

HOUSE BILL NO. 258

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES SCALZI, Hudson

Introduced: 4/25/01

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act converting the business license fee to a business license tax; adding, as an element**
2 **of that tax, computation of the tax based on the taxpayer's gross receipts; establishing**
3 **adjustments to that tax; and transferring administration of the levy to the Department of**
4 **Revenue; and providing for an effective date."**

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

6 *** Section 1.** AS 06.20.030(c) is amended to read:

7 (c) The license fee required by this section is in place of the **tax** [FEE] under
8 AS 43.70 (Alaska Business License Act).

9 *** Sec. 2.** AS 08.01.087(a) is amended to read:

10 (a) The department may, upon its own motion, conduct investigations to
11 (1) determine whether a person has violated a provision of this chapter or
12 a regulation adopted under it, [OR A PROVISION OF AS 43.70,] or a provision of this
13 title or regulation adopted under this title dealing with an occupation or board listed in
14 AS 08.01.010; or

1 (2) secure information useful in the administration of this chapter.

2 * **Sec. 3.** AS 08.01.087(b) is amended to read:

3 (b) If it appears to the commissioner that a person has engaged in or is about to
4 engage in an act or practice in violation of a provision of this chapter or a regulation
5 adopted under it, [OR A PROVISION OF AS 43.70,] or a provision of this title or
6 regulation adopted under this title dealing with an occupation or board listed in
7 AS 08.01.010, the commissioner may, if the commissioner considers it in the public
8 interest, and after notification of a proposed order or action by telephone, telegraph, or
9 facsimile to all board members, if a board regulates the act or practice involved, unless a
10 majority of the members of the board object within 10 days,

11 (1) issue an order directing the person to stop the act or practice;
12 however, reasonable notice of and an opportunity for a hearing must first be given to the
13 person, except that the commissioner may issue a temporary order before a hearing is
14 held; a temporary order remains in effect until a final order affirming, modifying, or
15 reversing the temporary order is issued or until 15 days after the person receives the
16 notice and has not requested a hearing by that time; a temporary order becomes final if
17 the person to whom the notice is addressed does not request a hearing within 15 days
18 after receiving the notice; the commissioner or the commissioner's designee shall be the
19 hearing officer at the hearing and shall issue a final order within 10 days after the
20 hearing;

21 (2) bring an action in the superior court to enjoin the acts or practices and
22 to enforce compliance with this chapter, a regulation adopted under it, an order issued
23 under it, or with a provision of this title or regulation adopted under this title dealing with
24 business licenses or an occupation or board listed in AS 08.01.010;

25 (3) examine or have examined the books and records of a person whose
26 business activities require a business license or licensure by a board listed in
27 AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may
28 require the person to pay the reasonable costs of the examination; and

29 (4) issue subpoenas for the attendance of witnesses, and the production
30 of books, records, and other documents.

31 * **Sec. 4.** AS 08.01.102 is amended to read:

1 **Sec. 08.01.102. Citation for unlicensed practice or activity.** The department
 2 may issue a citation for a violation of a license requirement under this chapter [OR
 3 AS 43.70] if there is probable cause to believe a person has practiced a profession [OR
 4 ENGAGED IN BUSINESS] for which a license is required without holding the license.
 5 Each day a violation continues after a citation for the violation has been issued
 6 constitutes a separate violation.

7 * **Sec. 5.** AS 08.01.110(4) is amended to read:

8 (4) "license" means [A BUSINESS LICENSE OR] a license, certificate,
 9 permit, or registration or similar evidence of authority issued for an occupation by the
 10 department or by one of the boards listed in AS 08.01.010;

11 * **Sec. 6.** AS 10.25.540(a) is amended to read:

12 (a) Cooperatives under this chapter shall apply for a business license and pay the
 13 **tax** [INITIAL LICENSE FEE] as provided by **AS 43.70** ([THE] Alaska Business
 14 License Act [(AS 43.70)], as amended.

15 * **Sec. 7.** AS 11.76.100(e) is amended to read:

16 (e) The court shall forward a record of each person convicted under this section
 17 who holds a business license endorsement under AS 43.70.075, or who is an employee or
 18 agent of a person who holds a license endorsement under AS 43.70.075 to the
 19 Department of **Revenue** [COMMUNITY AND ECONOMIC DEVELOPMENT].

20 * **Sec. 8.** AS 16.10.265(d) is amended to read:

21 (d) The commissioner of **revenue** [COMMUNITY AND ECONOMIC
 22 DEVELOPMENT] may suspend or revoke a business license issued under AS 43.70.020
 23 and [THE COMMISSIONER OF REVENUE] may suspend or revoke a license to
 24 engage in the business of processing or buying raw fish if the licensee or an officer,
 25 director, or employee in a policy-making position of the licensee has been convicted of
 26 three offenses under this section. Proceedings to suspend or revoke a license are
 27 governed by AS 44.62 (Administrative Procedure Act).

