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Chapter No.

154

AN ACT

Relating to salmon fisheries enhancement; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

Approved by the Governor: July 1, 1980
Actual Effective Date: July 2, 1980

AN ACT

Relating to salmon fisheries enhancement; and providing for an effective date.

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

(1) regional aquaculture associations qualified under AS 16.10.380 are furthering a valid public purpose by administering authorized salmon enhancement programs which will result in a general benefit to the state and a direct benefit to the commercial, subsistence, and sport fisheries;

(2) the necessary financing of the salmon enhancement programs administered by the regional aquaculture associations has relied upon harvest assessments, either voluntary or mandatory;

(3) the most equitable and non-discriminatory method for providing revenues for regional salmon enhancement is to burden those persons holding entry permits under AS 16.43 who will realize enhanced economic return from the aquaculture development;

(4) the mandatory assessments initiated pursuant to AS 16.10.530 are currently the subject of protracted litigation;

(5) in order to ensure the uninterrupted continuation of the current salmon enhancement programs, it is essential that a revenue source for regional aquaculture associations be developed before a final judicial determination of the constitutionality of the mandatory assessments;

(6) while future legislatures cannot be legally bound to return revenues to each region based on the harvest assessments initiated in the regions, this legislature clearly recognizes this duty.

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1 (b) It is the purpose of this Act to provide a means for continuing a
2 mandatory method of revenue collection from commercial harvesters of salmon,
3 and to continue revenue distribution to those regional aquaculture associa-
4 tions which desire to use this means of ensuring that efficient salmon en-
5 hancement programs have the necessary financial resources to continue.

6 (c) It is also the purpose of this Act to establish as a legislative
7 policy the policy of making appropriations to the Department of Commerce and
8 Economic Development to provide financing for qualified regional associa-
9 tions, and to base those appropriations on the revenue received from the
10 collection of the salmon enhancement tax. The legislature may base an appro-
11 priation for a region on the value of fisheries resources caught in the
12 region rather than the value of the fisheries resources sold in the region
13 when those values differ. This section does not constitute a limitation on
14 the use which the legislature may make of the proceeds of the salmon enhance-
15 ment tax collected under this chapter.

16 * Sec. 2. AS 43 is amended by adding a new chapter to read:

17 CHAPTER 76. SALMON ENHANCEMENT TAX.

18 Sec. 43.76.010. THREE PERCENT SALMON ENHANCEMENT TAX. (a) A
19 person holding a limited entry permit under AS 16.43 shall pay a salmon
20 enhancement tax at the rate of three percent of the value of salmon, as
21 defined in AS 43.75.140(7), that the person sells to a processor li-
22 censed under AS 43.75.011. The processor shall collect the salmon
23 enhancement tax at the time of the sale.

24 (b) A three percent salmon enhancement tax may only be levied or
25 collected under (a) of this section

26 (1) in a region designated by the commissioner of fish and
27 game for the purpose of salmon production under AS 16.10.375;

28 (2) if there exists in that region an association determined
29 by the commissioner of fish and game to be a qualified regional associa-

1 tion under AS 16.10.380; and

2 (3) if the qualified regional association approves the three
3 percent salmon enhancement tax under AS 43.76.015.

4 Sec. 43.76.011. TWO PERCENT SALMON ENHANCEMENT TAX. (a) A person
5 holding a limited entry permit under AS 16.43 shall pay a salmon enhance-
6 ment tax at the rate of two percent of the value of salmon, as defined
7 in AS 43.75.140(7), that the person sells to a processor licensed under
8 AS 43.75.011. The processor shall collect the salmon enhancement tax at
9 the time of the sale.

0 (b) A two percent salmon enhancement tax may only be levied or
1 collected under (a) of this section

2 (1) in a region designated by the commissioner of fish and
3 game for the purpose of salmon production under AS 16.10.375;

4 (2) if there exists in that region an association determined
5 by the commissioner of fish and game to be a qualified regional associa-
6 tion under AS 16.10.380; and

7 (3) if the qualified regional association approves the two
8 percent salmon enhancement tax under AS 43.76.015.

9 Sec. 43.76.015. ELECTION TO APPROVE OR TERMINATE SALMON ENHANCE-
0 MENT TAX. (a) A qualified regional association may conduct an election
1 under this section after the commissioner of commerce and economic
2 development approves

3 (1) the notice to be published by the qualified regional
4 association;

5 (2) the ballot to be used in the election; and

6 (3) the registration and voting procedure for the approval or
7 termination of the salmon enhancement tax.

8 (b) The salmon enhancement tax is levied under AS 43.76.010 or
9 43.76.011 in a region on the effective date stated on the ballot if

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1 (1) it is approved by a majority vote of the eligible interim-
2 use permit and entry permit holders voting in an election held under
3 this section in the region; and

4 (2) the election results are certified by the commissioner of
5 commerce and economic development.

6 (c) In conducting an election under this section, a qualified
7 regional association shall adopt the following procedures:

8 (1) The qualified regional association for the region shall
9 hold at least one public meeting not less than 30 days before the date
10 on which ballots must be postmarked to be counted in the election to
11 explain the reason for the proposed salmon enhancement tax and to ex-
12 plain the registration and voting procedure to be used in the election.
13 The qualified regional association shall provide notice of the meeting
14 by

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

17 (B) posting the notice in at least three public places
18 in the region; and

19 (C) publishing the notice in at least one newspaper of
20 general circulation in the region at least once a week for two
21 consecutive weeks before the meeting.

22 (2) The qualified regional association shall mail two ballots
23 to each eligible interim-use permit and entry permit holder. The first
24 ballot shall be mailed no more than 45 days before the date ballots must
25 be postmarked to be counted in the election. The second ballot shall be
26 mailed no less than 15 days before the date ballots must be postmarked
27 to be counted in the election. The qualified regional association shall
28 adopt procedures to insure that only one ballot from each eligible
29 interim-use permit and entry permit holder is counted in the election.

