

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 9, 2005

8:38 a.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Co-Chair
Representative Bill Thomas, Co-Chair
Representative John Harris
Representative Peggy Wilson
Representative Woodie Salmon

MEMBERS ABSENT

Representative Jim Elkins
Representative Mary Kapsner

OTHER LEGISLATORS PRESENT

Representative Paul Seaton

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 15

Relating to open ocean aquaculture in the federal exclusive economic zone.

- MOVED CSHJR 15(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 192

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

- HEARD AND HELD

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

- NOT INTRODUCED

PREVIOUS COMMITTEE ACTION

BILL: HJR 15

SHORT TITLE: OPEN OCEAN AQUACULTURE

SPONSOR(s): FISHERIES

03/01/05 (H) READ THE FIRST TIME - REFERRALS
03/01/05 (H) FSH, RES
03/09/05 (H) FSH AT 8:30 AM CAPITOL 124

BILL: HB 192

SHORT TITLE: FISHERIES BUSINESS LICENSE; BOND
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/02/05 (H) READ THE FIRST TIME - REFERRALS
03/02/05 (H) FSH, L&C, FIN
03/09/05 (H) FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

IAN FISK, Staff
to Representative Bill Thomas
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 15 on behalf of the House
Special Committee on Fisheries, sponsor by request, which is co-
chaired by Representative Thomas

REPRESENTATIVE PAUL SEATON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Posed questions to the committee regarding
HJR 15.

ERIC JORDAN
Sitka, Alaska

POSITION STATEMENT: Testified in support of HJR 15.

HERMAN FANDEL
Kenai, Alaska

POSITION STATEMENT: Testified in support of fish farming.

IRENE FANDEL
Kenai, Alaska

POSITION STATEMENT: Testified in support of fish farming.

JERRY McCUNE, Lobbyist
for United Fisherman of Alaska (UFA)
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HJR 15.

PAULA TERREL

Alaska Marine Conservation Council
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HJR 15.

CHUCK HARLAMERT, Juneau Section Chief

Tax Division

Alaska Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Presented HB 192 and answered questions regarding the bill.

GREY MITCHELL, Director

Division of Labor Standards and Safety

Alaska Department of Labor and Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 192.

ACTION NARRATIVE

CO-CHAIR BILL THOMAS called the House Special Committee on Fisheries meeting to order at [8:38:53 AM](#). Representatives Thomas, LeDoux, Harris, Salmon, and Wilson were present at the call to order. Representative Harris arrived as the meeting was in progress.

HJR 15-OPEN OCEAN AQUACULTURE

[8:39:13 AM](#)

CO-CHAIR THOMAS announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 15, "Relating to open ocean aquaculture in the federal exclusive economic zone."

[8:39:49 AM](#)

REPRESENTATIVE WILSON moved to adopt the proposed committee substitute for HJR 15, labeled 24-LS0631\F, Utermohle, 3/8/05, as the working document. There being no objection, Version F was before the committee.

[8:40:08 AM](#)

IAN FISK, Staff to Representative Bill Thomas, Alaska State Legislature, speaking as the committee aide for the House Special Committee on Fisheries, presented HJR 15 and the

proposed CS. He pointed out that the CS has a few additional lines on page 1, lines 15-16, regarding genetically modified fish that read:

WHEREAS there are patents pending to cultivate and introduce genetically modified fish into open waters which will pose a direct threat to wild stock fisheries

MR. FISK also noted that the CS has an additional resolve on page 2, lines 27-20:

FURTHER REOLVED that the Alaska State Legislature respectfully urges Congress to prohibit the issuance of any license to permit an aquaculture facility that imports, exports, possesses, cultivates, sells or otherwise handles genetically modified fish in the federal exclusive economic zone or has access to open waters

[8:41:17 AM](#)

MR. FISK explained that HJR 15 is in reference to legislation that is being developed by the U.S. Department of Commerce National Marine Fisheries Service (NMFS). He commented:

Alaskans have many legitimate concerns about this concept, especially in light of our experience with farmed salmon and what that has done to our economy and communities.... Some of these concerns are environmental in nature, for instance: disease-transmission; damage to the environment due to anoxic conditions that are created by overfeeding in salmon farms; concern about the health ramifications to those ... consumers who choose to eat farmed fish; and, of course, escape into the natural environment of nonnative species like Atlantic salmon. To address these concerns, this resolution asks Congress to require an Environmental Impact Statement for any proposal to license an open ocean aquaculture operation.