28 * **Sec. 9.** AS 43.05.230(g) is amended to read:

29 (g) The information contained in a license issued by the commissioner [OF
 30 REVENUE OR THE COMMISSIONER OF COMMUNITY AND ECONOMIC
 31 DEVELOPMENT] under AS 43.50, AS 43.60, AS 43.65, AS 43.70, and AS 43.75 is

1 public information.

2 * **Sec. 10.** AS 43.70.020(a) is amended to read:

3 (a) For the privilege of engaging in a business in the state, a person shall first
4 apply, upon forms prescribed by the commissioner, and obtain a license, and pay the **tax**
5 [LICENSE FEE] provided for in AS 43.70.030. A license issued to a firm for a
6 particular line of business covers all its operations in the state in the line of business
7 regardless of the number of its establishments. A license issued under this subsection
8 must include

- 9 (1) the name and address of the licensee;
10 (2) the line of business to be conducted;
11 (3) the dates for which the license is issued; and
12 (4) the business name to be used by the licensee.

13 * **Sec. 11.** AS 43.70.020 is amended by adding new subsections to read:

14 (e) An applicant for a business license under this chapter shall submit the
15 application and pay an initial tax. The initial tax of \$25 applies to all of the provisions of
16 this section and shall accompany the application. The balance is due and payable on
17 December 31 of each year and shall be paid before the first day of the following March,
18 except that the department may extend the time until the following April 30 upon
19 application showing that the extension is necessary to enable the applicant to ascertain
20 the amount due.

21 (f) A business license issued under this section expires on December 31 of the
22 calendar year for which it is issued.

23 * **Sec. 12.** AS 43.70.030(a) is amended to read:

24 (a) The **tax** [LICENSE FEE] for each business **to obtain a license under this**
25 **chapter** is \$25 per year **plus an amount determined under (e) of this section, less the**
26 **amount of any license fees paid under AS 08.**

27 * **Sec. 13.** AS 43.70.030(c) is amended to read:

28 (c) The license for the privilege of taking orders through use of catalogs and by
29 mail order offices in the state is the same as set out in this chapter for business generally,
30 **and the gross receipts of the business of the offices include all orders taken at the**
31 **offices regardless of whether delivery of merchandise is made through the offices.**

1 * **Sec. 14.** AS 43.70.030 is amended by adding a new subsection to read:

2 (e) In addition to the \$25 due under (a) of this section, a person shall pay a tax
3 equal to two percent of the gross receipts from the business during the year for which the
4 license is issued.

5 * **Sec. 15.** AS 43.70 is amended by adding a new section to read:

6 **Sec. 43.70.032. Alternative payment due from certain financial institutions.**

7 (a) In place of the tax due under AS 43.70.030, the tax for each national bank and state
8 bank, trust company, and savings and loan association is two percent of its net income.
9 In this subsection, "net income" means the taxable income of each taxpayer before net
10 operating loss deduction and special deductions, computed as required under 26 U.S.C.,
11 and includes all other income, including the income from federal, state, or municipal
12 obligations.

13 (b) Each of the taxpayers described in (a) of this section required to make a
14 return under the provisions of 26 U.S.C. shall at the same time file with the department

15 (1) a return setting out the amount of tax due under this chapter and other
16 information for the purpose of carrying out the provisions of this chapter that the
17 department requires;

18 (2) a true and correct copy of the tax return that the taxpayer has filed
19 with the Internal Revenue Service, and shall notify the department in writing of any
20 alternation in or modification of the taxpayer's federal income tax return and of a
21 recomputation of tax or determination of deficiency.

22 * **Sec. 16.** AS 43.70 is amended by adding a new section to read:

23 **Sec. 43.70.074. Security.** A nonresident person who starts to perform a
24 construction contract or subcontract or other line of business in the state and is not known
25 by the department to be the holder of adequate property in the state to secure collection of
26 the license money that will probably accrue under this chapter by virtue of the business
27 shall, in or with the application, state under oath the extent of lienable real and personal
28 property against which the tax may be collected, and other information with respect to
29 description, location, and value of the property that the department prescribes. If the
30 value of the property is not equal to three times the amount of the tax for which the
31 applicant will probably be liable to the state, the department may not issue the license

1 until the applicant files a surety bond approved by the attorney general in a penal sum
 2 equal to twice the probable amount of the tax for which the applicant will be liable,
 3 conditioned upon payment of the tax in full when due, and with interest if not paid before
 4 delinquency. The department may waive the bond requirement if the applicant posts
 5 other security in the form of collateral acceptable to the department.

