

Original sponsor: Moses

Offered: 4/21/72
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 155

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH 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 AS 43.75.010 - 43.75.135 are repealed.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. (a) Each processor shall pay an
21 annual license tax based on the value of the fish purchased or obtained
22 for processing according to the following schedule:

- 23 (1) salmon, and by-products 6 per cent
24 (2) halibut, and by-products 2 per cent
25 (3) herring, and by-products..... 5 per cent
26 (4) sablefish, and by-products..... 5 per cent
27 (5) shrimp, and by-products..... 5 per cent
28 (6) crab, all species, and by-products..... 5 per cent
29 (7) scallops, and by-products 3 per cent

1 (8) miscellaneous fish or shellfish,
2 and by-products 5 per cent

3 (b) A person who actually physically processes fish for another
4 person shall collect the tax from the person for whom the fish are
5 processed and shall remit the tax to the department in the same
6 manner and at the same time he would report and pay taxes under the
7 provisions of this chapter. The person physically processing fish
8 for another is liable for the payment of the tax required to be
9 collected under this section whether or not the tax is actually col-
10 lected by him.

11 Sec. 43.75.051. FILING RETURNS AND PAYMENT OF TAX. (a) A
12 person subject to the license tax shall file a return stating

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

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

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

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

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

23 (c) Except as set out in (d) of this section, the return shall
24 be on a calendar year basis and shall be filed before February 1 of
25 the following calendar year.

26 (d) If a licensee is the subject of a bankruptcy proceeding or
27 insolvent, the department may make a return from information it obtains
28 and declare the tax to be due and payable at once even though the
29 calendar year for which the license was issued has not ended.

1 Delinquency in the payment of a tax constitutes insolvency under this
2 subsection.

3 Sec. 43.75.061. RECORDS. Each licensee shall keep for five years
4 the records required by the department. The commissioner or his
5 authorized representative may inspect and copy the records at any
6 reasonable time.

7 ARTICLE 2. GENERAL PROVISIONS.

8 Sec. 43.75.101. VIOLATIONS AND PENALTIES. (a) If a person
9 fails to file a return within the time prescribed by law or regulation,
10 unless the failure is due to reasonable cause and not to wilful neglect,
11 five per cent is added for each 30 days or fraction of 30 days during
12 which the failure continues, not exceeding 25 per cent in the aggre-
13 gate. The amount added to the tax shall be collected at the same
14 time, in the same manner and as a part of the tax. If the tax is paid
15 before discovery of the neglect, the amount added shall be collected
16 in the same manner as the tax.

17 (b) If the tax is not paid when due, a penalty of five per cent
18 of the total amount of the tax deficiency shall be assessed, collected
19 and paid in the same manner as if it were a tax deficiency.

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

23 (d) Interest upon the amount determined as a deficiency in the
24 tax shall be assessed at the same time as the deficiency. The interest
25 shall be paid upon notice and demand by the department, and shall be
26 collected as a part of the tax at the rate of six per cent a year from
27 the time prescribed for payment of the tax to the date the deficiency
28 is paid.

29 (e) A tax under this chapter and the penalties and interest on

1 the tax are a lien prior, paramount, and superior to all other liens,
2 mortgages, hypothecations, conveyances, and assignments, upon all the
3 real and personal property of the person liable for the tax, and
4 upon all the real and personal property used with the permission of
5 the owner to carry on the business. The special remedy provided for
6 the recovery of license taxes set out in this chapter is not exclusive
7 of other civil or criminal remedies provided by law for the recovery
8 of license taxes.

9 (f) A person who wilfully fails to obtain a license, pay a tax,
10 make a return, keep or display a record, or supply the information at
11 the time required by law or regulation, in violation of this chapter,
12 is, in addition to other penalties provided by law, guilty of a
13 misdemeanor, and upon conviction is punishable by a fine of not more
14 than \$1,000, or by imprisonment for not more than one year, or by
15 both, together with the cost of prosecution.

16 (g) A person who wilfully makes and subscribes an application,
17 return, or other document filed with the department which he does not
18 believe to be true and correct as to every material matter is guilty
19 of a felony, and, upon conviction, is subject to the penalty prescribed
20 for perjury.

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

25 Sec. 43.75.111. EXEMPTIONS. The following processing is exempt
26 from this chapter:

27 (1) the processing of fish by a person for his personal
28 consumption or use;

29 (2) the processing of fish caught by sport fishing, unless

1 the fish may be sold by law;

2 (3) the dressing and preserving by a commercial fisherman
3 or a tender of fish which are transported to a processor in the state.

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

7 (1) each organized borough shall receive 15 per cent of
8 the tax revenues collected from processing performed in the borough;

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

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

15 (4) each city of the first, second, or third class not
16 located in an organized borough shall receive an additional 15 per
17 cent of the tax revenues collected from processing performed in that
18 city.

19 Sec. 43.75.122. PAYMENTS TO COMMERCIAL FISH RESEARCH FUND ACCOUNT.
20 The commissioner of revenue shall place in an account in the general
21 fund annually, an amount equal to 50 per cent of all fisheries business
22 license taxes collected. The money in the account may be appropriated
23 by the legislature for use in fishery research.

24 Sec. 43.75.131. DEFINITIONS. In this chapter

25 (1) "commissioner" means the commissioner of the Department
26 of Revenue;

27 (2) "fish" means

28 (A) salmon, crab, herring, halibut, scallops, clams,
29 roe, or any other species of aquatic fin fish, invertebrate, and

1 amphibious, in any stage of their life cycle, and includes any
2 portion of their viscera; and

3 (B) kelp and other aquatic plants;

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

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

12 (5) "processor" means a person, firm, partnership, corpora-
13 tion or other entity who processes fish for himself or another person;

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

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

21 * Sec. 3. This Act takes effect on the day after its passage and approv-
22 al or on the day it becomes law without approval.
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