

HOUSE BILL NO. 176

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/6/97

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a salmon product development and marketing tax credit
2 under the Alaska fisheries business tax and the Alaska fisheries resource landing
3 tax; and providing for an effective date."

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

5 * **Section 1.** FINDINGS AND PURPOSE. (a) Alaska's salmon industry is a vital element
6 in the economy of the state and although Alaska salmon is one of the premiere food
7 commodities in the world, an enormous increase in the world supply of salmon in recent years
8 has caused significant decreases in the market value of Alaska salmon. This situation
9 threatens investments and livelihoods in the salmon industry and related businesses, and
10 negatively affects Alaska's state and local economies. Improving Alaska's competitive
11 position in salmon markets will take more than traditional marketing of traditional salmon
12 products.

13 (b) The purpose of this Act is to encourage industry to invest in the production and
14 marketing of new value-added salmon products to improve the marketability of Alaska salmon

1 through diversification of product forms. This diversification would expand and open markets
 2 for Alaska salmon, thus helping to achieve goals of increasing the world market share for
 3 Alaska salmon, profits for the processing sector, ex-vessel prices for harvesters, benefits for
 4 related economic sectors, and revenue to the state and to local governments.

5 * **Sec. 2.** AS 43.75 is amended by adding a new section to read:

6 **Sec. 43.75.035. Salmon product development and marketing tax credit.**

7 (a) A taxpayer that is a fisheries business may claim a salmon product development
 8 and marketing tax credit of 50 percent of

9 (1) qualified investment in new property first placed into service in a
 10 shore-based plant or on a vessel in the state in the tax year; and

11 (2) eligible marketing costs expended in the tax year.

12 (b) The tax credit claimed under this section may not

13 (1) exceed 50 percent of the taxpayer's tax liability incurred under this
 14 chapter for salmon;

15 (2) be applied for property used in or marketing costs to promote
 16 canning operations; or

17 (3) be applied for investment or marketing costs incurred after
 18 December 31, 1999.

19 (c) If the property for which a tax credit is claimed is installed on a vessel,
 20 the amount of qualified investment under (a) of this section is determined by
 21 multiplying the investment cost of qualified investment property by a fraction the
 22 numerator of which is the weight of raw salmon processed by the taxpayer in Alaska
 23 and the denominator of which is the weight of raw salmon processed by the taxpayer
 24 in and outside of Alaska in the tax year.

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

27 (e) Qualified investment or marketing costs upon which a tax credit is claimed
 28 under this section may not be considered for any other tax credit in this title.

29 (f) A taxpayer may not claim the tax credit allowed under this section if the
 30 taxpayer is in arrears in the payment of contributions under AS 23.20 or a tax under
 31 this title. For purposes of this subsection, a taxpayer is not in arrears if the

1 contribution or tax liability is under administrative or judicial appeal.

2 (g) In this section

3 (1) "brand name" means copyrighted intangible property such as a
4 trademark or trade name;

5 (2) "eligible marketing costs" means the following direct costs incurred
6 in the marketing of salmon products by brand name: consumer and trade
7 advertisements, promotional materials, packaging design and materials, product
8 samples, point of sale materials, slotting fees, retail demonstrations, focus group
9 consumer research, trade show booths, coupon redemptions, and promotional discounts;
10 "eligible marketing costs" do not include costs for travel, payroll, general
11 administration, or overhead;

12 (3) "first placed into service" means the moment when property is first
13 used for its intended purpose;

14 (4) "new property" means property whose original use commences with
15 the taxpayer and does not include property first used by any other person;

16 (5) "qualified investment" means an investment cost in the following
17 depreciable tangible personal property with a useful life of three years or more to be
18 used to produce value-added salmon products, excluding canned salmon, after the
19 heading and gutting of the salmon: filleting, skinning, portioning, mincing, forming,
20 extruding, stuffing, injecting, mixing, marinating, preserving, drying, smoking, brining,
21 packaging, blast freezing, and pin bone removal equipment;

22 (6) "state" includes the state and federal waters to 200 miles seaward
23 from Alaska;

24 (7) "tax liability" means the liability for all taxes under this chapter
25 before all credits allowed by this chapter;

26 (8) "useful life" means the useful life of the property that is or would
27 be applicable for purposes of depreciation.

