

**SENATE BILL NO. 273**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY SENATOR GARY STEVENS BY REQUEST OF THE JOINT LEGISLATIVE SALMON INDUSTRY  
TASK FORCE**

**Introduced: 1/23/04**

**Referred: Labor and Commerce, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Alaska Seafood Marketing Institute, the seafood marketing**  
2 **assessment, the seafood marketing tax, and the seafood product tax; and providing for**  
3 **an effective date."**

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

5 **\* Section 1.** AS 16.43.160(e)(2)(A)(ix) is amended to read:

6 (ix) Department of Revenue - fisheries business tax  
7 program, fishery resource landing tax program, salmon enhancement  
8 tax program, seafood product tax program, seafood [SALMON]  
9 marketing tax program, and dive fishery management assessment  
10 program;

11 **\* Sec. 2.** AS 16.51.020(a) is amended to read:

12 (a) The governing body of the institute is a board of directors. The board  
13 consists of nine [25] voting members appointed by the governor. In making  
14 appointments to the board, the governor shall consider, but need not appoint, nominees

1 presented by persons engaged in fish processing, the financing of fish processing, or  
2 commercial fishing.

3 \* **Sec. 3.** AS 16.51.020(b) is amended to read:

4 (b) **Four** [TWELVE] members of the board shall be seafood processors: **three**  
5 [EIGHT] of the seafood processors must have an annual payroll in the state of more  
6 than \$2,500,000; **one** [FOUR] of the seafood processors must have an annual payroll  
7 in the state of \$50,000 - \$2,500,000. **Four** [TWELVE] members of the board must be  
8 engaged in commercial fishing. [THE GOVERNOR, TO THE EXTENT  
9 PRACTICABLE, SHALL APPOINT AS COMMERCIAL FISHING MEMBERS OF  
10 THE BOARD PERSONS ENGAGED IN COMMERCIAL FISHING IN A FISHERY  
11 MANAGEMENT REGION OF THE STATE IN THE SAME PROPORTION THAT  
12 THE REGION CONTRIBUTES, OR IS EXPECTED TO CONTRIBUTE DURING  
13 THE NEXT YEAR, TO THE TOTAL SALMON MARKETING TAX COLLECTED  
14 UNDER AS 43.76.110 - 43.76.130.] One member of the board shall be a lay person  
15 selected by the governor.

16 \* **Sec. 4.** AS 16.51.050 is amended to read:

17 **Sec. 16.51.050. Quorum.** **Five** [FOURTEEN] members of the board  
18 appointed under AS 16.51.020 constitute a quorum for the transaction of business and  
19 the exercise of the powers and duties of the board.

20 \* **Sec. 5.** AS 37.05.146(c)(25) is amended to read:

21 (25) receipts from

22 **(A)** the seafood marketing assessment under AS 16.51.120 -  
23 16.51.170;

24 **(B)** [,] the **seafood product tax under AS 43.76.050 -**  
25 **43.76.070;**

26 **(C)** **the seafood** [SALMON] marketing tax under  
27 AS 43.76.110 - 43.76.130; [,] and

28 **(D)** [OTHER] receipts of the Alaska Seafood Marketing  
29 Institute;

30 \* **Sec. 6.** AS 43.76 is amended by adding new sections to read:

31 **Article 1A. Seafood Product Tax.**

1           **Sec. 43.76.050. Seafood product tax.** (a) Each processor shall pay a seafood  
2 product tax at the rate of 0.3 percent of the value of fishery resources purchased or  
3 landed in the state by the processor.

4           (b) Notwithstanding (a) of this section, a processor is not subject to or liable  
5 for payment of the tax levied under this section on the value of the fishery resources  
6 purchased or landed in the state if the value of fishery resources purchased or landed  
7 in the state by the processor is less than \$50,000 in a calendar year. This subsection  
8 does not exempt a processor from liability for payment of taxes imposed under  
9 AS 43.75 or AS 43.77.

10           (c) In this section, "value" means the value of the fishery resources on which  
11 the processor must pay the taxes imposed under AS 43.75.015, 43.75.100, or  
12 AS 43.77.010.

13           **Sec. 43.76.060. Collection of seafood product tax.** (a) A processor who is  
14 subject to the tax levied under AS 43.76.050 shall remit the total tax owed on the  
15 value of fishery resources purchased or landed in the state during each month to the  
16 department by the last day of the next month.

17           (b) A processor who is subject to the tax levied under AS 43.76.050 shall

18           (1) maintain records of the value of fishery resources purchased or  
19 landed in the state that is subject to the tax levied under AS 43.76.050;

20           (2) report to the department by March 1 of each year the total value of  
21 the fishery resources subject to the tax levied under AS 43.76.050 that the processor  
22 has purchased or landed in the state during the preceding year.

