



LAWS OF ALASKA

2004

Source

SCS CSHB 419(FIN)

Chapter No.

AN ACT

Relating to regional seafood development associations and to regional seafood development taxes.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to regional seafood development associations and to regional seafood development
2 taxes.

3
4 * **Section 1.** AS 16.43.160(e)(2)(A)(iii) is amended to read:

5 (iii) Department of Community and Economic
6 Development - commercial fishing loan program, Alaska Seafood
7 Marketing Institute, **regional seafood development program**, and
8 community development quota program;

9 * **Sec. 2.** AS 16.43.160(e)(2)(A)(ix) is amended to read:

10 (ix) Department of Revenue - fisheries business tax
11 program, fishery resource landing tax program, salmon enhancement
12 tax program, **seafood development tax program**, salmon marketing
13 tax program, and dive fishery management assessment program;

14 * **Sec. 3.** AS 43.76 is amended by adding new sections to read:

1 **Article 6. Seafood Development Tax.**

2 **Sec. 43.76.350. Two percent seafood development tax.** (a) A person
3 holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
4 seafood development tax at the rate of two percent of the value, as defined in
5 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
6 state or transfers to a buyer in the state.

7 (b) A two percent seafood development tax on fishery resources taken in a
8 fishery may only be levied and collected under (a) of this section if

9 (1) the commissioner of community and economic development has
10 designated an organization to be the qualified regional seafood development
11 association for the seafood development region in which the fishery occurs; and

12 (2) the two percent seafood development tax for the fishery is
13 approved under AS 43.76.370.

14 **Sec. 43.76.355. One and one-half percent seafood development tax.** (a) A
15 person holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
16 seafood development tax at the rate of 1.5 percent of the value, as defined in
17 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
18 state or transfers to a buyer in the state.

19 (b) A 1.5 percent seafood development tax on fishery resources taken in a
20 fishery may only be levied and collected under (a) of this section if

21 (1) the commissioner of community and economic development has
22 designated an organization to be the qualified regional seafood development
23 association for the seafood development region in which the fishery occurs; and

24 (2) the 1.5 percent seafood development tax for the fishery is approved
25 under AS 43.76.370.

26 **Sec. 43.76.360. One percent seafood development tax.** (a) A person
27 holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
28 seafood development tax at the rate of one percent of the value, as defined in
29 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
30 state or transfers to a buyer in the state.

31 (b) A one percent seafood development tax on fishery resources taken in a

1 fishery may only be levied and collected under (a) of this section if

2 (1) the commissioner of community and economic development has
3 designated an organization to be the qualified regional seafood development
4 association for the seafood development region in which the fishery occurs; and

5 (2) the one percent seafood development tax for the fishery is
6 approved under AS 43.76.370.

7 **Sec. 43.76.365. One-half percent seafood development tax.** (a) A person
8 holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
9 seafood development tax at the rate of 0.5 percent of the value, as defined in
10 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
11 state or transfers to a buyer in the state.

12 (b) A 0.5 percent seafood development tax on fishery resources taken in a
13 fishery may only be levied or collected under (a) of this section if

14 (1) the commissioner of community and economic development has
15 designated an organization to be the qualified regional seafood development
16 association for the seafood development region in which the fishery occurs; and

17 (2) the 0.5 percent seafood development tax for the fishery is approved
18 under AS 43.76.370.

19 **Sec. 43.76.370. Election to approve, amend, or terminate seafood**
20 **development tax.** (a) A qualified regional seafood development association for a
21 seafood development region may conduct an election under this section to approve,
22 amend, or terminate a seafood development tax in one or more fisheries in a seafood
23 development region after

24 (1) the association pays a fee of \$500 for each fishery in which an
25 election is held; and

26 (2) the commissioner of community and economic development
27 approves

28 (A) the notice to be published by the qualified regional seafood
29 development association;

30 (B) the ballot to be used in the election; and

31 (C) the registration and voting procedure for the approval,

1 amendment, or termination of the seafood development tax.

2 (b) The seafood development tax is levied under AS 43.76.350, 43.76.355,
3 43.76.360, or 43.76.365 on fishery resources taken in a fishery, or is amended or
4 terminated, on the effective date stated on the ballot if

5 (1) the levy, amendment, or termination of the tax is approved by a
6 majority vote of the eligible interim-use permit and entry permit holders in the fishery
7 who vote in an election held under this section;

8 (2) at least 30 percent of the eligible interim-use permit and entry
9 permit holders in the fishery cast a ballot in the election to levy, amend, or terminate
10 the tax; and

11 (3) the election results are certified by the commissioner of community
12 and economic development under (d) of this section.

