

1 IN THE SENATE

BY SENATORS OWEN
AND BEGICH

2 SENATE BILL NO. 34

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - FIRST SESSION

5 A BILL

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

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

10 * Section 1. AS 43 is amended by adding a new chapter to read:

11 CHAPTER 76. FISHERIES TAXES.

12 Sec. 43.76.010. STATEMENT OF PURPOSE. The purpose of
13 this chapter is to impose a uniform tax on the severance of
14 fish from the waters of the state in lieu of all taxes or
15 license fees on the fishing industry other than license fees
16 imposed by the Alaska Fish and Game Code (AS 16.05) as it
17 has been or may be amended.

18 Sec. 43.76.020. INCIDENCE OF TAX. Any person sever-
19 ing fish from the waters of the state by himself or through
20 his agents shall pay a tax on the fish severed at the rates
21 provided in this chapter.

22 Sec. 43.76.030. PRESUMPTION OF AGENCY RELATIONSHIP.
23 For the purposes of this chapter a fisherman selling to a
24 receiver is rebuttably presumed to be the agent of the re-
25 ceiver and the receiver the principal of the fisherman. The
26 existence of the agency relationship makes the receiver the
27 severer.

28 Sec. 43.76.040. EXCEPTIONS. This chapter does not
29 apply to fish taken for personal use or consumption only.

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Sec. 43.76.050. RECEIVER AS COLLECTOR FOR THE STATE.

In a case in which it is established that the receiver is not the principal of the fisherman, the receiver is the agent of the state for the collection of the severance tax from the fisherman.

Sec. 43.76.060. MEASURE OF THE TAX. (a) A severer of

fish shall pay a tax on salmon, genus oncorhynchus, at the following rates: if severed by

- (1) a shore-based cold storage plant, three per cent of value;
- (2) any other shore-based installation, six per cent of value;
- (3) any other severer, three per cent of value.

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

Sec. 43.76.070. ADMINISTRATION. (a) The commissioner may make rules and regulations necessary for the administration of this chapter.

(b) A person required to pay taxes under this chapter shall make a return stating the quantity of fish severed during the calendar year, computed as required by this chapter, and such other information relevant to this chapter as the commissioner prescribes. The return shall be signed by the taxpayer or his authorized agent under the penalties of perjury. If the receiver is made a collector by this chapter, he is solely responsible for collecting the taxes

1 owing on the severed fish. He shall make a return as if the
2 tax were due from him.

3 (c) Returns shall be made on the basis of the calendar
4 year to the commissioner before April 1 of the following
5 year. The commissioner may grant a reasonable extension of
6 time for filing returns under rules and regulations prescribed
7 by him.

8 (d) The tax imposed or required to be collected by this
9 chapter shall be paid before April 1 for the preceding
10 calendar year.

11 (e) Every person required to pay or collect the tax
12 levied by this chapter shall keep records, make statements
13 and returns, and comply with rules as the commissioner pre-
14 scribes.

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

26 Sec. 43.76.080. VIOLATIONS AND PENALTIES. (a) A per-
27 son required under this chapter to pay or collect a tax, to
28 make a return, or to keep or display records, or supply in-
29 formation, who wilfully fails to do so is, in addition to

1 other penalties provided by law, guilty of a misdemeanor,
2 and upon conviction is punishable by a fine of not more than
3 \$1,000, or by imprisonment for not more than one year, or
4 by both, together with the cost of prosecution.

5 (b) If a person fails to make a return as required by
6 this chapter, unless the failure is excusable, five per cent
7 shall be added to the tax owing, if the failure is for less
8 than 30 days, and an additional five per cent for each
9 additional 30 days or fraction thereof until the tax is paid,
10 not exceeding 25 per cent in the aggregate. The amount so
11 added to the tax shall be collected as a part of the tax
12 unless the tax has been paid before discovery of the neglect,
13 in which case the amount added shall be collected in the same
14 manner as the tax.

15 (c) If part of a deficiency in the tax is due to
16 negligence or intentional disregard of regulations but with-
17 out intent to defraud, an additional amount equal to five per
18 cent of the total amount of the deficiency shall be assessed,
19 collected, and paid as if it were a deficiency, except that
20 (e) of this section does not apply.

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

26 (e) Interest on a deficiency in the tax levied or
27 required to be collected shall be assessed at the same time
28 as the deficiency, paid upon notice and demand by the com-
29 missioner, and collected as a part of the tax at a rate of

1 six per cent a year from the time the tax is due until it
2 is paid.

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

19 Sec. 43.76.090. PAYMENTS TO MUNICIPALITIES, SCHOOL
20 DISTRICTS, AND LOCAL GOVERNMENT UNITS. The commissioner
21 shall pay annually to each local unit of government in the
22 state in which a receiver is located 10 per cent of the
23 amount of revenue from this tax collected in the local unit
24 of government. If a receiver is located in an area which
25 is under the jurisdiction of more than one local unit of
26 government, the 10 per cent appropriation shall be divided
27 equally among the local units of government in which the
28 receiver is located.

29 Sec. 43.76.100. EFFECT OF REPEAL OF PRIOR LAW. The

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repeal of prior law by this chapter does not affect any right accrued or established, or any taxes, liabilities, or penalties incurred under the provisions of such a law before the effective date of this chapter.

Sec. 43.76.110. DEFINITIONS. In this chapter, unless the context otherwise requires,

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

(2) "commissioner" means the commissioner of revenue.

* Sec. 2. AS 43.75 is repealed.

* Sec. 3. This Act takes effect January 1, 1964.