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1 IN THE SENATE

2 SENATE BILL NO. 112

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the stabilization,  
7 maintenance, quality control and develop-  
8 ment of the shellfish industry of the state;  
9 creating the Alaska Shellfish Marketing and  
10 Quality Control Advisory Board; and pro-  
11 viding for an assessment on shellfish  
12 processors in the state to finance this Act."

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

14 \* Section 1. PURPOSE. The legislature declares that this  
15 chapter is enacted in the exercise of the police power of this  
16 state for the purposes of protecting and furthering the public  
17 health and welfare. It is further declared that the shellfish  
18 industry of this state is affected with a public interest, in that,  
19 among other things:

20 (1) the production, processing and distribution of  
21 shellfish, i.e. crab, etc., and their products constitute an  
22 important industry of this state which not only provides substan-  
23 tial and required revenues for the state and its political sub-  
24 divisions, and employment and a means of livelihood for many of  
25 its population, but also furnishes essential food that is vital to  
26 the public health and welfare;

27 (2) the stabilization, maintenance, quality control and  
28 development of the shellfish industry of Alaska, and of the state,  
29 nationwide, and foreign markets for its products are necessary to

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1 assure the consuming public an adequate supply of shellfish, to  
2 provide and maintain an adequate standard of living for a great  
3 segment of the people of this state, to maintain proper wage  
4 scales for those engaged in the shellfish industry and to main-  
5 tain existing employment.

6 \* Sec. 2. AS 18 is amended by adding a new chapter to read:

7 CHAPTER 90. ALASKA SHELLFISH MARKETING AND  
8 QUALITY CONTROL ACT.

9 ARTICLE 1.

10 Sec. 18.90.010. PURPOSES. The purposes of this  
11 chapter are:

12 (1) to enable the Alaska shellfish industry, with  
13 the aid of the state, to maintain the quality and purity of  
14 shellfish and to maintain and develop all markets for shell-  
15 fish produced, processed or distributed in Alaska;

16 (2) in aid, but not in limitation of the other  
17 purposes of this chapter, to authorize and enable the  
18 advisory board, subject to the approval of the director, to  
19 formulate and effectuate directly or in cooperation with  
20 other agencies and instrumentalities, research and sales  
21 stimulation and consumer or other educational programs de-  
22 signed to increase the use and consumption of shellfish and  
23 their products and to maintain their quality and purity; and

24 (3) to provide funds for the administration and  
25 enforcement of this chapter.

26 Sec. 18.90.020. AUTHORITY OF COMMISSIONER. The com-  
27 missioner of fish and game shall administer and enforce this  
28 chapter. The exercise of the powers granted to the advisory  
29 board in its administration of this chapter is subject to the  
approval of the commissioner.

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1 ARTICLE 2.

2 Sec. 18.90.040. ADVISORY BOARD CREATED. (a) There  
3 is created in the Alaska Shellfish Marketing and Quality  
4 Control Advisory Board which consists of six members ap-  
5 pointed by the governor and confirmed by a majority of the  
6 legislature meeting in joint session. Members of the board  
7 shall be citizens and residents of this state, and all of  
8 them shall be shellfish processors or designated representa-  
9 tives of a corporation or partnership or representatives of  
10 any other business entities who perform functions of a shell-  
11 fish processor in this state, whether or not the functions  
12 performed are subject to sec. 140 of this chapter.

13 (b) Members shall serve terms of three years. Initial  
14 appointments of members are two members for one year, two  
15 for two years and two for three years.

16 (c) Members of the shellfish industry may make recom-  
17 mendations of shellfish processors to serve on the board.  
18 The governor shall make his appointments to the board from  
19 the list of persons recommended by the shellfish industry,  
20 giving proper representation to the various agencies and  
21 segments of the shellfish industry and to the areas of the  
22 state.

23 (d) Four members of the board are a quorum.

24 (e) The board shall elect a chairman annually and  
25 shall hold at least two regular meetings a year. The board  
26 shall meet at the call of the chairman or upon the written  
27 request of three members of the board.

28 (f) Board members receive no salary, but are entitled  
29 to per diem and travel expenses authorized by law for other

1 boards and commissions.

