

1 IN THE SENATE

BY SENATOR OWEN

2 SENATE BILL NO. 277

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to create a uniform system of
7 taxation of fisheries; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 Section 1. STATEMENT OF PURPOSE. The purpose of this Act is
11 to impose a uniform tax on the severance of fish from the waters
12 of Alaska, in lieu of all taxes or license fees on the fishing
13 industry other than license fees imposed by the Fish and Game
14 Code of Alaska, as it has been or may be amended.

15 Sec. 2. INCIDENCE OF TAX. Any person severing fish from
16 the waters of Alaska by himself or through his agents shall pay a
17 tax on the fish severed at the rates provided in this Act.

18 Sec. 3. PRESUMPTION OF AGENCY RELATIONSHIP. For the
19 purposes of this Act, a fisherman selling to a receiver is
20 rebuttably presumed to be the agent of the receiver and the
21 receiver the principal of the fisherman. The existence of the
22 agency relationship makes the receiver the severer.

23 Sec. 4. EXCEPTIONS. This Act does not apply to fish taken
24 for personal use or consumption only.

25 Sec. 5. RECEIVER AS COLLECTOR FOR THE STATE. In any case in
26 which it is established that the receiver is not the principal
27 of the fisherman, the receiver is the agent of the state for the
28 collection of the severance tax from the fisherman.

29 Sec. 6. MEASURE OF THE TAX. a. A severer of fish shall

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1 pay a tax on fish severed at the following rates:

- 2 (1) on salmon, genus oncorhynchus, if severed by
3 (a) a shore-based cold storage plant, one per cent
4 of value,
5 (b) any other shore-based installation, two per
6 cent of value, or
7 (c) any other severer, four per cent of value;

8 (2) on crabs, king (*paralithodes camtschatica*) and
9 dungeness (*cancer magister*), if severed by

- 10 (a) a shore-based cold storage plant or a shore-
11 based cannery, one per cent of value,
12 (b) any other severer, four per cent of value.

13 b. For the purposes of this section, "value" is the value
14 of the fish at the time of unloading or transferring the fish at
15 the dock or vessel of any person engaged in the canning, freezing,
16 cold storage, transportation, or processing of fish.

17 Sec. 7. ADMINISTRATION. a. Rules and regulations. The
18 commissioner may make rules and regulations necessary for the
19 administration of this Act.

20 b. Returns required. A person required to pay taxes under
21 this Act shall make a return stating the quantity of fish severed
22 during the calendar year, computed as required by this Act, and
23 such other information relevant to this Act as the commissioner
24 prescribes. The return shall be signed by the taxpayer or his
25 authorized agent under the penalties of perjury. If the
26 receiver is made a collector by this Act, he is solely responsible
27 for collecting the taxes owing on the severed fish. He shall
28 make a return as if the tax were due from him.

29 c. Time and place for filing returns:

1 (1) Returns shall be made on the basis of the calendar
2 year to the commissioner before April 1 of the following year.

3 (2) The commissioner may grant a reasonable extension
4 of time for filing returns under such rules and regulations as
5 he may prescribe.

6 d. Time for payment. The tax imposed or required to be
7 collected by this Act shall be paid before April 1 for the
8 preceding calendar year.

9 e. Records by the taxpayer. Every person required to pay or
10 collect the tax levied by this Act shall keep records, make state-
11 ments and returns, and comply with rules as the commissioner
12 prescribes.

13 f. Commissioner's return. If the commissioner thinks it
14 necessary, he may require any person to make a return, make a
15 statement, or keep and display to him sufficient records to show
16 the amount of tax the person is liable for or liable for the
17 collection of under this Act. If any person fails to file a
18 return at the time prescribed by law or regulation, or makes,
19 wilfully or otherwise, a false or fraudulent return, the commis-
20 sioner shall make the return from his own knowledge and from such
21 information as he can obtain. A return so made and subscribed by
22 the commissioner is prima facie sufficient for all legal purposes.

23 Sec. 8. VIOLATIONS AND PENALTIES. a. Failure to file a
24 return, submit information, collect or pay tax. A person required
25 under this Act to pay or collect any tax, to make a return, or
26 to keep or display records, or supply information, who wilfully
27 fails to do so is, in addition to other penalties provided by
28 law, guilty of a misdemeanor, and upon conviction, is punishable
29 by a fine of not more than \$1,000, or by imprisonment for not

1 more than one year, or by both, together with the cost of
2 prosecution.