1 (3) The ballot shall

2 (A) indicate whether the election relates to a salmon
3 enhancement tax under AS 43.76.010 or to a salmon enhancement tax
4 under AS 43.76.011;

5 (B) ask the question whether the salmon enhancement tax
6 shall be levied;

7 (C) indicate the boundaries of the region in which the
8 salmon enhancement tax will be levied;

9 (D) provide an effective date for the levy of the salmon
10 enhancement tax; and

11 (E) indicate the date on which returned ballots must be
12 postmarked in order to be counted.

13 (4) The ballots shall be returned by mail and shall be
14 counted by the commissioner of commerce and economic development or by a
15 person approved by the commissioner of commerce and economic develop-
16 ment.

17 (d) The commissioner of commerce and economic development shall
18 certify the results of an election under this section if he determines
19 that the requirements of (a) and (c) of this section have been satisfied.

20 (e) Except as provided in AS 43.76.020(b)(2), an election to
21 terminate a salmon enhancement tax shall be conducted under the same
22 procedures established under (a) and (c) - (d) of this section for an
23 election to approve a salmon enhancement tax.

24 (f) In this section, "eligible interim-use permit and entry permit
25 holder" means an individual who, 90 days before the date ballots must be
26 postmarked to be counted in an election under this section, is listed in
27 the records of the Alaska Commercial Fisheries Entry Commission as the
28 legal owner of an interim-use permit or an entry permit which authorizes
29 him to fish commercially in an administrative area established by the

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1 Alaska Commercial Fisheries Entry Commission under AS 16.43.200, which
2 is included, in whole or in part, in the region in which the election is
3 held.

4 Sec. 43.76.020. TERMINATION OF SALMON ENHANCEMENT TAX. (a) The
5 salmon enhancement tax levied under AS 43.76.010 may be terminated by
6 the commissioner of revenue upon majority vote at an election held under
7 AS 43.76.015 in the region in which the salmon enhancement tax is
8 levied.

9 (b) A salmon enhancement tax shall be terminated by the commis-
10 sioner of revenue under (a) of this section following an election in a
11 region if

12 (1) a petition is presented to the commissioner of commerce
13 and economic development requesting termination of the salmon enhance-
14 ment tax which is signed by at least 25 percent of the number of persons
15 who voted under AS 43.76.015 in the election approving the salmon enhance-
16 ment tax in the region;

17 (2) an election is held in accordance with AS 43.76.015; the
18 ballot shall ask the question whether the salmon enhancement tax for the
19 region shall be terminated; the ballot shall be worded so that a "yes"
20 vote is for continuation of the salmon enhancement tax and a "no" vote
21 is for termination of the salmon enhancement tax;

22 (3) a majority of the eligible interim-use permit and entry
23 permit holders who vote in the election cast a ballot for the termina-
24 tion of the salmon enhancement tax;

25 (4) the qualified regional association provides notice of the
26 election in accordance with AS 43.76.015 within two months after re-
27 ceiving notice from the commissioner of commerce and economic develop-
28 ment that a valid petition under (1) of this subsection has been re-
29 ceived.

1 Sec. 43.76.025. COLLECTION OF TAX AND DISPOSITION OF PROCEEDS.

2 (a) A processor who buys fisheries resources which are subject to the
3 salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 shall col-
4 lect the salmon enhancement tax at the time of purchase, and shall remit
5 the total salmon enhancement tax collected during each month to the
6 Department of Revenue by the last day of the next month.

7 (b) A processor who collects the salmon enhancement tax shall

8 (1) maintain records reflecting the region designated under
9 AS 16.10.375 in which the fishery resource was caught; and

10 (2) report to the Department of Revenue by March 1 of each
11 year the total value, as defined in AS 43.75.140(7), of the salmon
12 caught in each region designated under AS 16.10.375 which the processor
13 has purchased during the preceding year.

14 (c) The salmon enhancement tax collected under this chapter shall
15 be deposited in the general fund. The legislature may make appropri-
16 ations based on this revenue to the Department of Commerce and Economic
17 Development for the purpose of providing financing for qualified re-
18 gional associations. The legislature may base an appropriation for a
19 qualified regional association operating within a region designated
20 under AS 16.10.375 on the value of the fisheries resources caught in
21 that region rather than the value of the fisheries resources sold in
22 that region if those values differ.

23 * Sec. 3. AS 16.10 is amended by adding a new section to read:

24 Sec. 16.10.385. ACCOUNTING OF FINANCING RECEIVED AS A RESULT OF
25 THE SALMON ENHANCEMENT TAX. A qualified regional association requesting
26 state financial assistance in accordance with AS 43.76.025(c) shall
27 submit an annual financial report to the Department of Commerce and
28 Economic Development on a form provided by the Department of Commerce
29 and Economic Development. The Department of Commerce and Economic

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1 Development may, by regulation, require that a qualified regional asso-
2 ciation use a uniform system of accounting. A qualified regional asso-
3 ciation requesting state assistance shall submit an annual budget to the
4 Department of Commerce and Economic Development on or before a date
5 specified by the Department of Commerce and Economic Development.

6 * Sec. 4. The commissioner of commerce and economic development shall
7 direct that no further royalty assessments be collected under AS 16.10.530 on
8 or after the effective date of an election in the region of a qualified
9 regional association that approves a salmon enhancement tax in accordance
10 with AS 43.76.010 - 43.76.015.

11 * Sec. 5. Sections 1 - 4 and 5 of this Act take effect immediately in
12 accordance with AS 01.10.070(c).