

HOUSE BILL NO. 419

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE OGG BY REQUEST OF THE JOINT LEGISLATIVE SALMON INDUSTRY TASK FORCE**Introduced: 2/2/04****Referred: House Special Committee on Economic Development, International Trade, and Tourism, Resources, Finance****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to regional seafood development associations and to regional seafood**
 2 **development taxes."**

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

4 *** Section 1.** AS 16.43.160(e)(2)(A)(iii) is amended to read:

5 (iii) Department of Community and Economic
 6 Development - commercial fishing loan program, Alaska Seafood
 7 Marketing Institute, **regional seafood development program**, and
 8 community development quota program;

9 *** Sec. 2.** AS 16.43.160(e)(2)(A)(ix) is amended to read:

10 (ix) Department of Revenue - fisheries business tax
 11 program, fishery resource landing tax program, salmon enhancement
 12 tax program, **seafood development tax program**, salmon marketing
 13 tax program, and dive fishery management assessment program;

14 *** Sec. 3.** AS 43.76 is amended by adding new sections to read:

1 **Article 6. Seafood Development Tax.**

2 **Sec. 43.76.350. Two percent seafood development tax.** (a) A person
3 holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
4 seafood development tax at the rate of two percent of the value, as defined in
5 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
6 state or transfers to a buyer in the state. The buyer shall collect the seafood
7 development tax at the time a fishery resource subject to the tax is acquired by the
8 buyer.

9 (b) A two percent seafood development tax on a fishery resource taken in a
10 fishery may only be levied and collected under (a) of this section if

11 (1) the commissioner of community and economic development has
12 designated an organization to be the qualified regional seafood development
13 association for the fishery under AS 44.33.065; and

14 (2) the two percent seafood development tax for the fishery is
15 approved under AS 43.76.370.

16 **Sec. 43.76.355. One and one-half percent seafood development tax.** (a) A
17 person holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
18 seafood development tax at the rate of 1.5 percent of the value, as defined in
19 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
20 state or transfers to a buyer in the state. The buyer shall collect the seafood
21 development tax at the time a fishery resource subject to the tax is acquired by the
22 buyer.

23 (b) A 1.5 percent seafood development tax on a fishery resource taken in a
24 fishery may only be levied and collected under (a) of this section if

25 (1) the commissioner of community and economic development has
26 designated an organization to be the qualified regional seafood development
27 association for the fishery under AS 44.33.065; and

28 (2) the 1.5 percent seafood development tax for the fishery is approved
29 under AS 43.76.370.

30 **Sec. 43.76.360. One percent seafood development tax.** (a) A person
31 holding a limited entry permit or interim-use permit under AS 16.43 shall pay a

1 seafood development tax at the rate of one percent of the value, as defined in
2 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
3 state or transfers to a buyer in the state. The buyer shall collect the seafood
4 development tax at the time a fishery resource subject to the tax is acquired by the
5 buyer.

6 (b) A one percent seafood development tax on a fishery resource taken in a
7 fishery may only be levied and collected under (a) of this section if

8 (1) the commissioner of community and economic development has
9 designated an organization to be the qualified regional seafood development
10 association for the fishery under AS 44.33.065; and

11 (2) the one percent seafood development tax for the fishery is
12 approved under AS 43.76.370.

13 **Sec. 43.76.365. One-half percent seafood development tax.** (a) A person
14 holding a limited entry permit or interim-use permit under AS 16.43 shall pay a
15 seafood development tax at the rate of 0.5 percent of the value, as defined in
16 AS 43.75.290, of fishery resources taken in a fishery that the person removes from the
17 state or transfers to a buyer in the state. The buyer shall collect the seafood
18 development tax at the time a fishery resource subject to the tax is acquired by the
19 buyer.