3 b. Failure to file a return. In case of failure to make a
4 timely return as required by this Act, unless the failure is
5 excusable, there shall be added to the tax owing five per cent if
6 the failure is for less than 30 days, with an additional five per
7 cent for each additional 30 days or fraction thereof until the
8 tax is paid, not exceeding 25 per cent in the aggregate. The
9 amount so added to any tax shall be collected as a part of the
10 tax, unless the tax has been paid before discovery of the neglect,
11 in which case the amount so added shall be collected in the same
12 manner as the tax.

13 c. Negligence. If part of a deficiency in the tax is due
14 to negligence or intentional disregard of regulations but without
15 intent to defraud, an additional amount equal to five per cent
16 of the total amount of the deficiency shall be assessed, collected,
17 and paid as if it were a deficiency, except that subsection e.
18 does not apply.

19 d. Fraud. If part of a deficiency in the tax results from
20 fraud with intent to evade the tax, or the collection of the tax,
21 then an additional amount equal to 100 per cent of the total
22 amount of the deficiency shall be assessed and collected.

23 e. Interest. Interest upon a deficiency in the tax levied
24 or required to be collected shall be assessed at the same time
25 as the deficiency, paid upon notice and demand by the commissioner
26 and collected as a part of the tax at a rate of six per cent a
27 year from the time the tax is due until it is paid.

28 f. Liens. All taxes required to be collected or paid
29 under this Act and the penalties and interest on them are

1 a lien prior, paramount, and superior to all other liens,
2 mortgages, hypothecations, conveyances, and assignments, upon
3 the property of the person, and upon the property used with the
4 permission of the owner in prosecuting the business. The
5 special remedy provided in this Act for the recovery of taxes
6 is not exclusive of any other remedy, civil or criminal, now
7 provided by law for the recovery of taxes. No lien accrues upon
8 the property of any person for fish severed as to taxes not
9 collected by a receiver required to collect taxes under this Act,
10 nor shall a person be considered in debt to the state because of
11 any wrongful failure on the part of the receiver to collect and
12 pay over such taxes. However, a lien and debt exist as to the
13 property of agents of an out-of-state principal who has not paid
14 the tax due.

15 Sec. 9. PAYMENTS TO MUNICIPALITIES, SCHOOL DISTRICTS, AND
16 LOCAL GOVERNMENT UNITS. The commissioner shall pay annually to
17 each local unit of government in the state in which a receiver
18 is located 10 per cent of the amount of revenue from this tax
19 collected within the local unit of government. If a receiver is
20 located in an area which is under the jurisdiction of more than
21 one local unit of government, the 10 per cent appropriation shall
22 be divided equally among the local units of government within
23 which the receiver is located.

24 Sec. 10. EFFECT OF REPEAL OF PRIOR ACTS. The repeal of a
25 prior act by this Act does not affect any right accrued or
26 established, or any taxes, liabilities, or penalties incurred
27 under the provisions of such Acts before the effective date
28 of this Act.

29 Sec. 11. DEFINITIONS. In this Act, unless the context

1 otherwise requires:

2 (1) "receiver" means a fish buyer, fish processing
3 plant, cold storage, freezing plant, freezer ship, chilled brine
4 plant or ship, cannery, saltery, or any other vessel or
5 installation for the processing, preservation, or shipping of
6 fish;

7 (2) "fish" includes shellfish;

8 (3) "commissioner" means the commissioner of revenue;

9 (4) "person" means individual, firm, partnership, or
10 corporation, or a legal successor to any of them.

11 Sec. 12. REPEAL OF PRIOR ACTS. Ch. 82, SLA 1949, as amended
12 by Ch. 113, SLA 1951; Ch. 97, SLA 1949, as amended by Ch. 116,
13 SLA 1951, and by Ch. 102, SLA 1955; Ch. 66, SLA 1953; and Ch.
14 190, SLA 1959, are hereby repealed.

15 Sec. 13. EFFECTIVE DATE. This Act takes effect on January
16 1, 1963.

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