23           (c) The tax collected under AS 43.76.050 - 43.76.070 shall be deposited in the  
24 general fund. The legislature may appropriate revenue generated by the seafood  
25 product tax to the Alaska Seafood Marketing Institute for the purpose of supporting  
26 the institute's seafood marketing program under AS 16.51.

27           **Sec. 43.76.070. Definitions.** In AS 43.76.050 - 43.76.070,

28           (1) "processor" means a person who is liable for

29           (A) the tax imposed under AS 43.75.015;

30           (B) the tax imposed under AS 43.75.100; or

31           (C) the landing tax imposed under AS 43.77;

1 (2) "seafood" means finfish, shellfish, and fish by-products, including  
 2 salmon, halibut, herring, flounder, crab, clam, cod, shrimp, pollock, and aquatic farm  
 3 products as defined in AS 16.40.199; in this paragraph, "salmon" includes salmon  
 4 harvested under a special harvest area entry permit issued under AS 16.43.400.

5 \* **Sec. 7.** AS 43.76.110 is amended to read:

6 **Sec. 43.76.110. Seafood [SALMON] marketing tax.** A person holding a  
 7 limited entry permit, [OR] interim-use permit, **or special harvest area entry permit**  
 8 under AS 16.43, **a landing permit under AS 16.05.675, an aquatic farm permit**  
 9 **under AS 16.40.100, or a federal commercial fishing license, permit, or quota**  
 10 **share** shall pay a **seafood** [SALMON] marketing tax **on** [AT THE RATE OF ONE  
 11 PERCENT OF] the value, as defined in as 43.75.290, of **the fishery resources**  
 12 [SALMON] that the person removes from the state or transfers to a buyer in the state.  
 13 The buyer shall collect the **seafood** [SALMON] marketing tax at the time the **fishery**  
 14 **resource** [SALMON] is acquired by the buyer. **The rate of the seafood marketing**  
 15 **tax is**

16 **(1) one percent of the value for salmon;**

17 **(2) 0.3 percent of the value for a fishery resource other than**  
 18 **salmon.**

19 \* **Sec. 8.** AS 43.75.120 is amended to read:

20 **Sec. 43.76.120. Collection of tax.** (a) A buyer who acquires **a fishery**  
 21 **resource** [SALMON] that is subject to **the seafood** [A SALMON] marketing tax  
 22 imposed by AS 43.76.110 shall collect the **seafood** [SALMON] marketing tax at the  
 23 time of purchase and shall remit the total **seafood** [SALMON] marketing tax collected  
 24 during each month to the Department of Revenue by the last day of the next month.

25 (b) A buyer who collects the **seafood** [SALMON] marketing tax shall

26 (1) maintain records of the value of **the fishery resources** [SALMON]  
 27 purchased in the state;

28 (2) report to the Department of Revenue by March 1 of each year the  
 29 total value, as defined in AS 43.75.290, of the **fishery resources** [SALMON] that the  
 30 buyer has acquired during the preceding year.

31 (c) The owner of **fishery resources** [SALMON] removed from the state is

1 liable for payment of the seafood [A SALMON] marketing tax imposed by  
 2 AS 43.76.110 if, at the time the fishery resources are [SALMON IS] removed from  
 3 the state, the tax payable on the fishery resources [SALMON] has not been collected  
 4 by a buyer. If the owner of the fishery resources [SALMON] is liable for payment of  
 5 the seafood [SALMON] marketing tax under this subsection, the owner shall comply  
 6 with the requirements under (a) and (b) of this section to remit the tax to the  
 7 Department of Revenue, to maintain records, and to report to the Department of  
 8 Revenue.

9 (d) The seafood [SALMON] marketing tax collected under this section shall  
 10 be deposited in the general fund. The legislature may appropriate revenue generated  
 11 by the seafood [SALMON] marketing tax to the Alaska Seafood Marketing Institute  
 12 for the purpose of supporting the institute's seafood [SALMON] marketing program  
 13 under AS 16.51. [EXCEPT AS OTHERWISE PROVIDED IN AN  
 14 APPROPRIATION BY THE LEGISLATURE, THE AMOUNT OF THE  
 15 ALLOCATION MADE TO THE INSTITUTE'S SALMON MARKETING  
 16 PROGRAM UNDER AS 16.51.100(7) AND (8) SHOULD NOT EXCEED 10  
 17 PERCENT OF THE TOTAL AMOUNT OF SALMON MARKETING TAX  
 18 REVENUE APPROPRIATED FOR THE INSTITUTE.]

