

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

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

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

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

**6 (1) the state has various research, management, and enforcement
7 responsibilities in connection with the offshore fisheries;**

**8 (2) through transfer of processed products, taking on and disembarking crew,
9 taking on fuel and supplies, obtaining vessel and gear repairs, discharging wastes, and seeking
10 protection in sheltered water, the exclusive economic zone catcher-processor fleet has a
11 significant presence in the state; and**

**12 (3) the state and its municipalities and unincorporated communities are affected
13 by the additional burdens placed by the exclusive economic zone catcher-processor fleet on
14 educational facilities and services, road maintenance, public safety, airport and dock facilities,**

1 hospitals and health facilities, and other programs.

2 (b) The fisheries resource landing tax

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

5 (2) is intended

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

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

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

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

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

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

26 (b) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF
27 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of
28 .1 percent of the value of seafood products produced in Alaska [PAID] by the
29 processor.

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

31 (c) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF

1 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of
2 .2 percent of the value of seafood products produced in Alaska [PAID] by the
3 processor.

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

5 (d) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF
6 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of
7 .3 percent of the value of seafood products produced in Alaska [PAID] by the
8 processor.

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

10 (e) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF
11 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of
12 .4 percent of the value of seafood products produced in Alaska [PAID] by the
13 processor.

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

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

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

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

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

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

31 * **Sec. 9.** AS 16.51.130(b) is amended to read:

1 (b) An election under (a)(1) of this section shall be held if
2 (1) the proposed election for the termination of the assessment is
3 approved by a majority of the whole membership of the board at a regularly scheduled
4 meeting; or
5 (2) a petition is presented to the director of elections requesting
6 termination of the assessment by eligible processors who together produce
7 [PURCHASE] at least 25 percent of the total value of seafood products produced
8 [PURCHASED] in Alaska during the calendar year.

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

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

12 (1) the total value of seafood products produced [PURCHASED] in
13 Alaska during any calendar year;

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

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

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

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

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

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

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

31 (1) total value of the fisheries resource on which the processor must

1 pay the tax imposed under AS 43.75.015 and 43.75.100 in that calendar year; and

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

4 * **Sec. 12.** AS 16.51.160(a) is amended to read:

5 (a) **Each processor** [PROCESSORS] shall remit to the Department of Revenue
6 **before** [BY] April 1 of each year the total amount of the seafood marketing
7 assessment owed on the value **of** [PAID FOR] seafood products **produced in Alaska**
8 by the processor in the previous calendar year.

9 * **Sec. 13.** AS 16.51.180(3) is repealed and reenacted to read:

10 (3) "processor" means a person who is liable for

11 (A) the tax imposed under AS 43.75.015;

12 (B) the tax imposed under AS 43.75.100; or

13 (C) the landing tax imposed under AS 43.77.

14 * **Sec. 14.** AS 16.51.180 is amended by adding new paragraphs to read:

15 (7) "eligible processor" means a processor who would be liable for
16 payment of a seafood marketing assessment levied under AS 16.51.120;

17 (8) "produce" means perform an activity upon which a tax is imposed
18 under AS 43.75 or AS 43.77, including the purchase, production, landing, or export
19 of a fisheries resource.

20 * **Sec. 15.** AS 21.89.070(c) is amended to read:

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

22 (1) [MAY NOT] be claimed as a credit under more than one provision
23 of this title; and

24 (2) [MAY NOT,] when combined with credits taken during the
25 taxpayer's tax year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018,
26 [OR] AS 43.75.018, **or AS 43.77.045,** exceed \$150,000.

27 * **Sec. 16.** AS 43.20.014(d) is amended to read:

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

29 (1) [MAY NOT] be claimed as a credit under another provision of this
30 title;

31 (2) [MAY NOT] also be allowed as a deduction under 26 U.S.C. 170

1 against the tax imposed by this chapter; and

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

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

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

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

8 (2) when combined with credits taken during the taxpayer's tax year
9 under AS 21.89.070, AS 43.20.014, AS 43.56.018, AS 43.65.018, [OR] AS 43.75.018,
10 or AS 43.77.045, exceed \$150,000.

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

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

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

14 (2) when combined with credits taken during the taxpayer's tax year
15 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, [OR] AS 43.75.018,
16 or AS 43.77.045, exceed \$150,000.

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

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

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

20 (2) when combined with credits taken during the taxpayer's tax year
21 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, [OR] AS 43.75.018,
22 or AS 43.77.045, exceed \$150,000.

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

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

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

26 (2) when combined with credits taken during the taxpayer's tax year
27 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, [OR] AS 43.65.018,
28 or AS 43.77.045, exceed \$150,000.

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

30 Sec. 43.77.010. LANDING TAX. A person who engages or attempts to

31 engage in a floating fisheries business in the state and who owns [A PERSON

1 OWNING] a fishery resource that is not subject to AS 43.75 but that is brought into
2 the jurisdiction of, and first landed in, this state is liable for and shall pay a landing
3 tax on the value of the fishery resource. The amount of the landing tax is

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

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

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

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

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

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

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

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

26 Sec. 43.77.045. FISHERIES RESOURCE LANDING TAX EDUCATION
27 CREDIT. (a) In addition to the credit allowed under AS 43.77.040, for cash
28 contributions accepted for direct instruction, research, and educational support
29 purposes, including library and museum acquisitions and contributions to endowment,
30 by an Alaska university foundation or by a nonprofit, public or private, Alaska two-
31 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.

1 * **Sec. 27.** CREDIT FOR TAXES PAID. The Department of Revenue shall apply the
2 amount of tax paid by a person under AS 43.77, before the effective date of this Act, that is
3 equal to three-tenths of one percent of the value of the fishery resource subject to the landing
4 tax under AS 43.77 as a credit toward the seafood marketing assessment under AS 16.51, as
5 amended by this Act, that is retroactively imposed by this Act upon a person subject to the
6 landing tax under AS 43.77, as amended by this Act.

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

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

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