13 (c) In conducting an election under this section, the qualified regional seafood
14 development association shall adopt the following procedures:

15 (1) the association shall hold at least one public meeting, not less than
16 30 days before the date on which ballots must be postmarked to be counted in the
17 election, to explain the reason for the proposed seafood development tax, the
18 amendment of the tax, or the termination of the tax and to explain the registration and
19 voting procedure to be used in the election; the association shall provide notice of the
20 meeting by

21 (A) mailing the notice to each eligible interim-use permit and
22 entry permit holder;

23 (B) posting the notice in at least three public places in the
24 seafood development region in which the fishery occurs; and

25 (C) publishing the notice in at least one newspaper of general
26 circulation in the region at least once a week for two consecutive weeks before
27 the meeting;

28 (2) the association shall mail two ballots to each eligible interim-use
29 permit and entry permit holder; the first ballot shall be mailed not more than 45 days
30 before the date ballots must be postmarked to be counted in the election; the second
31 ballot shall be mailed not less than 15 days before the date ballots must be postmarked

1 to be counted in the election; the association shall adopt procedures to ensure that only
2 one ballot from each eligible interim-use permit and entry permit holder is counted in
3 the election;

4 (3) the ballot must

5 (A) indicate whether the election relates to a seafood
6 development tax under AS 43.76.350, 43.76.355, 43.76.360, or 43.76.365;

7 (B) indicate the fishery that is or will be subject to the seafood
8 development tax to be levied or amended;

9 (C) ask the question whether the seafood development tax shall
10 be levied or amended, as appropriate;

11 (D) indicate the geographic boundaries of the seafood
12 development region in which the seafood development tax will be levied;

13 (E) provide an effective date for the levy or amendment of the
14 seafood development tax in the fishery; and

15 (F) indicate the date on which returned ballots must be
16 postmarked in order to be counted;

17 (4) the ballots shall be returned by mail and shall be counted by the
18 commissioner of community and economic development or by a person approved by
19 the commissioner of community and economic development.

20 (d) The commissioner of community and economic development shall certify
21 the results of an election under this section if the commissioner determines that the
22 requirements of (a) - (c) of this section have been satisfied.

23 (e) The rate of the seafood development tax levied in a seafood development
24 region shall be uniform for all fisheries and fishery resources in the region.

25 (f) If a seafood development tax has not been levied on a fishery resource in a
26 seafood development region, the initial tax levied in any fishery in the region may be
27 set at a rate set under AS 43.76.350, 43.76.355, 43.76.360, or 43.76.365 in accordance
28 with procedures set out in this section. If a seafood development tax is currently
29 levied on fishery resources in any fishery in a seafood development region, an election
30 to approve the initial levy of a seafood development tax in another fishery in the
31 region shall be for a levy of the tax at the current rate in the region. The election to

1 approve the levy of a seafood development tax within a fishery shall be conducted
2 among the eligible interim-use permit and entry permit holders in the fishery.

3 (g) An election to amend the current rate of the seafood development tax
4 within a seafood development region shall be conducted among the eligible interim-
5 use permit holders and entry permit holders in each fishery within the region that has
6 approved the levy of the tax under this section. In an election to amend the current
7 rate of the seafood development tax within a region, a person shall receive, and may
8 cast and have counted, a separate ballot for each fishery in the seafood development
9 region that is subject to the tax for which the person is an eligible interim-use permit
10 or entry permit holder.

11 (h) Except as provided in AS 43.76.375, an election to terminate a seafood
12 development tax within one or more fisheries in a seafood development region shall be
13 conducted under the same procedures established under (a) - (d) of this section for an
14 election to approve or amend a seafood development tax.

15 (i) In this section, "eligible interim-use permit and entry permit holder" means
16 an individual who, 90 days before the date ballots must be postmarked to be counted
17 in an election under this section, is listed in the records of the Alaska Commercial
18 Fisheries Entry Commission as the legal owner of an interim-use permit or an entry
19 permit that authorizes the individual to operate commercial fishing gear in the fishery
20 that is or will be subject to the seafood development tax that is the subject of the
21 election.