[8:42:19 AM](#)

MR. FISK pointed out that there are healthy existing fisheries in the exclusive economic zone that have been developed over decades such as the halibut and sablefish industries, which have

been soundly managed for biological and economic sustainability. "People are very concerned that the advent of open ocean aquaculture is going to change the nature of the seafood business, and we need to know how this is going to affect our communities and their economies," he said, "so this resolution expresses the legislature's commitment that open ocean aquaculture do no harm to our environment and to our communities."

MR. FISK reminded the committee that the state legislature enacted a prohibition on finfish farming in 1990, and now the state fishing industry is starting to see the benefits of that because "we've differentiated ourselves in the market; Alaska's name is associated with natural, wild products." He opined that if fish were being farmed offshore of Alaska, it would confuse the market place and damage some of the recent industry progress.

[8:44:01 AM](#)

MR. FISK continued:

Rumor has it that this draft legislation from [the U.S.] Department of Commerce is not going to include the [North Pacific Fishery Management Council] in the process of approving permits.... It's important that we make a statement that the council be involved since they manage all the other fisheries in the Gulf of Alaska that are important to us.

[8:45:01 AM](#)

CO-CHAIR THOMAS noted that United Fisherman of Alaska had submitted a letter of support for HJR 15.

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, asked if the language on page 2, lines 27-30, referred to live fish.

MR. FISK responded that it refers to genetically modified fish.

REPRESENTATIVE SEATON clarified, "I want to make sure that what we're talking about is live fish or live animals, and we're not getting too much into the import/export business, ... [or] something that's being used for feed."

REPRESENTATIVE WILSON pointed out the language on page 1, lines 15-16, regarding genetically modified fish.

MR. FISK stated, "The language about import and export is in reference to the idea of people bringing in a genetically modified organism and introducing it for the purpose of cultivating it in the waters of the exclusive economic zone."

8:48:29 AM

REPRESENTATIVE HARRIS asked Mr. Fisk what kind of escapement is coming from fish farms in Washington and British Columbia (B.C.).

MR. FISK replied that he did not have any numbers, but he noted that salmon have escaped from farms in B.C. and have been found in Alaska streams as far west as the Alaska Peninsula. He remarked that in the case of open ocean aquaculture, no one knows what different species might be proposed to be developed in local waters.

8:49:30 AM

REPRESENTATIVE HARRIS asked if there was any evidence of diseases introducing into Alaska by the fish farms.

MR. FISK replied that he was not aware of any diseases transmitted from farmed fish into Alaska wild salmon stocks. However, he said, there have been documented cases where the infectious hematopoietic necrosis (IHN) virus and sea lice have been transmitted to wild fish stocks on the B.C. coast.

REPRESENTATIVE WILSON commented that her neighbor, a fisherman, caught [an escaped farm fish] that was very unhealthy and covered with sea lice. She remarked that it could devastate the entire fishing industry if [the farmed fish infected the wild stocks].

8:51:54 AM

ERIC JORDAN stated that he is a lifelong Southeast Alaska resident and a salmon troller. He mentioned that he has also been involved with the Alaska Marine Conservation Council as an outreach coordinator regarding salmon farming and its potential effect on ecosystems. He stated:

It's my opinion that open ocean aquaculture ... presents a real threat to the health of our fishing industry in Alaska because we are seeing increasing

problems with ... the fish farming industry around the world associated with disease, environmental pollution, escapes, and effects on our wild resources. My position is ... that the Alaska legislature should notify the U.S. Congress and others of our grave concern about opening up federal waters to aquaculture development, especially finfish aquaculture off the coast of Alaska.

