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and Saylor

Offered: 4/11/74  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 738

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act repealing the Alaska Business License Act and  
7 establishing the Alaska Business and Occupation  
8 License; and providing for an effective date."

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

10 \* Section 1. AS 43.70 is repealed.

11 \* Sec. 2. AS 43 is amended by adding a new chapter to read:

12 CHAPTER 71. BUSINESS AND OCCUPATION LICENSE.

13 Sec. 43.71.010. APPLICATION FOR LICENSE. (a) For the privilege  
14 of engaging in a business in the state, a person shall first apply, upon  
15 forms prescribed by the commissioner, obtain a license and pay the  
16 license fee provided for in this chapter. A license issued to a firm  
17 for a particular line of business covers all its operations in the state  
18 in the line of business regardless of the number of its establishments.  
19 Application for a renewal of a license and payment of the initial fee  
20 shall be made before February 1 of each year. No license may be issued  
21 for a period extending beyond the end of the calendar year for which it  
22 is issued.

23 (b) A person engaging in a business subject to licensing provisions  
24 of a regulatory nature (for example, the requirement of posting a bond  
25 before beginning business as a collection agency) must, in addition to  
26 filing the regular application required by this section, comply with  
27 those regulatory provisions before being entitled to a license under  
28 this chapter.

29 Sec. 43.71.020. LICENSE FEE FOR BUSINESSES. The license fee

1 for each business is \$25 and shall accompany the application. The  
2 annual license fee paid by a professional person to his professional  
3 board shall be credited against the fee required under this chapter.

4 Sec. 43.71.030. LICENSE FEE FOR BANKS, TRUST COMPANIES AND SAVINGS  
5 AND LOAN COMPANIES. (a) The license fee for each national bank and  
6 state bank, trust company and savings and loan association is seven  
7 per cent of its net income. Net income means the taxable income of  
8 each taxpayer before net operating loss deduction and special deductions,  
9 computed as required under the Internal Revenue Code of the United  
10 States and includes all other income including income from federal,  
11 state or municipal obligation. Each of these taxpayers shall submit a  
12 copy of the income tax return which it files with the United States  
13 Collector of Internal Revenue and shall notify the commissioner of  
14 revenue in writing of any alteration or modification of the federal  
15 income tax return and of a recomputation of tax or determination of  
16 deficiency. This statement shall be in the same form as a federal  
17 income tax return and the net income shall be computed as required  
18 under the Internal Revenue Code. The statement shall be submitted to  
19 the commissioner of revenue before April 16 after the close of the  
20 calendar year.

21 (b) An initial fee of \$25 shall accompany the application. The  
22 balance payable under this section is due and payable on December 31  
23 of each year and shall be paid before April 16 following, except that  
24 the department may extend the time until the 30th of the following  
25 April upon application showing that the extension is necessary to  
26 enable the applicant to ascertain the amount of license money due. To  
27 enable accurate determination of the balance of the tax due at the end  
28 of each year, each person to whom this section applies shall keep  
29 records, give statements under oath, and make returns which the depart-

1 ment requires. Returns are made under penalty of perjury.

2 (c) As soon as practicable after the final payment of the tax  
3 under this section, the department shall examine the return and deter-  
4 mine the correct amount of the tax and, if an error is found, shall  
5 notify the taxpayer of the error and examine the taxpayer's records as  
6 authorized in AS 43.05.040, and take other proper steps to determine  
7 the amount due. If an agreement cannot be reached with the taxpayer  
8 as to the amount of a license tax, the department may set a time and  
9 place of hearing on the question, upon at least 60 days notice of the  
10 hearing by mail to the taxpayer. At the hearing a person may be  
11 required to appear and testify and produce records and other papers as  
12 provided in AS 43.05.040.

13 (d) A person aggrieved by an action of the department may apply  
14 in writing to the department within 60 days from the date of the  
15 notice of the action, giving notice of the grievance and requesting a  
16 hearing. If the department determines that a fee in excess of the  
17 amount due was paid, he shall allow a refund or permit a credit at the  
18 option of the taxpayer. If refund is allowed, it shall be made out of  
19 the general fund by a voucher approved by the department.

