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Bullard  
4/15/14

**SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 204(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES AUSTERMAN, Edgmon, Kerttula, Peggy Wilson, Feige, Kreiss-Tomkins, Gattis, Tammie Wilson, Nageak, LeDoux, Gara, Tuck, Hughes, Tarr

SENATORS Stevens, Micciche, Stedman, Dyson, Egan, Olson, McGuire, Bishop

**A BILL**

**FOR AN ACT ENTITLED**

"An Act relating to a product development tax credit for certain salmon and herring products; providing for an effective date by amending the effective date of sec. 3, ch. 57, SLA 2003; and providing for an effective date."

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

\* **Section 1.** AS 43.75.035(a) is amended to read:

(a) A taxpayer that is a fisheries business may claim a [SALMON] product development tax credit of 50 percent of qualified investment in new property first placed into service in a shore-based plant or on a vessel in the state in the tax year.

\* **Sec. 2.** AS 43.75.035(b) is amended to read:

(b) The amount of the tax credit applied against taxes under this section may not

(1) exceed 50 percent of the taxpayer's tax liability incurred under this chapter for processing of salmon and herring during the tax year; or

(2) be claimed for property first placed into service after December 31,

2020 [2015].

\* **Sec. 3.** AS 43.75.035(c) is amended to read:

(c) If the property for which a tax credit is claimed is installed on a vessel, the amount of qualified investment under (a) of this section is determined by multiplying the investment cost of the qualified investment property by a fraction, the numerator of which is the weight of raw salmon or raw herring processed on the vessel by the taxpayer in the state in the tax year in which the property is first placed into service, and the denominator of which is the weight of raw salmon or raw herring processed on the vessel by the taxpayer in and outside of the state in the tax year in which the property is first placed into service.

\* **Sec. 4.** AS 43.75.035(d) is amended to read:

(d) An unused credit under this section may be carried forward and applied against the tax liability incurred on salmon and herring in the following three tax years.

\* **Sec. 5.** AS 43.75.035(g) is amended to read:

(g) If, during a tax year, property for which a credit was claimed under this section is disposed of by the taxpayer, ceases to be qualified investment property, or is removed from service in the state, the tax due under this chapter is increased by the recapture percentage of the aggregate decrease in the credit allowed under this section for all prior tax years that would have resulted solely from reducing to zero the credit allowed for the qualified investment property under this section. The amount of tax credit attributable to the qualified investment that is carried forward from prior tax years is terminated as of the first day of the tax year in which the qualified investment property is disposed of by the taxpayer, ceases to be qualified investment property, or is removed from service in the state. For purposes of this subsection,

(1) the recapture percentage during the year in which the property is first placed into service or during the first year following the year in which the property is first placed into service is 100 percent;

(2) the recapture percentage during the second year following the year in which the property is first placed into service is 75 percent;

(3) the recapture percentage during the third year following the year in

which the property is first placed into service is 50 percent;

(4) the recapture percentage during the fourth or subsequent year following the year in which the property is first placed into service is zero percent;

(5) qualified investment property used on a vessel is considered to have been removed from the state on the first day of a tax year in which the proportion of raw salmon **or raw herring** processed in the state on the vessel is less than 50 percent of total weight of raw salmon **or raw herring** processed on the vessel in and outside of the state.

\* **Sec. 6.** AS 43.75.035(i) is amended to read:

(i) The department shall develop and implement procedures by which a taxpayer that is a fisheries business may submit the taxpayer's proposed investment to the department and request a preliminary determination of whether the investment qualifies for the [SALMON] product development tax credit under this section. A preliminary determination by the department that the taxpayer's submission qualifies for the credit is binding, unless the department determines that the taxpayer has made a material misrepresentation in the taxpayer's submission.

