

Introduced: 2/16/70
Referred: Resources and
Finance

1 IN THE HOUSE

BY MOSES

2 HOUSE BILL NO, 704

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Fisheries taxes; and providing
7 for an effective date."

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

9 * Section 1. AS 43.75 is repealed and re-enacted to read:

10 CHAPTER 75

11 FISHERIES BUSINESS LICENSE ACT

12 ARTICLE 1. LICENSE AND TAX

13 Sec. 43.75.011. LICENSE. It is unlawful for a processor to
14 process fish in the state without first obtaining a fisheries
15 business license. The license is valid for the calendar year in
16 which it is issued.

17 Sec. 43.75.020. APPLICATION FOR LICENSE. (a) Application for
18 a license shall be filed with the department and accompanied by an
19 initial fee of \$25. A separate initial fee is required for each
20 plant specified in the application.

21 (b) The application shall state:

- 22 (1) the name and address of the applicant;
- 23 (2) the line of business to be licensed;
- 24 (3) each place of business;
- 25 (4) the estimated amount and value of each type of fish
26 which the applicant expects to process during the calendar year for
27 which the license is issued;
- 28 (5) the estimated amount of tax due under this chapter;
- 29 (6) the extent of lienable real property owned by the

1 applicant in the state; and

2 (7) other reasonable information which the department
3 requests.

4 (c) Within 10 days after receipt of the application in proper
5 form, the bond if required, and the initial fee the department shall
6 issue a license to the applicant.

7 (d) The application shall be signed under oath.

8 Sec. 43.75.024. SECURITY FOR COLLECTION OF TAX. If the lien-
9 able value of the property stated in the application is not equal to
10 three times the estimated amount of the tax for which the applicant
11 will probably be liable under this chapter, the department may not
12 issue the license until the applicant files with the department a
13 surety bond approved by the attorney general in a penal sum equal to
14 twice the probable amount of the tax for which the applicant will be
15 liable, conditioned upon payment of the tax in full when due, with
16 penalty and interest if not paid before delinquency. The department
17 may waive the bond requirement if the applicant posts other security
18 in the form of collateral acceptable to the department or prepays the
19 estimated tax.

20 Sec. 43.75.028. LICENSE TAX. Each processor shall pay an annual
21 license tax equal to four per cent of the value of the fish purchased
22 or obtained for processing.

23 Sec. 43.75.030. FILING RETURNS AND PAYMENT OF TAX. (a) A
24 person subject to the license tax shall file a return stating

25 (1) the quantity and value of each type of fish processed
26 during the calendar year for which the return is being made;

27 (2) the amount of tax due under this chapter;

28 (3) the number of the license issued for the year for which
29 the return is being made; and

1 (4) any other information requested by the department.

2 (b) The return shall be signed under penalty of perjury by the
3 licensee or his authorized agent. If a receiver, trustee, or assignee
4 is operating the business for which the license was issued he shall
5 file and sign under penalty of perjury the return for the licensee.

6 (c) Except as set forth in (d) of this section, the return shall
7 be on a calendar year basis and shall be filed before February 1 of
8 the following calendar year.

9 (d) If a licensee is the subject of a bankruptcy proceeding or
10 insolvent the department may make a return from information it obtains
11 and declare the tax to be due and payable at once even though the
12 calendar year for which the license was issued has not ended.
13 Delinquency in the payment of a tax constitutes insolvency under this
14 subsection.

15 Sec. 43.75.040. RECORDS. Each licensee shall keep for five years
16 the records required by the department. The commissioner or his
17 authorized representative may inspect and copy the records at any
18 reasonable time.

19 ARTICLE 2. GENERAL

20 Sec. 43.75.101. VIOLATIONS AND PENALTIES. (a) If a person fails
21 to file a return within the time prescribed by law or regulation,
22 unless the failure is due to reasonable cause and not to willful
23 neglect, five per cent is added for each 30 days or fraction of 30
24 days during which the failure continues, not exceeding 25 per cent in
25 the aggregate. The amount added to the tax shall be collected at the
26 same time, in the same manner and as a part of the tax. If the tax
27 is paid before discovery of the neglect, the amount added shall be
28 collected in the same manner as the tax.

29 (b) If the tax is not paid when due, a penalty of five per cent

1 of the total amount of the tax deficiency shall be assessed, collected
2 and paid in the same manner as if it were a tax deficiency.