MR. JORDAN noted that he and two other men were in Juneau to meet with legislators on behalf of the Alaska Trollers Association. He expressed appreciation to the legislature for the work it does for the fishing industry.

[8:55:22 AM](#)

REPRESENTATIVE SEATON asked Mr. Jordan if he was also testifying on shellfish, such as oysters and clams.

MR. JORDAN replied that he was not testifying on shellfish. He commented that there are successful oyster farms in Alaska and he had not heard of any big environmental problems associated with those. He mentioned that his friend runs a successful scallop and oyster farm in Port Althorp. He clarified that his testimony specifically in opposition to finfish farming.

[8:56:46 AM](#)

HERMAN FANDEL testified that due to the increasing global population, it will become necessary to farm the oceans "just like we farm the lands of the world today." He opined:

Today more fish are needed for commercial fishing industry, sport fishing industry, tourism, subsistence, and so on. We need more fish to feed the world and the open ocean aquaculture program certainly will give us more fish. It seems to me that we'd look very foolish today if our forefathers decided not to farm the fertile farmlands in our country. And we may look more foolish in the future if we decide today to not farm the endless oceans. It is important that we get started now so that the rest of the world doesn't leave us behind. Open ocean aquaculture, I feel, is the "wave of the future." To oppose open ocean aquaculture is like some people ... opposing drilling for oil in [the Arctic National Wildlife Refuge (ANWR)]. We should not let fear stop progress.

Alaska's wild stocks cannot feed the world, and we should not expect that a shortage of fish will make the prices of fish go up. Somewhere along the way we're going to have to have more fish, and we've got some big fields out there that we can farm and get a lot more fish. It's coming; we might as well adjust our thinking to it and join in with it. I think it's to our advantage to start; the sooner, the better.

[8:59:09 AM](#)

IRENE FANDEL pointed out that NMFS was promoting legislation to permit open ocean aquaculture in federal waters. She commented:

Global marketing is consistently increasing and demanding seafood products. Opening aquaculture in federal waters could and would increase [the economies] of Alaska coastal communities and subsidize their fishing season. ... A five-year moratorium on all permitting, leasing, or development of ocean pen-raised shellfish and finfish in the federal waters off of Alaska will just set Alaska fisherman further behind in the development of ocean aquaculture. The social and economic well-being of Alaska coastal communities could get a boost by engaging in open ocean aquaculture. If there are problems in the present process of aquaculture fisheries, I urge you to gather and work to solve these problems rather than to try to stop it. Again, the population of our earth is such that we need to find ways of feeding our people without depleting the fish stock in our wonderful oceans.

[9:01:09 AM](#)

CO-CHAIR THOMAS closed public testimony.

[9:01:17 AM](#)

REPRESENTATIVE HARRIS moved to report CSHJR 15, labeled 24-LS0631\F, Utermohle, 3/8/05, out of committee with individual recommendations and the accompanying zero fiscal notes.

REPRESENTATIVE WILSON objected for discussion purposes.

REPRESENTATIVE SEATON pointed out that the resolution refers to aquaculture, which includes filter-feeding shellfish such as

oysters and mussels. He commented that he agreed with the concept of not farming predatory shellfish such as lobsters and crab, but "I'm not sure that the same conditions apply to oysters, clams, and mussels."

[9:03:19 AM](#)

JERRY McCUNE, Lobbyist for United Fisherman of Alaska (UFA), explained that the NMFS legislation lumps everything together as "aquaculture", whether it's shellfish or not. He commented that the federal legislation will be better understood once it is completely drafted, and that if the North Pacific Fishery Management Council is involved, then there would be room for [limited shellfish farming]. He said, "We're not opposing shellfish, but we're not saying right now openly until we get something that we can really get our hands around and really tackle."