20 (b) A 0.5 percent seafood development tax on a fishery resource taken in a
21 fishery may only be levied or collected under (a) of this section if

22 (1) the commissioner of community and economic development has
23 designated an organization to be the qualified regional seafood development
24 association for the fishery under AS 44.33.065; and

25 (2) the 0.5 percent seafood development tax for the fishery is approved
26 under AS 43.76.370.

27 **Sec. 43.76.370. Election to approve, amend, or terminate seafood**
28 **development tax.** (a) A qualified regional seafood development association for a
29 fishery may conduct an election to approve, amend, or terminate a seafood
30 development tax under this section after the commissioner of community and
31 economic development approves

1 (1) the notice to be published by the qualified regional seafood
2 development association;

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

4 (3) the registration and voting procedure for the approval, amendment,
5 or termination of the seafood development tax.

6 (b) The seafood development tax is levied under AS 43.76.350, 43.76.355,
7 43.76.360, or 43.76.365 on fishery resources taken in a fishery on the effective date
8 stated on the ballot if

9 (1) the levy, amendment, or termination of the tax is approved by a
10 majority vote of the eligible interim-use permit and entry permit holders voting in an
11 election held under this section; and

12 (2) the election results are certified by the commissioner of community
13 and economic development.

14 (c) In conducting an election under this section, a qualified regional seafood
15 development association for a fishery shall adopt the following procedures:

16 (1) the association shall hold at least one public meeting, not less than
17 30 days before the date on which ballots must be postmarked to be counted in the
18 election, to explain the reason for the proposed seafood development tax, the
19 amendment of the tax, or the termination of the tax and to explain the registration and
20 voting procedure to be used in the election; the association shall provide notice of the
21 meeting by

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

24 (B) posting the notice in at least three public places in the
25 region in which the fishery occurs; and

26 (C) publishing the notice in at least one newspaper of general
27 circulation in the region at least once a week for two consecutive weeks before
28 the meeting;

29 (2) the association shall mail two ballots to each eligible interim-use
30 permit and entry permit holder; the first ballot shall be mailed not more than 45 days
31 before the date ballots must be postmarked to be counted in the election; the second

1 ballot shall be mailed not less than 15 days before the date ballots must be postmarked
 2 to be counted in the election; the association shall adopt procedures to ensure that only
 3 one ballot from each eligible interim-use permit and entry permit holder is counted in
 4 the election;

5 (3) the ballot must

6 (A) indicate whether the election relates to a seafood
 7 development tax under AS 43.76.350, 43.76.355, 43.76.360, or 43.76.365;

8 (B) indicate the species of fishery resources and the fishery that
 9 will be subject to the seafood development tax;

10 (C) ask the question whether the seafood development tax shall
 11 be levied or amended, as appropriate;

12 (D) indicate the geographic boundaries of the fishery in which
 13 the seafood development tax will be levied;

14 (E) provide an effective date for the levy or amendment of the
 15 seafood development tax in the fishery; and

16 (F) indicate the date on which returned ballots must be
 17 postmarked in order to be counted;

18 (4) the ballots shall be returned by mail and shall be counted by the
 19 commissioner of community and economic development or by a person approved by
 20 the commissioner of community and economic development.

21 (d) The commissioner of community and economic development shall certify
 22 the results of an election under this section if the commissioner determines that the
 23 requirements of (a) and (c) of this section have been satisfied.

24 (e) Except as provided in AS 43.76.375, an election to terminate a seafood
 25 development tax shall be conducted under the same procedures established under (a),
 26 (c), and (d) of this section for an election to approve or amend a seafood development
 27 tax.

28 (f) In this section, "eligible interim-use permit and entry permit holder" means
 29 an individual who, 90 days before the date ballots must be postmarked to be counted
 30 in an election under this section, is listed in the records of the Alaska Commercial
 31 Fisheries Entry Commission as the legal owner of an interim-use permit or an entry

1 permit that authorizes the individual to operate commercial fishing gear in the fishery
2 that will be subject to the seafood development tax.

