

# LEGAL SERVICES

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## MEMORANDUM

April 22, 2021

**SUBJECT:** Drafting notes (HB 41; Work Order No. 32-LS0291\B.3)

**TO:** Representative Steve Thompson  
Attn: Tom Wright

**FROM:** Alpheus Bullard  
Legislative Counsel



This memorandum accompanies the amendment described above. I have one comment.

This amendment subjects a person producing and selling aquatic farm products to seafood marketing assessments levied under AS 16.51.120. At present, no assessment is levied on the producers of aquatic farm products. The assessment is levied on a seafood processor<sup>1</sup> only if the processor produces more than \$50,000 in seafood products in the state in a calendar year.<sup>2</sup>

While the amendment redefines "seafood" for the purposes of AS 16.51 (Alaska Seafood Marketing Institute)<sup>3</sup> to include aquatic farm products, and subjects persons producing aquatic farm products to the assessment, the amendment does not subject aquatic farm products to taxation under the fisheries business tax (AS 43.75) or the fishery landing tax (AS 43.77). This may pose an issue for calculating the value of aquatic farm products produced and sold in the state.

At present, the commissioner of revenue (commissioner) calculates the value of seafood products produced by a processor (and subject to the assessment) on the basis of the

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<sup>1</sup> At present, persons producing aquatic farm products are not considered seafood processors subject to a marketing assessment under AS 16.51. See the definitions of "processor" and "seafood" at AS 16.51.180.

<sup>2</sup> AS 16.51.120(g). Under the amendment, a person producing less than \$50,000 in aquatic farm products in a calendar year would similarly be exempt.

<sup>3</sup> Note that because the amendment redefines "seafood" to include "aquatic farm products" for the purposes of AS 16.51, secs. 7 and 8 of the bill, adding "aquatic farm products" to sections already applicable to "seafood," are also removed by the amendment.

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value of the fisheries resource that the processor paid taxes on under AS 43.75 and AS 43.77 during a calendar year.<sup>4</sup> Because aquatic farm products are not subjected to taxation as a fisheries resource under AS 43.75 or AS 43.77, the commissioner likely cannot calculate the value of aquatic farm products in a similar manner.

Because the value of aquatic farm products processed in the state cannot be calculated in the same way, the amendment requires the commissioner, in determining the value of seafood products produced by a processor in a calendar year, to include the value of aquatic farm products produced and sold in the state. Please have the Department of Revenue review this amendment to verify that the department has the ability to ascertain the value of aquatic farm products processed in the state without applicable tax revenue data.

If you have questions, please do not hesitate to contact me.

ALB:mjt  
21-227.mjt

Attachment

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<sup>4</sup> AS 16.51.150(c).