2 Sec. 18.90.050. MEETING PUBLIC. Meetings of the  
3 board are open and public.

4 Sec. 18.90.060. DUTIES. (a) The duties of the board,  
5 subject to the approval of the commissioner, are to

6 (1) conduct programs of education, research,  
7 advertising or sales promotion designed to accomplish the  
8 purposes of this chapter;

9 (2) establish standards of quality and purity for  
10 shellfish;

11 (3) make contracts and other agreements which may  
12 be proper to promote the sale of shellfish and their pro-  
13 ducts produced, processed or distributed on either a local,  
14 state, national or international basis;

15 (4) cooperate with any other local, state or  
16 national board, organization or agency, whether voluntary or  
17 created by state or federal law, and engaged in work or  
18 activities similar to the work and activities of the Alaska  
19 Shellfish Marketing and Quality Control Advisory Board and  
20 recommend to the commissioner the making of contracts and  
21 agreements with those organizations or agencies for carrying  
22 on joint programs of consumer education, sales promotion,  
23 quality control, advertising and research in the production,  
24 processing or distribution of shellfish;

25 (5) conduct or contract to have conducted,  
26 scientific research to develop and discover the health, food,  
27 dietetic or other uses of shellfish;

28 (6) prepare annually a budget of proposed expenses  
29 of the board and of the commissioner to be incurred in

1 carrying out the provisions of this chapter, and to make  
2 modifications of that budget whenever advisable;

3 (7) recommend to the commissioner administrative  
4 regulations relating to the administration and enforcement  
5 of this chapter;

6 (8) investigate all matters affecting the adminis-  
7 tration of this chapter, and to report violations to the  
8 commissioner;

9 (9) employ at its pleasure an executive director  
10 and other employees it considers necessary and prescribe  
11 their duties and fix their compensation; and

12 (10) establish offices and incur expenses inci-  
13 dental to the establishment; present facts to, and negotiate  
14 with local, state or federal governmental agencies on matters  
15 affecting quality, production, processing or distribution of  
16 shellfish and their products.

17 (b) The commissioner may approve programs as the board  
18 formulates for the quality control and promotion of shellfish  
19 if he finds the programs are

20 (1) reasonably calculated to attain the objectives  
21 sought in this chapter;

22 (2) in conformity with this chapter and within  
23 the applicable limitations and restrictions set out in this  
24 chapter and will tend to effectuate the declared purposes  
25 and policies of this chapter; and

26 (3) reasonably calculated to protect the interests  
27 of consumers of shellfish, in that the powers of this chapter  
28 are being exercised only to the extent necessary to attain  
29 the objectives of this chapter.

1           Sec. 18.90.070. FALSE OR UNWARRANTED CLAIMS. No  
2 program or activity conducted or sponsored under this chapter  
3 may make false or unwarranted claims, or disparage the  
4 quality, value, use or sale of any commodity authorized by  
5 law to be marketed in this state, nor shall any such programs  
6 be conducted so as to promote directly a private brand or  
7 trade name.

8           Sec. 18.90.080. LOBBYING. No member, agent or employee  
9 of the board shall appear before any legislative committee  
10 of the state or federal government as a representative of  
11 the board unless requested to do so by the committee, nor  
12 shall the person lobby in any manner as a representative of  
13 the board, nor shall any funds collected under this chapter  
14 be used for political contributions.

15           Sec. 18.90.090. ANNUAL STATEMENTS. The board shall  
16 prepare annually and make available to all shellfish pro-  
17 cessors who request it, summarized statements of the activi-  
18 ties in which it has been engaged in the previous annual  
19 period, and of the activities in which it proposes to engage  
20 in the ensuing annual period.

21           Sec. 18.90.100. RECORDS AND ACCOUNTS. The board shall  
22 keep books, records, and accounts of all its transactions,  
23 dealings, contracts, agreements, funds, and expenditures as  
24 it considers necessary, and the books, records, and accounts  
25 shall be open at all times to inspection or auditing by the  
26 commissioner and the legislative auditor.

27           Sec. 18.90.110. REGULATIONS. Upon recommendation by  
28 the board the commissioner may establish, consistent with  
29 this chapter, such regulations covering the administration

1 and enforcement of this chapter as may be necessary to  
2 carry out the purposes and attain the objectives of this  
3 chapter. No regulation is effective until the termination  
4 of a period of five days from the date of its adoption. The  
5 commissioner may mail a copy of the notice of the issuance  
6 to all persons directly affected by the regulations whose  
7 names and addresses may be on file in the office of the  
8 commissioner and shall supply a copy of the regulation to  
9 every person who files in the office of the director a  
10 written request for such notices.