6 * **Sec. 17.** AS 43.70 is amended by adding a new section to read:

7 **Sec. 43.70.101. Exemptions.** (a) The following gross receipts are exempt from
 8 taxation under this chapter:

9 (1) gross receipts from educational, religious, benevolent, fraternal, or
 10 charitable activities, where the entire amount of the receipts is held or expended for these
 11 activities, except receipts that are the result of a continuous engaging in a business or
 12 occupation otherwise subject to this chapter;

13 (2) gross receipts from the operation of a hospital;

14 (3) gross receipts from a municipally owned and operated utility and
 15 from operation of a utility by an incorporated utility district, nonprofit association, or
 16 nonprofit cooperative;

17 (4) gross receipts from home handicrafts up to \$500;

18 (5) that part of the gross receipts from a sale of a single item that
 19 exceeds \$2,000; for purposes of this paragraph, a single item is an item sold in a single
 20 sale consisting of integrated and interdependent component parts affixed or fitted to
 21 one another in such a manner as to produce a functional whole; optional accessories,
 22 including goods, services, and contracts for services, if used or essential for the
 23 operation of the item, are considered part of the whole;

24 (6) that part of the gross receipts from the sale of a single service, the
 25 periodic selling price of which exceeds \$2,000; for purposes of this paragraph,

26 (A) the periodic selling price is the amount owed on a calendar-
 27 month or invoice basis, whichever is more frequent; the value of periodic
 28 services or contracts having a payment period exceeding one calendar month is
 29 computed for gross receipts tax purposes by dividing the amount received by
 30 the number of calendar months, including fractions of calendar months, in the
 31 payment period;

1 (B) a single service is an interrelated and interdependent
2 function necessary to perform a specified action;

3 (7) that part of the gross receipts from the rental of a single item of real
4 or personal property, the periodic rental price of which exceeds \$2,000; for purposes
5 of this paragraph,

6 (A) the periodic rental price is the amount owed on a monthly
7 or more frequent basis;

8 (B) rentals exceeding a payment period of one month are
9 computed for gross receipts tax purposes by dividing the payment by the
10 number of calendar months, including fractions of calendar months, in the
11 payment period;

12 (8) gross receipts derived from a sale made to a person in a foreign
13 country for shipment out of the United States, except when the goods or products sold are
14 exported in bond for reentry into the United States;

15 (9) gross receipts subject to the tax imposed by AS 43.55;

16 (10) gross receipts from the taxes imposed by the state upon the sale of
17 motor fuel;

18 (11) gross receipts from a consumers' sales tax collected by a taxpayer
19 for a political subdivision of this state; in this paragraph, "consumer" means the person
20 who, in the ordinary common meaning of the term, ultimately uses goods, and
21 diminishes or destroys their utility;

22 (12) an amount representing cash discounts allowed and taken on sales,
23 and sales refunds, either in cash or by credit, uncollectible accounts written off, and
24 payments received in final liquidation of accounts included in the gross receipts of a
25 previous return made by the person.

26 (b) The exemption from taxation of certain gross receipts as provided in this
27 chapter does not exempt a person from payment of the \$25 due under AS 43.70.030(a).

28 * **Sec. 18.** AS 43.70.110 is amended by adding new paragraphs to read:

29 (5) "gross receipts" means receipts from sources in the state and receipts
30 from sales, wherever made, of goods, wares, and merchandise manufactured,
31 processed or originating in the state, whether the receipts are in the form of money,

1 credits, or other valuable consideration received from engaging in or conducting a
 2 business, without deducting the cost of the property sold, the cost of the materials
 3 used, labor or service cost, interest paid, taxes, losses, amounts paid or assigned to
 4 subcontractors, or any other expense; and, in the case of an individual who represents
 5 firms taxed under this chapter on volume of business done who works as an agent on
 6 commission instead of as an employee, the gross commission of that individual;

7 (6) "income year" means calendar year or, if a person carries on business
 8 during only a part of the income year, the period within the income year during which the
 9 person carries on business;

10 (7) "tax" means the business license tax imposed under this chapter.

11 * **Sec. 19.** AS 43.99.950 is amended to read:

12 **Sec. 43.99.950. Definitions.** In [EXCEPT IN AS 43.70, IN] this title,

13 (1) "commissioner" means the commissioner of revenue; and

14 (2) "department" means the Department of Revenue.

15 * **Sec. 20.** AS 08.01.010(8), 08.01.050(a)(21), 08.01.065(d); AS 43.70.110(2), and
 16 43.70.110(3) are repealed.

17 * **Sec. 21.** This Act takes effect January 1, 2003.