

CS FOR HOUSE BILL NO. 218(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/25/05

Referred: Finance

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 returning
9 to a hatchery.

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

13 (1) a special harvest area through agents, contractees, or employees of
14 the permit holder as provided under regulations of the Board of Fisheries; or

15 (2) a terminal harvest area through the common property fishery under

1 this section.

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

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

1 not sell salmon harvested in a terminal harvest area to a buyer before the salmon are
2 exported from the state, the fisherman shall remit the amount of the assessment to the
3 Department of Revenue in accordance with regulations adopted by the Department of
4 Revenue.

5 (d) The Department of Revenue may, by regulation, annually set the rate of
6 the assessment levied on salmon taken in a terminal harvest area in consultation with
7 the Department of Commerce, Community, and Economic Development, the hatchery
8 permit holder, and representatives of affected commercial fishermen. The rate of the
9 assessment shall provide sufficient revenue to cover debt service to the state,
10 reasonable operating expenses, reasonable maintenance expenses, and development or
11 maintenance of a reserve fund up to 100 percent of annual operating costs of the
12 corporation. In setting the rate of the assessment the department shall consider the
13 estimated return and harvest of salmon in the terminal harvest area, the projected price
14 to be paid for salmon in the region, the amount of the existing reserve held by the
15 hatchery permit holder, and the amount by which the assessment collected in previous
16 years exceeded or fell short of the amount anticipated to be collected. The total rate of
17 the assessment may not exceed 40 percent of the value of the salmon.

18 (e) The Department of Revenue shall deposit the assessments collected under
19 this section in the general fund. The legislature may appropriate the funds collected
20 under this section to the hatchery permit holder who operates a facility in the terminal
21 harvest area in which the assessment was levied. A hatchery permit holder shall use
22 funds appropriated under this subsection for the purposes set out under
23 AS 16.10.450(a). The legislature may also appropriate funds collected under this
24 section to the Department of Revenue for costs incurred by the department under this
25 section.

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

30 (g) In this section,

31 (1) "facility" means a hatchery or salmon rehabilitation project for

1 which a permit is issued under AS 16.10.400 - 16.10.470;

2 (2) "terminal harvest area" means a harvest area established by the
3 commissioner or the Board of Fisheries where salmon returning to a hatchery may be
4 harvested by the common property fishery;

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

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

7 **Sec. 43.76.035. Exemption. (a) Except as provided under (b) of this**
8 **section,** AS 43.76.001 - 43.76.040 do not apply to salmon harvested under a special
9 harvest area entry permit issued under AS 16.43.400.

10 * **Sec. 4.** AS 43.76.035 is amended by adding a new subsection to read:

11 (b) Salmon harvested in a common property fishery conducted in a terminal
12 harvest area under AS 16.10.455 are subject to a salmon enhancement tax levied under
13 AS 43.76.001 - 43.76.040.