11 Sec. 18.90.120. LIST OF PROCESSORS. (a) Within 45  
12 days after the effective date of this Act, the commissioner  
13 shall prepare a list of processors as defined in sec. 220 of  
14 this chapter for use in carrying out procedures prescribed in  
15 this chapter. To enable the commissioner to prepare a com-  
16 plete list of processors, he may require all persons who  
17 operated as processors in the 12 month period immediately  
18 preceding the effective date of this Act to file with him a  
19 statement properly certified showing

20 (1) the correct name and address of the processor;

21 and

22 (2) the gross dollar value paid to the fisherman  
23 during the 12 month period immediately preceding the effec-  
24 tive date of this Act.

25 (b) The information contained in the individual reports  
26 of handlers filed with the commissioner under this section  
27 shall not be made public by the commissioner in that form,  
28 but the information contained in the reports may be prepared  
29 in combined form for use by the commissioner, his agents, or

1 other interested persons, in the formulation, administration  
2 and enforcement of a marketing or quality control order, or  
3 may be made available under court order, but shall not be  
4 made available to any one for private purposes. The list  
5 shall constitute a complete and conclusive list of the pro-  
6 cessors of shellfish in this state for the purposes of the  
7 written assent provided for in this section.

8 (c) The commissioner shall not make effective the  
9 promotion, research, quality control and other provisions of  
10 this chapter unless and until the commissioner finds that  
11 those programs are assented to in writing by not less than  
12 51 per cent of the processors by number and who processed  
13 not less than 65 per cent of the shellfish poundage processed  
14 in the state by all processors qualified to assent. Or, if  
15 the commissioner finds that effectuation is assented to by  
16 not less than 65 per cent of the processors by number who  
17 handle not less than 51 per cent of the shellfish poundage  
18 processed by all processors qualified to assent. Gross  
19 dollar value paid to the fishermen shall be based upon the  
20 gross dollar value paid to the fishermen obtained by the  
21 commissioner under (a) of this section.

22 ARTICLE 3.

23 Sec. 18.90.140. ASSESSMENT. (a) To defray the costs  
24 of administration and enforcement of this chapter, the board  
25 shall recommend for each fiscal period an assessment rate  
26 applicable upon all processors of shellfish handled in this  
27 state. The rate shall be made applicable upon a uniform  
28 basis on all processors and shall be based upon the gross  
29 dollar value paid to the fisherman or upon the quantity

1 handled if that basis is found to be more equitable and to  
2 more reasonably assess the processors of shellfish affected  
3 by this chapter. The assessment shall not be levied or  
4 collected more than once upon any lot of shellfish processed.  
5 If the commissioner finds that the recommended rate of assess-  
6 ment is proper and reasonably equitable upon all processors,  
7 he may approve it.

8 (b) This section shall not be applicable upon retailers,  
9 restaurants or other similar retail establishments, except to  
10 the extent that the retail establishment or restaurant en-  
11 gages in the distribution or sale of shellfish to another  
12 concern for resale or receives or handles the shellfish in  
13 such a manner that the applicable assessment rate has not  
14 previously been applied.

15 (c) After the board has recommended and the commission-  
16 er has approved an assessment, the commissioner shall give  
17 notification in writing by mail of the assessment to all  
18 processors concerned whose names are on record in the depart-  
19 ment. Assessments shall be paid in accordance with assess-  
20 ment forms prepared or issued by the commissioner for that  
21 purpose.

22 Sec. 18.90.150. FAILURE TO PAY ASSESSMENT. Failure to  
23 pay an assessment levied under this chapter is a misdemeanor  
24 and is punishable by a fine of triple the amount of the  
25 assessment for each instance of the violation.

26 Sec. 18.90.160. MONEYS COLLECTED. All moneys collected  
27 by the commissioner under this chapter shall be deposited in  
28 a special fund in the general fund known as "Alaska Shellfish  
29 Marketing and Quality Control Fund".



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(4) "board" means the Alaska Shellfish Marketing and Quality Control Advisory Board;

(5) "commissioner" means the commissioner of fish and game.

Sec. 18.90.230. SHORT TITLE. This chapter may be cited as the "Alaska Shellfish Marketing and Quality Control Act".