

HOUSE BILL NO. 392

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES AUSTERMAN, Hudson

Introduced: 2/11/98

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to access by the Department of Environmental Conservation and
2 the Department of Fish and Game to confidential tax records for fisheries
3 resources prepared or kept by the Department of Revenue under AS 43.75;
4 relating to certain salmon products reports; and providing for an effective date."

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

6 * **Section 1.** AS 09.25.100(a) is amended to read:

7 (a) Information in the possession of the Department of Revenue that discloses
8 the particulars of the business or affairs of a taxpayer or other person is not a matter
9 of public record [,] except **as provided in AS 43.05.230(i) or AS 43.80.063** or for
10 purposes of child support administration as described in (b) of this section,
11 investigation, and law enforcement. The information shall be kept confidential except
12 when its production is required in response to a request for purposes of child support
13 administration as described in (b) of this section, in an official investigation, in an
14 administrative adjudication under AS 43.05.400 - 43.05.499, or in a court proceeding.

1 These restrictions do not prohibit the publication of statistics presented in a manner
 2 that prevents the identification of particular reports and items, the publication of tax
 3 lists showing the names of taxpayers who are delinquent and relevant information that
 4 may assist in the collection of delinquent taxes, or the publication of records,
 5 proceedings, and decisions under AS 43.05.400 - 43.05.499.

6 * **Sec. 2.** AS 09.25.100 as repealed and reenacted under sec. 148(c), ch. 87, SLA 1997, is
 7 amended to read:

8 (a) Information in the possession of the Department of Revenue that discloses
 9 the particulars of the business or affairs of a taxpayer or other person is not a matter
 10 of public record, except **as provided in AS 43.05.230 or AS 43.80.063** or for
 11 purposes of investigation and law enforcement. The information shall be kept
 12 confidential except when its production is required in an official investigation,
 13 administrative adjudication under AS 43.05.400 - 43.05.499, or court proceeding.
 14 These restrictions do not prohibit the publication of statistics presented in a manner
 15 that prevents the identification of particular reports and items, prohibit the publication
 16 of tax lists showing the names of taxpayers who are delinquent and relevant
 17 information that may assist in the collection of delinquent taxes, or prohibit the
 18 publication of records, proceedings, and decisions under AS 43.05.400 - 43.05.499.

19 * **Sec. 3.** AS 43.05.230 is amended by adding a new subsection to read:

20 (i) The commissioner shall, upon request, furnish to the Department of
 21 Environmental Conservation or the Department of Fish and Game copies of tax returns,
 22 reports, or other documents filed under AS 43.75, and copies of the Department of
 23 Revenue's determinations and work papers related to those documents filed under
 24 AS 43.75. The Department of Environmental Conservation and the Department of
 25 Fish and Game shall maintain the confidentiality that the Department of Revenue is
 26 required to extend to the returns, reports, determinations, work papers, and other
 27 documents furnished under this subsection.

28 * **Sec. 4.** AS 43.80.050(a) is amended to read:

29 (a) A fish processor engaged in the business of selling canned salmon products
 30 at wholesale shall submit to the department, on a form provided by the department,
 31 **reports** [A SEMI-ANNUAL REPORT] of the prices received by the processor or an

1 affiliate of the processor for the sale of canned salmon. Not later than **May 31**
 2 [APRIL 30] of each year, a processor shall submit a report for the period **January 1**
 3 **through April 30** [OCTOBER 1 - MARCH 31]. Not later than **September 30**
 4 [OCTOBER 31] of each year, a processor shall submit a report for the period **May 1**
 5 **through August 31. Not later than January 31 of each year, a processor shall**
 6 **submit a report for the period September 1 through December 31** [APRIL 1 -
 7 SEPTEMBER 30].

8 * **Sec. 5.** AS 43.80.050(b) is amended to read:

9 (b) A report submitted under this section **must** [SHALL], for sales to buyers
 10 that are not affiliates of the processor, include a description of the products and the
 11 quantity sold by species and **by the canned sizes in which the salmon is sold** [UNIT-
 12 OF-SALE CATEGORY] and the wholesale prices received. If a processor sells no
 13 canned salmon products during a reporting period, the report for that period **must**
 14 [SHALL] include only a statement of that fact.