[9:05:12 AM](#)

PAULA TERREL, Alaska Marine Conservation Council, agreed with Mr. McCune, and she noted that farming shrimp, which are also considered shellfish, could have a big impact on the Alaska shrimp fishermen. She commented that some states are very concerned about shrimp farming because of what has happened to their markets. She said of the resolution, "It's broad because the legislation is broad. In other places they use aquaculture in a totally different way than we do here."

MR. McCUNE opined that each state should have some say over what happens off its shores.

[9:06:41 AM](#)

REPRESENTATIVE SEATON commented that he had wanted to get a feel for how the committee felt about including shellfish in the resolution.

REPRESENTATIVE WILSON removed her objection.

MS. TERREL emphasized the need to keep the resolution broad for now.

[9:07:37 AM](#)

There being no objection, CSHJR 15(FSH) was moved from the House Special Committee on Fisheries.

HB 192-FISHERIES BUSINESS LICENSE; BOND

9:07:54 AM

CO-CHAIR THOMAS announced that the next order of business would be HOUSE BILL NO. 192, "An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

9:08:58 AM

CHUCK HARLAMERT, Juneau Section Chief, Tax Division, Alaska Department of Revenue presented HB 192 to the committee. He explained:

The bill has two primary goals, the first of which is to increase the accountability required of processors operating in the state for the payment of state obligations that support the industry. And so the bill adds to the existing list of obligations that must be paid to be licensed: the Unemployment Security contributions, ... [Occupational Safety and Health Association (OSHA)] fines, and the seafood marketing assessment that funds [Alaska Seafood Marketing Institute (ASMI)]. The second objective of the bill is to improve the protections that we give fishermen and employees, who either work for or sell fish to processors, under our assurity bonding provisions. Those changes are contained in Section 2 of the bill. They do this in a couple of different ways. First of all, the bill ... attempts to make the bonding requirement more responsive to processor behavior without impacting processors who ... don't have a problem paying employees or fishermen or their [Employment Security Contributions (ESC)]. And so it eases the conditions on which a bond ... requirement can be increased. Second, it restricts the use of real property. Current law allows real property in lieu of a bond. If you have real property in the state at least equal to what your required bond level would be, you don't need to post a bond. That is difficult to go against and obtain satisfaction from, and so, if a processor has demonstrated ... an inability to pay fishermen, or employees, or their ESC at certain levels, they can lose the right to use real

property in lieu of a bond; they must post a cash bond.

9:11:30 AM

MR. HARLAMERT continued:

Thirdly, it allows [Alaska Department of Labor and Workforce Development ("Labor")] to reach the bond to pay unpaid ESC contributions in a more streamlined, simplified manner than they can today. Current law requires Labor to get a judgment.... This bill will allow them to go after that bond after their internal administrative processes are done; they'd no longer have to go to court.

9:12:02 AM

REPRESENTATIVE HARRIS asked for further clarification of the changes to the current statute.

MR. HARLAMERT explained that certain things will not change, such as the basic bonding requirement, which is \$10,000 for a normal processor. No changes were made to the increments for higher bond levels, as he explained, "In the case where \$10,000 is found not to be sufficient under current law and under the proposed bill, it goes up to either [\$50,000] or [\$100,000], depending on the level necessary to meet the risks anticipated under those laws." He then clarified two principle changes:

Under current law, ... in order to increase a bond, you actually have to have a judgment paid from the bond, and the bond be insufficient to pay the whole judgment. ... Aside from operating without a license or other legal behaviour, which is unchanged by the bill, that is the only condition under current law where you're normally going to see a bond level increase. We found that that is too restrictive, or has been so restrictive ... that it has left us with high-risk processors with a \$10,000 bond or nothing more than a \$10,000 Deed of Trust against their real property. That offers very little protection for fisherman and wage-earners.