28 * **Sec. 3.** AS 43.77 is amended by adding a new section to read:

29 **Sec. 43.77.037. Salmon product development and marketing tax credit.**

30 (a) A taxpayer under this chapter may claim a salmon product development and
31 marketing tax credit of 50 percent of

1 (1) qualified investment in new property first placed into service on a
2 vessel in the state in the tax year; and

3 (2) eligible marketing costs expended in the tax year.

4 (b) The tax credit claimed under this section may not

5 (1) exceed 50 percent of the taxpayer's tax liability incurred under this
6 chapter for salmon first landed in the state;

7 (2) be applied for property used in or marketing costs to promote
8 canning operations; or

9 (3) be applied for investment or marketing costs incurred after
10 December 31, 1999.

11 (c) The amount of qualified investment under (a) of this section is determined
12 by multiplying the investment cost of qualified investment property by a fraction the
13 numerator of which is the weight of salmon landed by the taxpayer in Alaska and the
14 denominator of which is the weight of salmon landed by the taxpayer in and outside
15 Alaska in the tax year.

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

18 (e) Qualified investment or marketing costs upon which a tax credit is claimed
19 under this section may not be considered for any other tax credit in this title.

20 (f) A taxpayer may not claim the tax credit allowed under this section if the
21 taxpayer is in arrears in the payment of contributions under AS 23.20 or a tax under
22 this title. For purposes of this subsection, a taxpayer is not in arrears if the
23 contribution or tax liability is under administrative or judicial appeal.

24 (g) In this section

25 (1) "brand name" means copyrighted intangible property such as a
26 trademark or trade name;

27 (2) "eligible marketing costs" means the following direct costs incurred
28 in the marketing of salmon products by brand name: consumer and trade
29 advertisements, promotional materials, packaging design and materials, product
30 samples, point of sale materials, slotting fees, retail demonstrations, focus group
31 consumer research, trade show booths, coupon redemptions, and promotional discounts;

1 "eligible marketing costs" do not include indirect costs, such as travel, payroll, and
2 general administrative costs or overhead;

3 (3) "first placed into service" means the moment when property is first
4 used for its intended purpose;

5 (4) "new property" means property whose original use commences with
6 the taxpayer and does not include property first used by any other person;

7 (5) "qualified investment" means an investment cost in the following
8 depreciable tangible personal property with a useful life of three years or more to be
9 used to produce value-added salmon products, excluding canned salmon, after the
10 heading and gutting of the salmon: filleting, skinning, portioning, mincing, forming,
11 extruding, stuffing, injecting, mixing, marinating, preserving, drying, smoking, brining,
12 packaging, blast freezing, and pin bone removal equipment;

13 (6) "state" includes the state and federal waters to 200 miles seaward
14 from Alaska;

15 (7) "tax liability" means the liability for all taxes under this chapter
16 before all credits allowed by this chapter;

17 (8) "useful life" means the useful life of the property that is or would
18 be applicable for purposes of depreciation.

19 * **Sec. 4.** AS 43.75.035 and AS 43.77.037 are repealed.

20 * **Sec. 5.** Sections 1 - 3 of this Act are retroactive to January 1, 1997.

21 * **Sec. 6.** If the attorney general provides notification under sec. 7(2) of this Act, sec. 4 of
22 this Act is retroactive to January 1, 1997.

23 * **Sec. 7.** Sections 1 - 3 and 5 of this Act take effect immediately under AS 01.10.070(c).

24 * **Sec. 8.** Section 4 of this Act takes effect the earlier of the following:

25 (1) January 1, 2003; or

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

28 (A) a court has entered final judgment that AS 43.75.035 or
29 AS 43.77.037, enacted by secs. 2 and 3 of this Act, violate the commerce clause
30 contained in art. I, sec. 8, of the United States Constitution; and

31 (B) the time for any appeal of that judgment has expired, or, if an

1 appeal was taken, a final order on the appeal has been entered that AS 43.75.035 or
2 AS 43.77.037, as enacted by secs. 2 and 3 of this Act, violate the commerce clause
3 contained in the United States Constitution.

4 * **Sec. 9.** If sec. 6 of this Act takes effect, it takes effect on the date of the attorney
5 general's notification under sec. 8(2) of this Act.