

**CS FOR HOUSE BILL NO. 218(FSH)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES**

**Offered: 4/18/05**

**Referred: Resources**

**Sponsor(s): REPRESENTATIVE THOMAS**

**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 Alaska private nonprofit salmon  
6 hatcheries should maximize the harvests of returning hatchery-produced salmon by  
7 commercial salmon fishing permit holders. The legislature also finds that private nonprofit  
8 hatcheries should minimize, to the greatest extent feasible, the direct sale of salmon harvested  
9 in special harvest areas.

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 is  
21 subject to the payment of the assessment levied under (d) of this section. The  
22 assessment is levied on the value of salmon that the fisherman takes in the special  
23 harvest area and either sells to a buyer or exports from the state without being sold in  
24 the state. If the buyer of the salmon is licensed under AS 43.75, the buyer shall collect  
25 the assessment on salmon taken in a special harvest area at the time of purchase and  
26 remit the assessment to the Department of Revenue in accordance with regulations  
27 adopted by the Department of Revenue. If a fisherman does not sell salmon harvested  
28 in a special harvest area to a buyer licensed under AS 43.75 or if a fisherman does not  
29 sell salmon harvested in a special harvest area to a buyer before the salmon are  
30 exported from the state, the fisherman shall remit the amount of the assessment to the  
31 Department of Revenue in accordance with regulations adopted by the Department of

1 Revenue.

2 (d) The Department of Revenue shall annually set the rate of the assessment  
3 levied on salmon taken in a special harvest area in consultation with the Department of  
4 Fish and Game, the Department of Commerce, Community, and Economic  
5 Development, the hatchery permit holder, and representatives of affected commercial  
6 fishermen. The rate of the assessment shall take into account the operating, capital,  
7 and maintenance costs of the hatchery permit holder for the facility for which the  
8 special harvest area is established, reasonable overhead expenses, including debt  
9 service on loans for the facility, the estimated return and harvest of salmon in the  
10 special harvest area, the projected price to be paid for salmon in the region, and the  
11 amount by which the assessment collected in previous years under estimated or over  
12 estimated the costs to the hatchery permit holder for the operation of the facility. The  
13 total rate of the assessment may not exceed 40 percent of the value of the salmon.

14 (e) The Department of Revenue shall deposit the assessments collected under  
15 this section in the general fund. The legislature may appropriate the funds collected  
16 under this section to the hatchery permit holder who operates a facility in the special  
17 harvest area in which the assessment was levied. A hatchery permit holder shall use  
18 funds appropriated under this subsection for the purposes set out under  
19 AS 16.10.450(a).

20 (f) A person who violates a regulation adopted by the Department of Fish and  
21 Game or the Board of Fisheries under (b) of this section is guilty of a misdemeanor  
22 under AS 16.05.723. A person who violates a regulation adopted by the Department  
23 of Revenue under (c) of this section is guilty of a class A misdemeanor.

24 (g) In this section,

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

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

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

31 \* **Sec. 3.** AS 43.76.035 is amended to read:

1                   **Sec. 43.76.035. Exemption.** AS 43.76.001 - 43.76.040 do not apply to  
2 salmon harvested under a special harvest area entry permit issued under AS 16.43.400  
3 **or in a common property fishery conducted in a special harvest area under**  
4 **AS 16.10.455.**