15 * **Sec. 6.** AS 43.80.050(c) is amended to read:

16 (c) A sale to an affiliate of the processor may not be included in a report
 17 submitted under this section by a processor. However, a processor shall report sales
 18 by an affiliate at wholesale of canned salmon that was obtained from the processor.
 19 The report shall include a description of the products and the quantity sold by the
 20 affiliate by species and **by the canned sizes in which the canned salmon is sold**
 21 [UNIT-OF-SALE CATEGORY] and the wholesale prices received by the affiliate.

22 * **Sec. 7.** AS 43.80.050(d) is amended to read:

23 (d) Information shall be reported for **each canned size in which the salmon**
 24 **is sold** [THE FOLLOWING UNIT-OF-SALE CATEGORIES:

- 25 (1) 48-POUND CASE OF ONE-POUND CANS (48 CANS);
 26 (2) 24-POUND CASE OF ONE-HALF-POUND CANS (48 CANS);
 27 (3) 12-POUND CASE OF ONE-QUARTER-POUND CANS (48
 28 CANS); AND
 29 (4) 48-POUND CASE OF FOUR-POUND CANS (12 CANS)].

30 * **Sec. 8.** AS 43.80.055(b) is amended to read:

31 (b) The department shall determine under this section the monthly and annual

1 wholesale price averages for each species of canned salmon **for** [IN] each **canned size**
 2 **in which the salmon is sold** [UNIT-OF-SALE CATEGORY].

3 * **Sec. 9.** AS 43.80 is amended by adding a new section to read:

4 **Sec. 43.80.063. Audit authorized.** (a) At the request and expense of a person
 5 who is a collective price bargainer for persons who are engaged in the business of
 6 fishing for salmon in the state, an auditor selected by the requesting person may audit
 7 the sales records of fish processors who submit reports under AS 43.80.050 to
 8 determine if the reports submitted to the department are accurate.

9 (b) A fish processor consents to the audit authorized by (a) of this section if
 10 the fish processor engages in the business of fish processing in the state.

11 (c) The department shall provide the auditor with the names of the fish
 12 processors who submitted reports under AS 43.80.050 and with the reports submitted.

13 (d) The audit report may not include information that identifies or could be
 14 used to identify a particular fish processor. The audit report is public information.
 15 Except for the audit report authorized by this section, an auditor may not disclose
 16 information received from the department or from the audited records to any person,
 17 including the person who requested the audit.

18 (e) An auditor who performs an audit under this section and who knowingly
 19 violates (d) of this section is guilty of a class A misdemeanor.

20 (f) A fish processor who knowingly refuses to provide the processor's records
 21 to an auditor under this section is guilty of a class A misdemeanor.

22 (g) In this section,

23 (1) "auditor" means a person who holds a certificate of certified public
 24 accountant under AS 08.04.100 or a partnership, limited liability company, or
 25 corporation registered under AS 08.04.240;

26 (2) "collective price bargainer" means a person who engages regularly
 27 in the business of negotiating with fish processors the price that the fish processors
 28 will pay for salmon to persons who are engaged in the business of fishing for salmon
 29 in the state.

30 * **Sec. 10.** AS 43.80.100 is amended by adding a new paragraph to read:

31 (6) "canned" means cooked with heat under pressure in a can, pouch,

1 or other similar container in which the product will be sold.

2 * **Sec. 11.** TRANSITION. The first report required by AS 43.80.050(a), as amended by
3 sec. 4 of this Act, is due September 30, 1998, and must cover the period of May 1, 1998,
4 through August 31, 1998.

5 * **Sec. 12.** Section 2 of this Act takes effect only if AS 09.25.100 is repealed and reenacted
6 under sec. 148(c), ch. 87, SLA 1997.

7 * **Sec. 13.** Sections 1 and 3 - 12 of this Act take effect September 1, 1998.

8 * **Sec. 14.** If sec. 2 of this Act takes effect, it takes effect on the effective date of the
9 repeal and reenactment of AS 09.25.100 under sec. 148(c), ch. 87, SLA 1997.