22 **Sec. 43.76.375. Termination of seafood development tax.** (a) The seafood
23 development tax levied under AS 43.76.350, 43.76.355, 43.76.360, or 43.76.365 may
24 be terminated by the commissioner of revenue upon majority vote of eligible permit
25 holders who vote in an election held under AS 43.76.370 in which at least 30 percent
26 of the eligible permit holders cast a ballot. The seafood development tax may be
27 terminated in one or more fisheries within a seafood development region under this
28 section.

29 (b) The commissioner of revenue shall terminate a seafood development tax
30 under (a) of this section following an election conducted by the qualified seafood
31 development association for the seafood development region if

1 (1) a petition is presented to the commissioner of community and
2 economic development requesting termination of the seafood development tax in a
3 fishery that is signed by at least 10 percent of the number of persons who are eligible
4 to vote in an election under AS 43.76.370 to approve the levy of the seafood
5 development tax in the fishery;

6 (2) an election is held in accordance with AS 43.76.370; the ballot
7 must ask the question whether the seafood development tax for the fishery shall be
8 terminated; the ballot must be worded so that a "yes" vote is for continuation of the
9 seafood development tax and a "no" vote is for termination of the seafood
10 development tax;

11 (3) a majority of the votes cast in the election by eligible interim-use
12 permit and entry permit holders are for the termination of the seafood development
13 tax;

14 (4) at least 30 percent of the permit holders who are eligible to vote in
15 the election cast a ballot in the election; and

16 (5) the qualified regional seafood development association for the
17 fishery provides notice of the election in accordance with AS 43.76.370 within two
18 months after receiving notice from the commissioner of community and economic
19 development that a valid petition under (1) of this subsection has been received.

20 **Sec. 43.76.380. Liability for tax on fishery resources sold to a buyer.** (a)
21 Except as provided under (c) of this section, a buyer who acquires a fishery resource
22 that is subject to a seafood development tax levied under AS 43.76.350, 43.76.355,
23 43.76.360, or 43.76.365 shall collect the seafood development tax at the time of
24 purchase, and shall remit the total tax collected during each month to the department
25 by the last day of the next month.

26 (b) A buyer who collects the seafood development tax shall

27 (1) maintain records reflecting the fishery in which the fishery resource
28 was caught; and

29 (2) report to the Department of Revenue by March 1 of each year the
30 total value, as defined in AS 43.75.290, of the fishery resources caught in each fishery
31 that the buyer has acquired during the preceding year.

1 (c) A commercial fisherman who transfers possession of a fishery resource to
2 a buyer who is not a fisheries business licensed under AS 43.75 is liable for the
3 payment of a seafood development tax levied under AS 43.76.350, 43.76.355,
4 43.76.360, or 43.76.365 if, at the time possession of the fishery resource is transferred
5 to a buyer, the seafood development tax payable on the fishery resource has not been
6 collected. If a commercial fisherman is liable for payment of the seafood development
7 tax under this subsection, the commercial fisherman shall comply with the
8 requirements under (b) of this section to maintain records and to make reports to the
9 Department of Revenue. Notwithstanding (a) of this section, a person subject to this
10 subsection shall remit the total seafood development tax payable during the calendar
11 year to the Department of Revenue before April 1 after close of the calendar year.

12 (d) The Department of Revenue shall deposit the seafood development tax
13 collected under AS 43.76.350 - 43.76.399 in the general fund. The legislature may
14 make appropriations based on this revenue to the Department of Community and
15 Economic Development for the purpose of providing financing for qualified regional
16 seafood development associations.

17 **Sec. 43.76.385. Liability for tax on fishery resources shipped from the**
18 **state.** (a) The owner of fishery resources removed from the state is liable for payment
19 of a seafood development tax levied under AS 43.76.350, 43.76.355, 43.76.360, or
20 43.76.365 if, at the time the fishery resources are removed from the state, the seafood
21 development tax payable on the fishery resources has not been collected by a buyer.

22 (b) If the owner of fishery resources is liable for payment of the seafood
23 development tax under (a) of this section, the owner shall comply with the
24 requirement of AS 43.76.380(b) to report the owner's liability for payment of the tax.

25 **Sec. 43.76.390. Exemption.** AS 43.76.350 - 43.76.399 do not apply to
26 salmon harvested under a special harvest area entry permit issued under AS 16.43.400.

27 **Sec. 43.76.399. Definitions.** In AS 43.76.350 - 43.76.399, unless the context
28 otherwise requires,

29 (1) "buyer" means a person who acquires possession of fishery
30 resources from the person who caught the fishery resources regardless of whether
31 there is an actual sale of the fishery resources but excluding a transfer to a person

1 engaged solely in interstate transportation of goods for hire;

2 (2) "fishery" has the meaning given in AS 16.43.990.