9:15:35 AM

MR. HARLAMERT continued:

One primary difference is, now you don't have to actually pay the judgment from the bond to increase the bond level. The simple existence of a judgment over \$10,000 can increase the bond level to \$50,000. The simple existence of a judgment over \$50,000 will increase the bond to [\$100,000]. Second major change is that Labor no longer needs to bring to us a judgment from a court in order to go after that bond. And so they can reach that bond quicker.

[9:16:23 AM](#)

REPRESENTATIVE WILSON asked Mr. Harlamert to give the committee an example of this.

MR. HARLAMERT explained:

[The Department of Revenue] holds a bond or, in the case of real property, a Deed of Trust on the taxpayer's property that is available to the Department of Labor or employees of the processor or fishermen to pay judgments against the processor for unpaid wages, for unpaid fish, or for unpaid Employment Security Tax. And under current law, Labor, even after going through their administrative processes, holding hearings and allowing for due process appeals, still has to go one step further to court to get a judgment to go after that bond. And that is a principle change of the current bill. They no longer have to do that; they can simply go after the bond now. The taxpayer then has to replace it, just like they do under existing law.

MR. HARLAMERT related that another primary difference is that under current law, there is a priority for payment of the bond, and employees and fishermen are first, while Labor comes last. In practice, he said, that priority is ineffective and would only apply if the claims came in at the same time and were competing, in which case the priority claim would be paid out first. But if Labor came in first for an ESC claim, Department of Revenue would pay out the bond to Labor and, unless the [processor] intends to stay in business and therefore replaces that bond, the fishermen and employees will not be paid. He stated:

Under this bill, in order to preserve that priority, where Labor now has an easier route to get to the bond than fishermen or employees, we have basically a grab-back provision, and so if, for instance, Labor came in and scooped up the bond and ... if subsequent to that a fisherman or employee brings a judgment forward and the bond that remains was insufficient to pay that judgment, Labor is obligated under the bill to kick back what they've collected against the bond to cover the fishermen's claim. So it's substantially more protection for both employees and fishermen than under existing law.

[9:19:28 AM](#)

CO-CHAIR LEDOUX asked Mr. Harlamert why Labor would take the bond if not for fishermen and employees.

MR. HARLAMERT replied that under current law and the proposed law, Labor has the right to use the bond to pay unsatisfied unpaid Employment Security Contributions.

CO-CHAIR THOMAS asked if contracted tendermen can file claims against processors as well.

MR. HARLAMERT replied that tendermen are not covered under current law or the proposed bill.

CO-CHAIR THOMAS related a story about a contract tender who never got paid, yet the processor continued to operate the following year. He asked if the bill could be amended to include contract tenders.

[9:21:57 AM](#)

MR. HARLAMERT responded that the bill could be amended to include tenders. However, he said:

Some players will inherently have a leg up on others. We traditionally see fishermen have an advantage over employees, for example, because their claims are larger [so] it's more economical to pursue them in court. And they tend to beat employees to the punch at the bond. And if you introduce tenders, who, in all likelihood ... would have an even higher claim, then you would further ... dilute fishermen's protections and those of employees.

CO-CHAIR THOMAS expressed interest in adding new language to the bill to include contract tenders.

[9:23:36 AM](#)

CO-CHAIR LEDOUX asked if under the proposed bill, the employees would be able to file a claim to a bond without going to court.

MR. HARLAMERT replied that the proposed bill would still require everyone except for Labor to get a court judgment. He explained that the processor is entitled to due process and, unless the Department of Revenue awards it, they have to rely on some other body [such as a court]. He reiterated that the Department of Labor provides due process in their collection of ESC, but independent fishermen and employees have to get a court judgment, which is "the processor's chance to give their side of the story."

[9:25:40 AM](#)

CO-CHAIR LEDOUX asked if there is an administrative process for employees.

MR. HARLAMERT replied that there are no hearings in the Department of Revenue's administration of the bond provisions.

