

HOUSE BILL NO. 90

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

BY REPRESENTATIVES STEVENS, Wolf

Introduced: 2/10/03

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

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

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

5 *** Section 1.** AS 43.75 is amended by adding a new section to read:

6 **Sec. 43.75.035. Salmon product development tax credit.** (a) A taxpayer
7 that is a fisheries business may claim a salmon product development tax credit of 50
8 percent of qualified investment in new property first placed into service in a shore-
9 based plant or on a vessel in the state in the tax year.

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

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

13 (2) be applied for investment costs incurred after December 31, 2005.

14 (c) If the property for which a tax credit is claimed is installed on a vessel, the

1 amount of qualified investment under (a) of this section is determined by multiplying
 2 the investment cost of qualified investment property by a fraction, the numerator of
 3 which is the weight of raw salmon processed by the taxpayer in Alaska in the tax year,
 4 and the denominator of which is the weight of raw salmon processed by the taxpayer
 5 in and outside of Alaska in the tax year.

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

8 (e) Qualified investment costs upon which a tax credit is claimed under this
 9 section may not be considered for another tax credit in this title.

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

14 (g) In this section

15 (1) "first placed into service" means the moment when property is first
 16 used for its intended purpose;

17 (2) "new property" means property whose original use commences
 18 with the taxpayer and does not include property first used by another person;

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

25 (4) "state" includes the state and federal waters to 200 miles seaward
 26 from Alaska;

27 (5) "tax liability" means the liability for all taxes under this chapter
 28 before all credits allowed by this chapter;

29 (6) "useful life" means the useful life of the property that is or would
 30 be applicable for purposes of depreciation.

31 * **Sec. 2.** AS 43.75.130 is amended by adding a new subsection to read:

1 (g) For purposes of this section, tax revenue collected under AS 43.75.015
 2 from a person entitled to a credit under AS 43.75.035 shall be calculated as if the
 3 person's tax were collected without applying the credit.

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

5 **Sec. 43.77.037. Salmon product development tax credit.** (a) A taxpayer
 6 under this chapter may claim a salmon product development tax credit of 50 percent of
 7 qualified investment in new property first placed into service on a vessel in the state in
 8 the tax year.

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

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

12 (2) be applied for investment costs incurred after December 31, 2005.

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

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

20 (e) Qualified investment costs upon which a tax credit is claimed under this
 21 section may not be considered for another tax credit in this title.

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

26 (g) In this section

27 (1) "first placed into service" means the moment when property is first
 28 used for its intended purpose;

29 (2) "new property" means property whose original use commences
 30 with the taxpayer and does not include property first used by another person;

31 (3) "qualified investment" means an investment cost in the following

1 depreciable tangible personal property with a useful life of three years or more to be
 2 used to produce value-added salmon products after the heading and gutting of the
 3 salmon: filleting, skinning, portioning, mincing, forming, extruding, stuffing,
 4 injecting, mixing, marinating, preserving, drying, smoking, brining, packaging, blast
 5 freezing, and pin bone removal equipment;

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

8 (5) "tax liability" means the liability for all taxes under this chapter
 9 before all credits allowed by this chapter;

10 (6) "useful life" means the useful life of the property that is or would
 11 be applicable for purposes of depreciation.

12 * **Sec. 4.** AS 43.77.060 is amended by adding a new subsection to read:

13 (f) For purposes of this section, tax revenue collected under AS 43.77.010
 14 from a person entitled to a credit under AS 43.77.037 shall be calculated as if the
 15 person's tax were collected without applying the credits.

16 * **Sec. 5.** AS 43.75.035, 43.75.130(g); and AS 43.77.037, and 43.77.060(f) are repealed.

17 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 **RETROACTIVITY.** Sections 1 - 4 of this Act are retroactive to January 1, 2003.

20 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **RETROACTIVITY.** If the attorney general provides notification under sec. 9(2) of
 23 this Act, sec. 5 of this Act is retroactive to January 1, 2003.

24 * **Sec. 8.** Sections 1 - 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

25 * **Sec. 9.** Section 5 of this Act takes effect on the earlier of the following:

26 (1) January 1, 2009; or

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

29 (A) a court has entered final judgment that AS 43.75.035 or
 30 AS 43.77.037, enacted by secs. 1 and 3 of this Act, violates the commerce
 31 clause contained in art. I, sec. 8, of the United States Constitution; and

1 (B) the time for an appeal of that judgment has expired, or, if
2 an appeal was taken, a final order on the appeal has been entered that
3 AS 43.75.035 or AS 43.77.037, as enacted by secs. 1 and 3 of this Act, violates
4 the commerce clause contained in the United States Constitution.

5 * **Sec. 10.** Section 7 of this Act takes effect on the date of the attorney general's notification
6 under sec. 9(2) of this Act.