3 * **Sec. 4.** AS 44.33 is amended by adding a new section to read:

4 **Sec. 44.33.065. Regional seafood development associations.** (a) The
5 Department of Community and Economic Development shall assist in and encourage
6 the formation of a qualified regional seafood development association for each
7 seafood development region identified in (b) of this section for the purpose of
8 promoting and marketing Alaska seafood products harvested in the region. The
9 commissioner shall designate the first organization to apply and qualify under this
10 subsection for recognition as the qualified association for a region to be the qualified
11 regional seafood development association for that seafood development region if the
12 commissioner determines that the organization

13 (1) is established for the following purposes:

14 (A) promotion of seafood and seafood by-products that are
15 harvested in the region and processed for sale;

16 (B) promotion of improvements to the commercial fishing
17 industry and infrastructure in the seafood development region;

18 (C) establishment of education, research, advertising, or sales
19 promotion programs for seafood products harvested in the region;

20 (D) preparation of market research and product development
21 plans for the promotion of seafood and their by-products that are harvested in
22 the region and processed for sale;

23 (E) cooperation with the Alaska Seafood Marketing Institute
24 and other public or private boards, organizations, or agencies engaged in work
25 or activities similar to the work of the organization, including entering into
26 contracts for joint programs of consumer education, sales promotion, quality
27 control, advertising, and research in the production, processing, or distribution
28 of seafood harvested in the region;

29 (F) cooperation with commercial fishermen, fishermen's
30 organizations, seafood processors, the Alaska Fisheries Development
31 Foundation, the Fisheries Industrial Technology Center, state and federal

1 agencies, and other relevant persons and entities to investigate market
2 reception to new seafood product forms and to develop commodity standards
3 and future markets for seafood products;

4 (2) provides for representation of commercial fishing permit holders
5 for each fishery in the region that is subject to a seafood development tax levied under
6 AS 43.76.350 - 43.76.399 on the board of directors of the organization;

7 (3) provides for membership in the organization by any commercial
8 fisherman who holds a commercial fishing permit for a fishery that is conducted in the
9 region and by other persons and groups in the region who wish to be members of the
10 organization; and

11 (4) is organized as a nonprofit corporation under the laws of the state
12 for the purpose of marketing and promoting seafood products taken in the region and
13 seafood products taken in fisheries subject to a seafood development tax levied under
14 AS 43.76.350 - 43.76.399.

15 (b) Seafood development regions are established for each of the following
16 regions of the state and are made up of the designated commercial fishing
17 management areas established by the Board of Fisheries in accordance with the
18 boundaries of those areas as adopted by the Board of Fisheries:

19 (1) Southeast Alaska seafood development region -- Southeastern
20 Alaska area and Yakutat area;

21 (2) Prince William Sound seafood development region -- Prince
22 William Sound area;

23 (3) Cook Inlet seafood development region -- Cook Inlet area;

24 (4) Kodiak seafood development region -- Kodiak area;

25 (5) Alaska Peninsula seafood development region -- Alaska Peninsula
26 area;

27 (6) Aleutian Islands seafood development region -- Aleutian Islands
28 area;

29 (7) Chignik seafood development region -- Chignik area;

30 (8) Atka-Amlia Islands seafood development region -- Atka-Amlia
31 Islands area;

- 1 (9) Bristol Bay seafood development region -- Bristol Bay area;
2 (10) Kuskokwim seafood development region -- Kuskokwim area;
3 (11) Yukon-Northern seafood development region -- Yukon-Northern
4 area and Kotzebue area;
5 (12) Norton Sound-Port Clarence seafood development region --
6 Norton Sound-Port Clarence area.
- 7 (c) An organization may be designated as the qualified regional seafood
8 development association for more than one seafood development region.
- 9 (d) A qualified regional seafood development association for a fishery may
10 request state financial assistance from the department to aid the seafood development
11 programs of the association.
- 12 (e) A qualified regional seafood development association requesting state
13 financial assistance shall submit an annual financial report to the department on a form
14 provided by the department. The department may require that a qualified regional
15 seafood development association use a uniform system of accounting. A qualified
16 regional seafood development association requesting state assistance shall submit an
17 annual budget to the department on or before a date specified by the department.
- 18 (f) The department may adopt regulations necessary to implement this section.
- 19 (g) In this section, "fishery" has the meaning given in AS 16.43.990.