[9:26:28 AM](#)

GREY MITCHELL, Director, Division of Labor Standards and Safety, Alaska Department of Labor and Workforce Development, said:

There's two different reasons why the Department of Labor might be interested in a fish processor bond. One is for taxes, and that's this Employment Security Tax issue - Unemployment Tax contributions [that] are overdue and haven't been paid timely. The other reason is that we have workers who haven't been paid their wages. In the case of the workers who haven't been paid their wages, this bill doesn't change anything. It still requires the same process that is currently in existence, which is that we go through an administrative process with the employer to work out the wage claim if we can, and if we can't, then we have to take him to court and get a judgment before we can pursue the bond. In the case of the Unemployment Insurance Taxes, it's essentially the same, where the

tax office has to get a judgment to be able to pursue the bond proceeds. This bill makes it easier for the tax office to collect delinquent Unemployment Insurance Taxes, but then it also puts in this ... kick-back requirement where, if the Unemployment Insurance Tax people come in and seize the bond proceeds, and then a fisherman or a worker comes in and is able to get a judgment, then that ... trumps the tax collection and the money had to be paid back to the worker.

[9:28:31 AM](#)

CO-CHAIR LEDOUX commented, "Due process doesn't mandate that the department get a court order judgment. It can be simply through the administrative process of determining that ... the funds are owed. Is that correct?"

MR. MITCHELL replied:

I'm not sure exactly what you're asking. I think what you're asking is whether or not the administrative process with respect to determining whether taxes are delinquent is sufficient for the Department of Revenue to accept that as due process for seizing the bond. And that's essentially what they've accepted with this bill; ... that a final determination for the Employment Security Division at Department of Labor saying, "This amount is due", is good enough; they don't have to go to court to get that.

CO-CHAIR LEDOUX asked, "Would it be constitutionally acceptable to allow the bond to be seized by employees through an administrative judgment?" She related to the committee that last year a processor in her district hired 20 or 30 young men from Turkey, but then didn't pay the men. She noted that the employees' cases are still pending.

[9:30:47 AM](#)

MR. MITCHELL acknowledged that there were problems with a few of the processors recently. He commented that there are still about 100 wage claims still open against one particular processor, and "we're actually going to get some percentage of funding due to a fish pack that was seized by the U.S. Department of Labor in that case, and so somewhere close to a half million dollars is going to be paid back to workers." He

noted that in that particular case, the processor had a bond that was secured with real property, which made it more difficult to pursue even with a judgment because "you're stuck with trying to execute against a piece of property rather than a ... cash bond."

[9:31:53 AM](#)

CO-CHAIR LEDOUX asked, since one of the purposes of this bill is to prevent incidents like that from happening, if it would be easier if the bond could be seized by the employees after the administrative adjudication that they are in fact owed funds, rather than having to go to the court to do it after the administrative adjudication.

MR. HARLAMERT replied that the effect of that would be to push the fishermen's claims out of the way because, although the administrative process would simplify the process, fisherman would be left with the same judgment requirement. Because the fishermen don't have a process in place within the state to have their claims adjudicated, they still have to go through court. Therefore the consequence would be to have a superpriority for wages, fishermen would be pushed to number two, and Labor would be last. In order to prevent that result, you would have to find some comparable adjudicative process for fishermen to get a part of the bond.

[9:33:58 AM](#)

CO-CHAIR THOMAS commented that he once filed against a bond, and only three fishermen were paid off because there was no more money to pay the rest of them. He suggested that perhaps the bond requirement was too small and the bond should be increased to \$20,000 or \$30,000.

MR. HARLAMERT noted that the Department of Revenue had considered that because, in most cases of a business catastrophe, \$10,000 is insufficient [to cover debts]. He pointed out that the department canvassed other states and found that Alaska is "already the most severe" state, as it is the only state that requires a bond for fish buyers and processors, although many states have general labor bond requirements that can be imposed at the discretion of the commissioner. He also noted: "We are looking at some underperforming processors ... and we wanted to address that problem but we did not want to punish the processors who are good corporate citizens. And so we felt we were limited to keeping the status quo so that any

processor without a history of problems is unaffected by the bill."

