

Introduced: 2/8/71
Referred: Resources and
Finance

1 IN THE HOUSE

BY MOSES

2 *CS* HOUSE BILL NO. 155

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST 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 AS 43.75.010 - 43.75.135 are repealed.

10 * Sec. 2. AS 43.75 is amended by adding new sections to read:

11 CHAPTER 75. 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 business
15 license. The license is valid for the calendar year in which it is
16 issued.

17 Sec. 43.75.021. 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 plant
20 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. 43.75.031. SECURITY FOR COLLECTION OF TAX. If the lienable
9 value of the property stated in the application is not equal to three
10 times the estimated amount of the tax for which the applicant will
11 probably be liable under this chapter, the department may not issue
12 the license until the applicant files with the department a surety
13 bond approved by the attorney general in a penal sum equal to twice
14 the probable amount of the tax for which the applicant will be liable,
15 conditioned upon payment of the tax in full when due, with penalty
16 and interest if not paid before delinquency. The department may
17 waive the bond requirement if the applicant posts other security in
18 the form of collateral acceptable to the department or prepays the
19 estimated tax.

20 Sec. 43.75.041. 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. 43.75.051. FILING RETURNS AND PAYMENT OF TAX. (a) A person
24 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 out 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. Delin-
13 quency in the payment of a tax constitutes insolvency under this
14 subsection.

15 Sec. 43.75.061. 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 PROVISIONS.

20 Sec. 43.75.101. VIOLATIONS AND PENALTIES. (a) If a person
21 fails to file a return within the time prescribed by law or regulation,
22 unless the failure is due to reasonable cause and not to wilful neg-
23 lect, five per cent is added for each 30 days or fraction of 30 days
24 during which the failure continues, not exceeding 25 per cent in the
25 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
17 the owner to carry on the business. The special remedy provided for
18 the recovery of license taxes set out in this chapter is not exclusive
19 of other civil or criminal remedies provided by law for the recovery
20 of license taxes.

21 (f) A person who wilfully 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
27 both, together with the cost of prosecution.

28 (g) A person who wilfully 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 in the state.

16 Sec. 43.75.121. PAYMENTS TO LOCAL GOVERNMENT. Subject to
17 appropriation by law the department shall pay to local governments
18 in the state tax revenue collected under this chapter as follows:

19 (1) each organized borough shall receive 10 per cent of
20 the tax revenues collected from processing performed in the borough;

21 (2) each organized borough shall receive an additional
22 10 per cent of the tax revenues collected from processing performed
23 in the borough but outside a city of the first, second or third class;

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

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

1 city.

2 Sec. 43.75.131. DEFINITIONS. In this chapter

3 (1) "commissioner" means the commissioner of the Department
4 of Revenue;

5 (2) "fish" means

6 (A) salmon, crab, herring, halibut, scallops, clams,
7 roe, or any other species of aquatic fin fish, invertebrate, and
8 amphibious, in any stage of their life cycle, and includes any
9 portion of their viscera; and

10 (B) kelp and other aquatic plants;

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

14 (4) "processing" means canning, barreling, bottling, pre-
15 serving, refining, freezing, icing, cooling, packing, curing, salting,
16 smoking, or any other method employed to keep fish in edible condition
17 or to put them into more suitable or convenient form for consumption,
18 storing, shipping, marketing or other use;

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

21 (6) "tender" means a person who transports fish from the
22 fisherman to a processor;

23 (7) "value" means the actual price paid for the fish and
24 other considerations given such as fuel, gear, other supplies, and
25 offsets, and in instances of processor owned or subsidized boats
26 operated by employees or under lease or other arrangement includes
27 the cost of their operation and depreciation.

28 * Sec. 3. This Act takes effect on the day after its passage and
29 approval or on the day it becomes law without approval.