3 **Sec. 43.76.375. Termination of seafood development tax.** (a) The seafood
4 development tax levied under AS 43.76.350, 43.76.355, 43.76.360, or 43.76.365 may
5 be terminated by the commissioner of revenue upon majority vote at an election held
6 under AS 43.76.370 in the fishery in which the seafood development tax is levied.

7 (b) The commissioner of revenue shall terminate a seafood development tax
8 under (a) of this section following an election conducted by the qualified seafood
9 development association for a fishery if

10 (1) a petition is presented to the commissioner of community and
11 economic development requesting termination of the seafood development tax that is
12 signed by at least 25 percent of the number of persons who voted under AS 43.76.370
13 in the most recent election to approve or amend the seafood development tax in the
14 fishery;

15 (2) an election is held in accordance with AS 43.76.370; the ballot
16 must ask the question whether the seafood development tax for the fishery shall be
17 terminated; the ballot must be worded so that a "yes" vote is for continuation of the
18 seafood development tax and a "no" vote is for termination of the seafood
19 development tax;

20 (3) a majority of the votes cast in the election by eligible interim-use
21 permit and entry permit holders are for the termination of the seafood development
22 tax; and

23 (4) the qualified regional seafood development association for the
24 fishery provides notice of the election in accordance with AS 43.76.370 within two
25 months after receiving notice from the commissioner of community and economic
26 development that a valid petition under (1) of this subsection has been received.

27 **Sec. 43.76.380. Collection of tax and disposition of proceeds.** (a) A buyer
28 who acquires a fishery resource that is subject to a seafood development tax levied
29 under AS 43.76.350, 43.76.355, 43.76.360, or 43.76.365 shall collect the seafood
30 development tax at the time of purchase, and shall remit the total tax collected during
31 each month to the department by the last day of the next month.

1 (b) A buyer who collects the seafood development tax shall

2 (1) maintain records reflecting the fishery in which the fishery resource
3 was caught; and

4 (2) report to the Department of Revenue by March 1 of each year the
5 total value, as defined in AS 43.75.290, of the fishery resources caught in each fishery
6 that the buyer has acquired during the preceding year.

7 (c) The Department of Revenue shall deposit the seafood development tax
8 collected under AS 43.76.350 - 43.76.399 in the general fund. The legislature may
9 make appropriations based on this revenue to the Department of Community and
10 Economic Development for the purpose of providing financing for qualified regional
11 seafood development associations.

12 **Sec. 43.76.385. Liability for tax on fishery resources shipped from the**
13 **state.** (a) The owner of fishery resources removed from the state is liable for payment
14 of a seafood development tax levied under AS 43.76.350, 43.76.355, 43.76.360, or
15 43.76.365 if, at the time the fishery resources are removed from the state, the seafood
16 development tax payable on the fishery resources has not been collected by a buyer.

17 (b) If the owner of fishery resources is liable for payment of the seafood
18 development tax under (a) of this section, the owner shall comply with the
19 requirement of AS 43.76.380(b) to report the owner's liability for payment of the tax.

20 **Sec. 43.76.390. Exemption.** AS 43.76.350 - 43.76.399 do not apply to
21 salmon harvested under a special harvest area entry permit issued under AS 16.43.400.

22 **Sec. 43.76.399. Definition.** In AS 43.76.350 - 43.76.399, unless the context
23 otherwise requires,

24 (1) "buyer" means a person who acquires possession of fishery
25 resources from the person who caught the fishery resources regardless of whether
26 there is an actual sale of the fishery resources but excluding a transfer to a person
27 engaged solely in interstate transportation of goods for hire;

28 (2) "fishery" has the meaning given in AS 16.43.990.