3 (c) If a part of a deficiency in the tax is due to fraud with
4 intent to evade tax, 50 per cent of the total amount of the deficiency,
5 in addition to the deficiency, shall be assessed and collected.

6 (d) Interest upon the amount determined as a deficiency in the
7 tax shall be assessed at the same time as the deficiency. The interest
8 shall be paid upon notice and demand by the department, and shall be
9 collected as a part of the tax at the rate of six per cent a year from
10 the time prescribed for payment of the tax to the date the deficiency
11 is paid.

12 (e) A tax under this chapter and the penalties and interest on
13 the tax are a lien prior, paramount, and superior to all other liens,
14 mortgages, hypothecations, conveyances, and assignments, upon all the
15 real and personal property of the person liable for the tax, and
16 upon all the real and personal property used with the permission of the
17 owner to carry on the business. The special remedy provided for the
18 recovery of license taxes set out in this chapter is not exclusive of
19 other civil or criminal remedies provided by law for the recovery of
20 license taxes.

21 (f) A person who willfully fails to obtain a license, pay a tax,
22 make a return, keep or display a record, or supply the information at
23 the time required by law or regulation, in violation of this chapter,
24 is, in addition to other penalties provided by law, guilty of a
25 misdemeanor; and upon conviction is punishable by a fine of not more
26 than \$1,000, or by imprisonment for not more than one year, or by both,
27 together with the cost of prosecution.

28 (g) A person who willfully makes and subscribes an application,
29 return, or other document filed with the department which he does not

1 believe to be true and correct as to every material matter is guilty
2 of a felony, and, upon conviction, is subject to the penalty prescribed
3 for perjury.

4 (h) In this section "person" includes an officer, agent, or
5 employee of a corporation or a member, agent, or employee of a
6 partnership who, as an officer, agent, employee, or member, is under
7 duty to perform the act in respect to which the violation occurs.

8 Sec. 43.75.111. EXEMPTIONS. The following processing is exempt
9 from this chapter!

10 (1) The processing of fish by a person for his personal
11 consumption or use;

12 (2) the processing of fish caught by sport fishing, unless
13 the fish may be sold by law;

14 (3) the dressing and preserving by a commercial fisherman
15 or a tender of fish which are transported to a processor within the
16 state.

17 Sec. 43.75.121. DEFINITIONS. In this chapter

18 (1) "fish" means:

19 (A) salmon, crab, herring, halibut, scallops, clams,
20 roe, or any other species of aquatic fin fish, invertebrate, and
21 amphibious, in any stage of their life cycle, and includes any
22 portion of their viscera; and

23 (B) kelp and other aquatic plants;

24 (2) "commissioner" means the Commissioner of the Department
25 of Revenue;

26 (3) "lienable real property" means the full and true value
27 of the real property in excess of all liens and encumbrances against it;

28 (4) "processing" means canning, barreling, bottling,
29 preserving, refining, freezing, icing, cooling, packing, curing,

1 salting, smoking, or any other method employed to keep fish in
2 edible condition or to put them into more suitable or convenient
3 form for consumption, storing, shipping, marketing or other use;

4 (5) "processor" means a person, firm, partnership,
5 corporation or other entity who processes fish;

6 (6) "value" means the actual price paid for the fish and
7 other considerations given such as fuel, gear, other supplies, and
8 offsets, and in instances of processor owned or subsidized boats
9 operated by employees or under lease or other arrangement includes
10 the cost of their operation and depreciation;

11 (7) "tender" means a person who transports fish from the
12 fisherman to a processor.

13 Sec. 43.75.1.1. PAYMENTS TO LOCAL GOVERNMENT. Subject to
14 appropriation by law the department shall pay to local governments
15 within the state tax revenue collected under this chapter as follows:

16 (1) each organized borough shall receive 10 per cent of
17 the tax revenues collected from processing performed within the borough;

18 (2) each organized borough shall receive an additional 10
19 per cent of the tax revenues collected from processing performed
20 within the borough but outside of a city of the first, second or
21 third class;

22 (3) each city of the first, second, or third class shall
23 receive 10 per cent of the tax revenues collected from processing
24 performed within that city;

25 (4) each city of the first, second, or third class not
26 located within an organized borough shall receive an additional 10
27 per cent of the tax revenues collected from processing performed within
28 that city.

29 * Sec. 2. This Act takes effect on the day after its passage and

1 approval or on the day it becomes law without approval.

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