\* **Sec. 7.** AS 43.75.035(j)(3) is amended to read:

(3) "qualified investment" means the investment cost **to purchase or convert** [IN] depreciable tangible personal property with a useful life of three years or more to be used predominantly to perform an ice making, processing, packaging, or product finishing function that is a significant component in producing value-added salmon **or herring** products, **including canned salmon products in can sizes other than 14.75 ounces or 7.5 ounces** [BEYOND GUTTING OF THE SALMON]; in this paragraph, "property"

(A) includes

(i) **equipment used to fillet, skin, portion, mince, form, extrude, stuff, inject, mix, marinate, preserve, dry, smoke, brine, package, freeze, scale, grind, separate meat from bone, or remove pin bones** [FILLETING, SKINNING, PORTIONING, MINCING, FORMING, EXTRUDING, STUFFING, INJECTING, MIXING, MARINATING, PRESERVING, DRYING, SMOKING,

BRINING, PACKAGING, BLAST FREEZING, OR PIN BONE REMOVAL EQUIPMENT];

(ii) new parts necessary for, or costs associated with, converting a canned salmon line to produce can sizes other than 14.75 ounces or 7.5 ounces [TO CONVERT AN EXISTING CAN SEAMER TO POP-TOP CAN PRODUCTION];

(iii) conveyors used specifically in the act of producing a value-added salmon or herring product; [AND]

(iv) ice making machines;

(v) new canning equipment for herring products;  
and

(vi) equipment used to transform salmon or herring byproduct that is discarded as waste into saleable product;

(B) does not include

(i) vehicles, forklifts, conveyors not used specifically in the act of producing a value-added salmon or herring product, cranes, pumps, or other equipment used to transport salmon or herring, or salmon or herring products, knives, gloves, tools, supplies and materials, equipment, other than ice making machines, that is not processing, packaging, or product finishing equipment, or other equipment, the use of which is incidental to the production, packaging, or finishing of value-added salmon or herring products; [OR]

(ii) the overhaul, retooling, or modification of new or existing property, except for new parts necessary for, or costs associated with, converting a canned salmon line to produce can sizes other than 14.75 ounces or 7.5 ounces; or

(iii) property used predominantly to produce a salmon or herring product that is not taxed under this chapter [TO CONVERT AN EXISTING CAN SEAMER TO POP-TOP CAN PRODUCTION];

\* Sec. 8. AS 43.75.035(j)(6) is amended to read:

(6) "value-added salmon or herring product" means the product of a salmon or herring that is processed beyond heading, gutting, or separation in a manner that [MATERIALLY] enhances the value or quality of the salmon or herring product, such as shelf-stable, retort pouched, smoked, pickled, or filleted salmon, ikura, leather, [OR] jerky, or a saleable product made from waste byproduct of salmon or herring; "value-added salmon or herring product" does not include a salmon or herring or salmon or herring product that

(A) has been subjected to only one or more of heading, gutting, freezing, or packaging [, QUALITY ASSURANCE PRACTICES, OR VALUE RETENTION PRACTICES];

(B) is salmon skeins or other unprocessed salmon or unprocessed herring products whether fresh or frozen; or

(C) [IS CANNED, EXCEPT FOR SALMON PRODUCTS IN A POP-TOP CAN; OR

(D)] is produced out of the state.

\* **Sec. 9.** Section 7, ch. 57, SLA 2003, as amended by sec. 4, ch. 3, SLA 2006, sec. 4, ch. 8, SLA 2008, and sec. 3, ch. 102, SLA 2010, is amended to read:

Sec. 7. Section 3, ch. 57, SLA 2003, takes effect on the earlier of the following:

(1) January 1, 2021 [2019]; or

(2) the date of the attorney general's notification to the lieutenant governor and to the revisor of statutes that

(A) a court has entered final judgment that AS 43.75.035 or 43.75.036, added by sec. 1, ch. 57, SLA 2003, violates the commerce clause contained in art. I, sec. 8, United States Constitution; and

(B) the time for an appeal of that judgment has expired, or, if an appeal was taken, a final order on the appeal has been entered that AS 43.75.035 or 43.75.036, added by sec. 1, ch. 57, SLA 2003, violates the commerce clause contained in the United States Constitution.

\* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).