c), a processor is not subject to, or liable for payment of, an assessment under this section on the value of the seafood products produced in Alaska if the value of seafood products produced in Alaska by the processor is less than $50,000 in a calendar year. This subsection does not exempt a processor from liability for payment of taxes imposed under AS 43.75 or AS 43.77.

* Sec. 8. AS 16.51.130(a) is amended to read:

(a) A seafood marketing assessment levied under AS 16.51.120(b), (c), (d), or (e) shall be terminated by the commissioner of revenue if

(1) an election is held under [IN ACCORDANCE WITH] AS 16.51.140 in which the termination is approved by eligible processors who together produce [PURCHASE] at least 51 percent of the total value of seafood products produced [PURCHASED] in Alaska during the calendar year; or

(2) the board, at a regularly scheduled meeting, adopts a resolution approved by two-thirds of the voting membership of the board requesting the commissioner of revenue to terminate the assessment.

* Sec. 9. AS 16.51.130(b) is amended to read:
(b) An election under (a)(1) of this section shall be held if

1. the proposed election for the termination of the assessment is approved by a majority of the whole membership of the board at a regularly scheduled meeting; or

2. a petition is presented to the director of elections requesting termination of the assessment by eligible processors who together produce [PURCHASE] at least 25 percent of the total value of seafood products produced [PURCHASED] in Alaska during the calendar year.

* Sec. 10. AS 16.51.150 is amended to read:

Sec. 16.51.150. DETERMINATION OF VALUE. Upon request from the director of elections, the commissioner of revenue shall determine

1. the total value of seafood products produced [PURCHASED] in Alaska during any calendar year;

2. whether the eligible processors approving the levy or termination of a seafood marketing assessment together produced [PURCHASED] at least 51 percent of the total value of seafood products produced [PURCHASED] in Alaska during the calendar year; or

3. whether the eligible processors petitioning for an election under AS 16.51.130(b)(2) together produced [PURCHASED] at least 25 percent of the total value of seafood products produced [PURCHASED] in Alaska during the calendar year.

* Sec. 11. AS 16.51.150 is amended by adding new subsections to read:

(b) The total value of seafood products produced in Alaska in a calendar year is the sum of the

1. total value of the fisheries resource on which the tax imposed under AS 43.75.015 and 43.75.100 is levied in that calendar year; and

2. total value of the fisheries resource on which the tax imposed under AS 43.77 is levied in that calendar year.

(c) The value of seafood products produced in Alaska by a processor during a calendar year is the sum of the

1. total value of the fisheries resource on which the processor must
pay the tax imposed under AS 43.75.015 and 43.75.100 in that calendar year; and
(2) total value of the fisheries resource on which the processor must
pay the tax imposed under AS 43.77.010 in that calendar year.

* Sec. 12. AS 16.51.160(a) is amended to read:
(a) Each processor [PROCESSORS] shall remit to the Department of Revenue
before [BY] April 1 of each year the total amount of the seafood marketing
assessment owed on the value of [PAID FOR] seafood products produced in Alaska
by the processor in the previous calendar year.

* Sec. 13. AS 16.51.180(3) is repealed and reenacted to read:
(3) "processor" means a person who is liable for
(A) the tax imposed under AS 43.75.015;
(B) the tax imposed under AS 43.75.100; or
(C) the landing tax imposed under AS 43.77.

* Sec. 14. AS 16.51.180 is amended by adding new paragraphs to read:
(7) "eligible processor" means a processor who would be liable for
payment of a seafood marketing assessment levied under AS 16.51.120;
(8) "produce" means perform an activity upon which a tax is imposed
under AS 43.75 or AS 43.77, including the purchase, production, landing, or export
of a fisheries resource.

* Sec. 15. AS 21.89.070(c) is amended to read:
(c) A contribution claimed as a credit under this section may not
(1) [MAY NOT] be claimed as a credit under more than one provision
of this title; and
(2) [MAY NOT,] when combined with credits taken during the
taxpayer’s tax year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018,
[OR] AS 43.75.018, or AS 43.77.045, exceed $150,000.

* Sec. 16. AS 43.20.014(d) is amended to read:
(d) A contribution claimed as a credit under this section may not
(1) [MAY NOT] be claimed as a credit under another provision of this
title;
(2) [MAY NOT] also be allowed as a deduction under 26 U.S.C. 170
against the tax imposed by this chapter; and

(3) [MAY NOT,] when combined with credits taken during the
taxpayer’s tax year under AS 21.89.070, AS 43.55.019, AS 43.56.018, AS 43.65.018,
[OR] AS 43.75.018, or AS 43.77.045, exceed $150,000.

* Sec. 17. AS 43.55.019(d) is amended to read:

    (d) A contribution claimed as a credit under this section may not

        (1) be claimed as a credit under another provision of this title; and

        (2) when combined with credits taken during the taxpayer’s tax year

            under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, [OR] AS 43.75.018,

        or AS 43.77.045, exceed $150,000.

* Sec. 18. AS 43.56.018(d) is amended to read:

    (d) A contribution claimed as a credit under this section may not

        (1) be claimed as a credit under another provision of this title; and

        (2) when combined with credits taken during the taxpayer’s tax year

            under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, [OR] AS 43.75.018,

        or AS 43.77.045, exceed $150,000.