[9:36:17 AM](#)

CO-CHAIR THOMAS remarked, "That's another reason why I think that the contract employee should be involved in there, too, because you can dump a contract employee if he's not protected under the bond."

REPRESENTATIVE WILSON asked for clarification as to why some processors don't pay their employees, fishermen, and the contract tenders.

CO-CHAIR THOMAS answered, "They are bad people. ... If we can tighten this up ... we may get rid of some of these bad people." He explained that a tender could owe a fishing fleet as much as \$50,000-\$70,000 for a three-week period and the processor could leave without ever paying the tender. The processor could then return to the fishing grounds the following year under a different company name, which has happened in the past, he remarked. He said that for this reason he supports raising the bond and adding contract tenders to the bill.

[9:39:16 AM](#)

CO-CHAIR LEDOUX pointed out:

What some of [the processors] do is they bring in students from one country [to work at the processor] one year - let's say they bring in students from Turkey one year. By the next year, nobody in Turkey wants to work for them, so then they bring in students from Croatia, for example, the next year. I understand what you folks are saying about not wanting to penalize ... our good processors, and so it seems reasonable to me to leave the initial bond at a low rate, but I'm not sure that what you're going to increase it to is enough. In other words, if somebody has claims of \$50,000 or more, you're increasing the amount of the bond to \$100,000. I think that some of these [processors] ..., by the time the adjudicative process is over, are going to owe significantly more than \$100,000. ... I would suggest that maybe if [a processor] got a judgment of \$75,000, for example, that the bond the next year be increased to twice the amount of ... the previous year's judgment.

[9:41:03 AM](#)

MR. HARLAMERT stated that he is happy to work with the committee to try to balance the needs of the industry. He said, "We don't want to see any unnecessary barriers to entry, and another concern would be ... [that] it's possible that a 'good guy' can get stuck with a judgment."

CO-CHAIR THOMAS asked Mr. Harlament, "How do you track these bad guys?"

MR. HARLAMERT responded:

We can only stop them under ... the rules that the law allows us to. And essentially [the Department of Revenue] can only deny a license if they haven't paid their tax, haven't secured their estimated tax, and don't have a bond. As long as they meet those requirements it really doesn't matter that they have outstanding obligations to any other business or fishermen individually. That's just the way law is and we're required to give them a license. ... In enforcing the restrictions we do have, we look through these front companies and look back to business owner, also the owner of someone who has not paid us in prior years, and we will simply look through that shell company, and deny them their license until they pay.

[9:43:58 AM](#)

REPRESENTATIVE WILSON commented that there are processors that are trying to switch from a cannery to value-added processing, which is an expensive process, and those processors shouldn't be penalized.

MR. HARLAMERT noted:

Not all the [processors] who don't pay are legitimately called "bad guys." They are people trying to protect their business and in dire financial straits, and they pay what they have to to operate first, and what they don't have to [pay] to stay in business last. ... It's just what they have to do to stay in business when things get lean.

[9:45:38 AM](#)

CO-CHAIR LEDOUX remarked to Mr. Harlamert, "You say you look past the shell, but I don't see anything in this statute that has you looking past the shell. Is that in some other law someplace?"

MR. HARLAMERT answered, "There is nothing in the statute. If you read the statute quite literally, someone could start up a brand new company the very next year after they've stiffed us and ask for a license." He explained that if he can determine that a new company is just a sham to avoid the consequences of not paying [debts and taxes], he denies the company a licence.

CO-CHAIR LEDOUX asked if he had done this in the past.

MR. HARLAMERT replied affirmatively.

CO-CHAIR THOMAS announced that HB 192 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at [9:47:20 AM](#).