

CS FOR HOUSE BILL NO. 218(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/28/05

Referred: Rules

Sponsor(s): REPRESENTATIVES THOMAS, Elkins, Wilson

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

4 **Sec. 16.10.455. Cost recovery fisheries.** (a) A hatchery permit holder may
5 harvest salmon for a facility in

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

8 (2) a terminal harvest area through the common property fishery under
9 this section.

10 (b) A hatchery permit holder may elect to harvest surplus salmon produced at
11 a facility in a terminal harvest area established for that facility through the common
12 property fishery. If the commissioner of fish and game determines that there are no
13 allocative issues involved, and after reasonable consultation with the hatchery permit
14 holder, affected commercial fishermen, and organizations of affected commercial
15 fishermen, the commissioner may adopt regulations governing the harvest of surplus

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

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

30 (d) The Department of Revenue may, by regulation, annually set the rate of
31 the assessment levied on salmon taken in a terminal harvest area in consultation with

1 the Department of Commerce, Community, and Economic Development, the hatchery
2 permit holder, and representatives of affected commercial fishermen. The rate of the
3 assessment shall provide sufficient revenue to cover debt service to the state,
4 reasonable operating expenses, reasonable maintenance expenses, and development or
5 maintenance of a reserve fund up to 100 percent of annual operating costs of the
6 hatchery permit holder. In setting the rate of the assessment, the department shall
7 consider the estimated return and harvest of salmon in the terminal harvest area, the
8 projected price to be paid for salmon in the region, the amount of the existing reserve
9 held by the hatchery permit holder, and the amount by which the assessment collected
10 in previous years exceeded or fell short of the amount anticipated to be collected. The
11 total rate of the assessment may not exceed 40 percent of the value of the salmon.

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

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

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

31 * **Sec. 2.** AS 43.76.035 is amended to read:

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

4 * **Sec. 3.** AS 43.76.035 is amended by adding a new subsection to read:

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