* Sec. 19. AS 43.65.018(d) is amended to read:

    (d) A contribution claimed as a credit under this section may not

        (1) be claimed as a credit under another provision of this title; and

        (2) when combined with credits taken during the taxpayer’s tax year

            under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, [OR] AS 43.75.018,

        or AS 43.77.045, exceed $150,000.

* Sec. 20. AS 43.75.018(d) is amended to read:

    (d) A contribution claimed as a credit under this section may not

        (1) be claimed as a credit under another provision of this title; and

        (2) when combined with credits taken during the taxpayer’s tax year

            under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, [OR] AS 43.65.018,

        or AS 43.77.045, exceed $150,000.

* Sec. 21. AS 43.77.010 is amended to read:

Sec. 43.77.010. LANDING TAX. A person who engages or attempts to
engage in a floating fisheries business in the state and who owns [A PERSON
OWNING] a fishery resource that is not subject to AS 43.75 but that is brought into
the jurisdiction of, and first landed in, this state is liable for and shall pay a landing
tax on the value of the fishery resource. The amount of the landing tax is

(1) for a developing commercial fish species, as defined under
AS 43.75.290, one percent of the value of the fishery resource at the place of
landing;

(2) for a fish species other than a developing commercial fish
species, three [3.3] percent of the value of the fishery resource at the place of the
landing.

* Sec. 22. AS 43.77 is amended by adding a new section to read:

Sec. 43.77.035. TAX CREDIT FOR SCHOLARSHIP CONTRIBUTIONS. (a)
A fisheries business is entitled to a credit of not more than five percent of the landing
tax liability under AS 43.77.010 for contributions made during the tax year to the A.
W. "Winn" Brindle memorial scholarship account under AS 14.43.250. A tax credit
under this section may not be approved for more than 100 percent of a scholarship
contribution.

(b) The department may not approve a tax credit under this section if the
fisheries business claiming the credit is in arrears in the payment of the landing tax
under AS 43.77.010. For purposes of this subsection, a taxpayer is not in arrears if
the payment is under administrative or judicial appeal.

(c) The department shall prepare an application form for a credit under this
section.

(d) The department shall approve or disapprove an application for a credit
under this section not later than 60 days after receiving the application.

* Sec. 23. AS 43.77 is amended by adding a new section to read:

Sec. 43.77.045. FISHERIES RESOURCE LANDING TAX EDUCATION
CREDIT. (a) In addition to the credit allowed under AS 43.77.040, for cash
contributions accepted for direct instruction, research, and educational support
purposes, including library and museum acquisitions and contributions to endowment,
by an Alaska university foundation or by a nonprofit, public or private, Alaska two-
year or four-year college accredited by a regional accreditation association, a person
engaged in a floating fisheries business is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than $100,000; and

(2) 100 percent of the next $100,000 of contributions.

(b) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(c) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer’s tax year under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.75.018, exceed $150,000.

* Sec. 24. AS 43.77.050(b) is amended to read:

(b) The [AFTER PAYMENT OF THE AMOUNT DETERMINED UNDER (a) OF THIS SECTION, THE BALANCE OF THE] tax collected under this chapter shall be paid into a separate account in the general fund. The annual balance in the account may be appropriated by the legislature for revenue sharing under AS 43.77.060. The amount of all tax credits approved by the commissioner under AS 43.77.040(b) shall be deducted from amounts paid to municipalities under AS 43.77.060(a) - (c).

* Sec. 25. AS 43.77.060 is amended by adding a new subsection to read:

(e) For purposes of this section, tax revenue collected under AS 43.77.010 from a person entitled to a credit under AS 43.77.035 or 43.77.045 shall be calculated as if the person’s tax had been collected without applying the credits.

* Sec. 26. AS 43.77.200 is amended by adding a new paragraph to read:

(7) "engages or attempts to engage in a floating fishery business in the state" means conducting in the state an activity as part of an integrated mobile business involving the harvesting or taking, processing, transportation, or delivery of a fishery resource, including transfer of fishery resources or processed products, taking on and disembarking crew, taking on fuel or supplies, obtaining vessel or gear repairs, discharging wastes, seeking protection in sheltered waters, and any other related activity that makes a claim on the resources of the state.
* Sec. 27. CREDIT FOR TAXES PAID. The Department of Revenue shall apply the amount of tax paid by a person under AS 43.77, before the effective date of this Act, that is equal to three-tenths of one percent of the value of the fishery resource subject to the landing tax under AS 43.77 as a credit toward the seafood marketing assessment under AS 16.51, as amended by this Act, that is retroactively imposed by this Act upon a person subject to the landing tax under AS 43.77, as amended by this Act.

* Sec. 28. AS 16.51.180(6) and AS 43.77.050(a) are repealed.

* Sec. 29. This Act is retroactive to January 1, 1994, and applies to activities subject to the fisheries resource landing tax levied and collected under AS 43.77 occurring after December 31, 1993, and to the seafood marketing assessment assessed and collected under AS 16.51.

* Sec. 30. This Act takes effect immediately under AS 01.10.070(c).