19 \* **Sec. 9.** AS 43.76.130 is amended to read:

20 **Sec. 43.76.130. Definitions [DEFINITION].** In AS 43.76.110 - 43.76.130,

21 (1) "buyer" means a person who acquires possession of a fishery  
 22 resource [SALMON] from the person who caught the fishery resource [SALMON]  
 23 regardless of whether there is an actual sale of the fishery resource [SALMON], but  
 24 does not include a person engaged solely in interstate transportation of goods for hire;

25 (2) "fishery resource" means finfish, shellfish, and fish by-  
 26 products, including salmon, halibut, herring, flounder, crab, clam, cod, shrimp,  
 27 pollock, and aquatic farm products as defined in AS 16.40.199; in this paragraph,  
 28 "salmon" includes salmon harvested under a special harvest area entry permit  
 29 issued under AS 16.43.400.

30 \* **Sec. 10.** TERMINATION OF SEAFOOD PRODUCT TAX AND SEAFOOD  
 31 MARKETING TAX. (a) AS 37.05.146(c)(25)(B); AS 43.76.050, 43.76.060, and 43.76.070

1 are repealed June 30, 2008.

2 (b) AS 37.05.146(c)(25)(C); AS 43.76.110, 43.76.120, and 43.76.130 are repealed  
3 June 30, 2008.

4 \* **Sec. 11.** REPEAL OF TRANSITION OF SALMON MARKETING TAX. (a) Section 9,  
5 ch. 55, SLA 1993, as amended by sec. 1, ch. 111, SLA 1998, and sec. 3, ch. 136, SLA 2002,  
6 is repealed.

7 \* **Sec. 12.** REPEAL OF MISCELLANEOUS PROVISIONS RELATED TO THE  
8 SALMON MARKETING TAX. Sections 3, 8(c), and 12, ch. 55, SLA 1993, are repealed.

9 \* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 TRANSITION FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE  
12 ALASKA SEAFOOD MARKETING INSTITUTE AND COLLECTION OF THE  
13 SEAFOOD MARKETING ASSESSMENT. (a) Notwithstanding AS 16.51.020(b), as  
14 amended by sec. 3 of this Act, and subject to AS 16.51.040, a person who is serving as a  
15 member of the board of directors of the Alaska Seafood Marketing Institute on the day before  
16 the effective date of sec. 3 of this Act may continue to serve as a member of the board for the  
17 remainder of the term to which the person was appointed.

18 (b) Before January 1, 2005, the governor shall designate those directorships on the  
19 board of directors of the Alaska Seafood Marketing Institute that will be eliminated upon the  
20 resignation or removal of a director or upon the expiration of the term of an incumbent  
21 director. Before January 1, 2008, the governor shall reduce the membership of the board of  
22 directors of the Alaska Seafood Marketing Institute to the number and representation  
23 prescribed by AS 16.51.020(b), as amended by sec. 3 of this Act. To the extent possible, the  
24 governor shall maintain staggered terms for members of each class of board members.

25 (c) Notwithstanding AS 16.51.050, as amended by sec. 4 of this Act, until January 1,  
26 2008, the quorum of the board of directors of the Alaska Seafood Marketing Institute is equal  
27 to 50 percent plus one of the number of persons who are appointed and serving on the board  
28 on the day of the meeting of the board.

29 (d) Notwithstanding the termination of the current seafood marketing assessment  
30 under sec. 14 of this Act, each seafood processor subject to the seafood processor assessment  
31 shall remit to the Department of Revenue before April 1, 2005, the total amount of the

1 seafood marketing assessment owed on the value of seafood products produced in Alaska by  
2 the processor in 2004. The provisions of AS 43.05 and AS 43.10 apply for the enforcement  
3 and collection of the seafood marketing assessment due under provisions of AS 16.51.120 -  
4 16.51.170.

5 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7 **TERMINATION AND REESTABLISHMENT OF THE SEAFOOD MARKETING**  
8 **ASSESSMENT.** (a) Notwithstanding AS 16.51.120 - 16.51.140, the seafood marketing  
9 assessment levied under AS 16.51.120 that is in effect on the effective date of this section is  
10 terminated December 31, 2004.

11 (b) A seafood marketing assessment may be levied on the value of seafood products  
12 produced in the state after December 31, 2004, under the procedures prescribed under  
13 AS 16.51.120 - 16.51.180.

14 \* **Sec. 15.** Sections 2, 3, 4, 12, 13, and 14 of this Act take effect immediately under  
15 AS 01.10.070(c).

16 \* **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect January 1, 2005.