20 (e) If a person fails to file a business license return or pay  
21 the fee under this section, as finally determined by the department,  
22 unless it is shown that the failure is due to reasonable cause and not  
23 to wilful neglect, five per cent is added to the fee for each addi-  
24 tional 30 days, or fraction of 30 days, during which the failure  
25 continues, but not exceeding 25 per cent in the aggregate. The amount  
26 added to the fee shall be collected at the same time and in the same  
27 manner as the fee. In case of delinquency interest shall be assessed  
28 at the rate of six per cent a year. If payment is made by check, bill  
29 of exchange, or note which is later returned by the drawee as uncol-

1 lectible because of insufficient funds or is dishonored by the drawee  
2 for any reason, the dishonor is prima facie evidence of nonpayment of  
3 the license fee.

4 (f) If a person fails to apply for a license at the required  
5 time or makes, wilfully or otherwise, an erroneous or fraudulent  
6 return, the department shall assess the fee from any information it  
7 can obtain. This assessment is prima facie good and sufficient for  
8 all legal purposes under this chapter.

9 Sec. 43.71.040. APPEALS. If the person is aggrieved by the  
10 decision of the department, he may appeal to the superior court in the  
11 judicial district where he conducts his business.

12 Sec. 43.71.050. SECURITY. The amount of the fee, interest  
13 charge, and penalty imposed under this chapter constitutes a lien in  
14 favor of the state upon all the person's property located in the state.  
15 The lien arises upon delinquency and continues until the liability for  
16 the amount is satisfied or the property is sold at foreclosure sale.  
17 The lien is not valid as against a mortgagee, pledgee, purchaser, or  
18 judgment creditor until notice of the lien is filed in the office of the  
19 recorder in the manner provided for federal tax liens in AS 43.10.090 -  
20 43.10.150. AS 43.10.090 - 43.10.150 apply to the tax liens arising under  
21 this chapter.

22 Sec. 43.71.060. DISPOSAL OF MONEY. All money collected under  
23 this chapter shall be deposited in the general fund.

24 Sec. 43.71.070. REGULATIONS. The department may adopt regulations  
25 necessary to determine and collect the fees imposed and to enforce this  
26 chapter.

27 Sec. 43.71.080. PENAL PROVISIONS. (a) It is unlawful for a person  
28 to (1) wilfully evade a tax under sec. 30 of this chapter; (2) fail  
29 to make a return or keep or produce a record required under sec. 30

1 of this chapter; (3) make a false or fraudulent return or false  
2 statement with intent to defraud the state or evade payment of the  
3 tax; or (4) aid or abet another in an attempt to evade payment of the  
4 tax.

5 (b) It is unlawful for an executive officer or agent of a corpora-  
6 tion or agent of a person to make or permit to be made for his principal  
7 a false return or false statement in answer to an inquiry from the depart-  
8 ment with the intent to evade the payment of the tax under sec. 30 of  
9 this chapter.

10 (c) A person who violates this section is guilty of a misdemeanor,  
11 and upon conviction is punishable by a fine of not more than \$5,000, or  
12 by imprisonment for not more than one year, or by both.

13 (d) In a prosecution under this chapter, no person otherwise  
14 competent as a witness is privileged from testifying on the ground that  
15 his testimony may incriminate him. However, no indictment or prosecu-  
16 tion shall afterwards be brought against the witness on account of an  
17 offense or transaction concerning which he testifies as a witness.  
18 In a prosecution under this chapter, the attorney general may, with the  
19 consent of the department, compromise the case by accepting from the  
20 defendant a sum not less than the tax, interest on the tax, and all  
21 costs and expenses.

22 Sec. 43.71.090. DEFINITIONS. In this chapter, unless the context  
23 otherwise requires, "business" includes all activities or acts, per-  
24 sonal, professional, or corporate, engaged in or caused to be engaged  
25 in, or following or engaging in a trade, profession, or business,  
26 calling or vocation, with the object of financial or pecuniary gain,  
27 profit or benefit, either direct or indirect, and not exempting  
28 subactivities producing marketable commodities or services used or  
29 consumed in the main business activity, each of which subactivities

1 shall be considered business. The giving or supplying of services as  
2 an employee and the furnishing of property, services, substances, or  
3 things, by a person who does not hold himself out as regularly engaging  
4 in those transactions, does not constitute business under the meaning  
5 of this chapter.

6 Sec. 43.71.110. SHORT TITLE. This chapter may be cited as the  
7 Alaska Business and Occupation License Act.

8 \* Sec. 3. This Act takes effect January 1, 1979.  
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