

HOUSE BILL NO. 218

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

BY REPRESENTATIVE THOMAS

Introduced: 3/15/05

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."**

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

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 FINDINGS. The Alaska State Legislature finds that the economic interests of the
6 commercial salmon fishery are best served by the harvest of salmon returning to private
7 nonprofit hatcheries in common property fisheries and the reduction or elimination of the
8 direct sale of salmon by hatchery permit holders, especially when all fisheries enhancement
9 loan obligations incurred for a hatchery facility have been repaid.

10 * **Sec. 2.** AS 16.10 is amended by adding a new section to read:

11 **Sec. 16.10.455. Cost recovery fisheries.** (a) A hatchery permit holder may
12 harvest salmon for a facility in a special harvest area through agents, contractees, or
13 employees of the permit holder as provided under regulations of the Board of Fisheries
14 or through the common property fishery under this section.

15 (b) A hatchery permit holder may elect to harvest surplus salmon produced at

1 a facility in a special harvest area established for that facility through the common
2 property fishery. The commissioner of fish and game, after reasonable consultation
3 with the hatchery permit holder, affected commercial fishermen, and other interested
4 or knowledgeable parties, shall adopt regulations governing the harvest of surplus
5 salmon in a special harvest area if the hatchery permit holder elects to harvest surplus
6 salmon produced at a facility through the common property fishery. The regulations
7 must specify the terms, conditions, and rules under which the common property
8 fishery in the special harvest area shall be conducted, including requirements for hold
9 inspections and reporting of harvests and sales of salmon taken in the special harvest
10 area. The board may adopt regulations, as the board considers appropriate, regarding
11 a fisheries management plan governing operations under this subsection in a special
12 harvest area, including allocation plans. Participation in the fishery must be open to
13 all interim-use permit and entry permit holders who hold permits to operate a type of
14 gear that may be used in the administrative area in which the special harvest area is
15 located if that type of gear is authorized by regulation to be used in the special harvest
16 area. An interim-use permit holder or an entry permit holder who takes salmon in a
17 common property fishery in a special harvest area may sell the salmon to any fish
18 buyer or processor who is licensed to do business in the state.

19 (c) As a condition of participation in a common property salmon fishery in a
20 special harvest area under this section, a fisherman who participates in the fishery
21 agrees to the payment of the assessment established under (d) of this section to the
22 operator of the facility for which the special harvest area is established. The
23 assessment is on the value of salmon that the fisherman takes in the special harvest
24 area and either sells to a buyer or exports from the state without being sold in the state.
25 If the buyer of the salmon is licensed under AS 43.75, the buyer shall collect the
26 assessment on salmon taken in a special harvest area at the time of purchase and remit
27 the assessment to the Department of Revenue in accordance with regulations adopted
28 by the Department of Revenue. If a fisherman does not sell salmon harvested in a
29 special harvest area to a buyer licensed under AS 43.75 or if a fisherman does not sell
30 salmon harvested in a special harvest area to a buyer before the salmon are exported
31 from the state, the fisherman shall remit the amount of the assessment to the

1 Department of Revenue in accordance with regulations adopted by the Department of
2 Revenue.

3 (d) The Department of Revenue shall annually set the rate of, and the dates for
4 distribution of funds collected from, the assessment levied on salmon taken in a
5 special harvest area in consultation with the Department of Fish and Game, the
6 Department of Commerce, Community, and Economic Development, the hatchery
7 permit holder, and representatives of affected commercial fishermen. The rate of the
8 assessment shall take into account the operating, capital, and maintenance costs of the
9 hatchery permit holder for the facility for which the special harvest area is established,
10 reasonable overhead expenses, including debt service on loans for the facility, the
11 estimated return and harvest of salmon in the special harvest area, the projected price
12 to be paid for salmon in the region, and the amount by which the assessment collected
13 in previous years under estimated or over estimated the costs to the hatchery permit
14 holder for the operation of the facility. The rate of the assessment must include a
15 surcharge determined by the Department of Revenue as appropriate to cover the
16 reasonable costs to the department for setting the rate of the assessment, collecting the
17 assessment on behalf of the hatchery permit holder, and distributing the assessment to
18 the hatchery permit holder. The total rate of the assessment, including the surcharge
19 established by the Department of Revenue, may not exceed 40 percent of the value of
20 the salmon.

21 (e) The Department of Revenue shall hold the amount of the assessments
22 received by the department, less the amount of the surcharge established by the
23 department, in trust for the hatchery permit holder. The amount of the assessments
24 received by the department, less the amount of the surcharge established by the
25 department, is not revenue of the state but is the property of the hatchery permit
26 holder. The department is not liable for the investment of, or the payment of interest
27 on, the amount of assessments held by the state pending distribution of the
28 assessments collected to the hatchery permit holder. A hatchery permit holder shall
29 use assessments received under this section for the purposes set out under
30 AS 16.10.450(a).

31 (f) A person who violates a regulation adopted under this section is guilty of a

1 class A misdemeanor.

2 (g) In this section,

3 (1) "facility" means a hatchery or salmon rehabilitation project for
4 which a permit is issued under AS 16.10.400 - 16.10.470;

5 (2) "special harvest area" means a special harvest area established
6 under regulations of the Board of Fisheries in which a hatchery permit holder may
7 harvest salmon for the hatchery at times set by the board or the department;

8 (3) "value" has the meaning given in AS 43.75.290.

9 * **Sec. 3.** AS 43.76.035 is amended to read:

10 **Sec. 43.76.035. Exemption.** AS 43.76.001 - 43.76.040 do not apply to
11 salmon harvested under a special harvest area entry permit issued under AS 16.43.400
12 **or in a common property fishery conducted in a special harvest area under**
13 **AS 16.10.455.**