29 * **Sec. 4.** AS 44.33 is amended by adding a new section to read:

30 **Sec. 44.33.065. Regional seafood development associations.** (a) The
31 Department of Community and Economic Development shall assist in and encourage

1 the formation of a qualified regional seafood development association for a fishery for
2 the purpose of promoting and marketing Alaska seafood products harvested in a
3 fishery conducted in a seafood development region identified in (b) of this section.
4 The commissioner may designate an organization as the qualified regional seafood
5 development association for a fishery if the commissioner determines that the
6 organization

7 (1) is established for the following purposes:

8 (A) promotion of seafood and seafood by-products that are
9 harvested in the fishery and processed for sale;

10 (B) promotion of improvements to the commercial fishing
11 industry and infrastructure in the fishery and seafood development region;

12 (C) establishment of education, research, advertising, or sales
13 promotion programs for seafood products harvested in the fishery;

14 (D) preparation of market research and product development
15 plans for the promotion of seafood and their by-products that are harvested in
16 the fishery and processed for sale;

17 (E) cooperation with the Alaska Seafood Marketing Institute
18 and other public or private boards, organizations, or agencies engaged in work
19 or activities similar to the work of the organization including entering into
20 contracts for joint programs of consumer education, sales promotion, quality
21 control, advertising, and research in the production, processing, or distribution
22 of seafood harvested in the fishery;

23 (F) cooperation with commercial fishermen, fishermen's
24 organizations, seafood processors, the Alaska Fisheries Development
25 Foundation, the Fisheries Industrial Technology Center, state and federal
26 agencies, and other relevant persons and entities to investigate market
27 reception to new seafood product forms and to develop commodity standards
28 and future markets for seafood products;

29 (2) is made up of representatives of commercial fishermen who hold
30 commercial fishing permits issued for the fishery under AS 16.43;

31 (3) includes representatives of other groups, including seafood

1 processors, interested in the fishery who wish to belong; and

2 (4) is organized as a nonprofit corporation under the laws of the state
3 for the purpose of marketing and promoting seafood products taken in the fishery.

4 (b) Seafood development regions are established for each of the following
5 regions of the state and are made up of the designated commercial fishing
6 management areas established by the Board of Fisheries in accordance with the
7 boundaries of those areas as adopted by the Board of Fisheries:

8 (1) Southeast Alaska seafood development region -- Southeastern
9 Alaska area and Yakutat area;

10 (2) Prince William Sound seafood development region -- Prince
11 William Sound area;

12 (3) Cook Inlet seafood development region -- Cook Inlet area;

13 (4) Kodiak seafood development region -- Kodiak area;

14 (5) Alaska Peninsula seafood development region -- Alaska Peninsula
15 area;

16 (6) Aleutian Islands seafood development region -- Aleutian Islands
17 area;

18 (7) Chignik seafood development region -- Chignik area;

19 (8) Atka-Amlia Islands seafood development region -- Atka-Amlia
20 Islands area;

21 (9) Bristol Bay seafood development region -- Bristol Bay area;

22 (10) Kuskokwim seafood development region -- Kuskokwim area;

23 (11) Yukon-Northern seafood development region -- Yukon-Northern
24 area and Kotzebue area;

25 (12) Northern Sound-Port Clarence seafood development region --
26 Norton Sound-Port Clarence area.

27 (c) An organization may be designated as the qualified regional seafood
28 development association for more than one fishery in a seafood development region or
29 for a fishery conducted in more than one seafood development region.

30 (d) A qualified regional seafood development association for a fishery may
31 request state financial assistance from the department to aid the programs of the

1 association.

2 (e) A qualified regional seafood development association requesting state
3 financial assistance shall submit an annual financial report to the department on a form
4 provided by the department. The department may require that a qualified regional
5 seafood development association use a uniform system of accounting. A qualified
6 regional seafood development association requesting state assistance shall submit an
7 annual budget to the department on or before a date specified by the department.

8 (f) The department may adopt regulations necessary to implement this section.

9 (g) In this section, "fishery" has the meaning given in AS 16.43.990.