

Original Sponsor: Rules Committee By Request  
of the Legislative Council  
Subcommittee on Fisheries

Offered: 4/27/76  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 639 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to security for the collection of  
7 wages."

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

9 \* Section 1. AS 16.10 is amended by adding new sections to read:

10 Sec. 16.10.290. SECURITY FOR COLLECTION OF WAGES. (a) A fish  
11 processor shall file with the commissioner of revenue a surety bond run-  
12 ning to the State of Alaska conditioned upon the promise to pay (1) all  
13 persons furnishing labor in that business, including employee benefits;  
14 and (2) independent fishermen for the value of the fish purchased from  
15 them. The surety or sureties shall be satisfactory, in the determina-  
16 tion of the commissioner of labor.

17 (b) The amount of the bond shall be \$10,000. In lieu of the  
18 surety bond the fish processor may file with the commissioner a cash  
19 deposit or other negotiable security acceptable to the commissioner in  
20 the amount specified for the bond. If no claim is asserted under this  
21 section within two years from the date the bond, cash deposit or other  
22 security is filed, the term of the bond, cash deposit or other security  
23 shall be two years; if a claim has been asserted within two years, the  
24 term of the bond, cash deposit or other security shall be for five  
25 years.

26 (c) A person applying for a license as a fish processor who has  
27 less than \$10,000 in lienable property in the state, with proof of the  
28 property satisfactorily made to the commissioner, shall file with the  
29 application a bond or other security as specified in this section. No

1 bond is required if the processor has more than \$10,000 in lienable  
2 property as specified in this subsection.

3 (d) The commissioner of labor may accept the assignment of a claim  
4 held by a person against a fish processor under this section and may  
5 bring suit upon the bond, cash deposit or other security on behalf of the  
6 assignor in the superior court of the judicial district in which the  
7 work is done or in any judicial district in which jurisdiction may be  
8 obtained. This action shall not be construed to limit the right of a  
9 person having a claim against a fish processor to bring suit upon the  
10 bond, cash deposit or other security in his own right, in which case a  
11 copy of the complaint shall be served by registered or certified mail  
12 upon the commissioner at the time suit is filed. The commissioner shall  
13 maintain a record, available for public inspection, of all suits com-  
14 menced under this subsection. The service shall constitute service on  
15 the surety and the commissioner shall transmit the complaint or a copy  
16 of it to the surety within 72 hours after it has been received.

17 (e) If the surety on the bond desires to cancel the bond, he may  
18 do so by giving the commissioner written notice of his intention to  
19 cancel. The cancellation is effective 30 days after the notice is  
20 delivered to the commissioner.

21 (f) If a judgment is entered against the cash deposit, the commis-  
22 sioner, upon receipt of a certified copy of a final judgment, shall pay  
23 the judgment from the amount of the deposit.

24 Sec. 16.10.292. FILING EVIDENCE OF COMPLIANCE. A fish processor  
25 subject to secs. 290 - 296 of this chapter shall initially file evidence  
26 of his compliance with the bonding requirements of secs. 290 - 296 of  
27 this chapter, in the form prescribed by the commissioner.

28 Sec. 16.10.294. SUSPENSION AND REVOCATION OF LICENSE. (a) If a  
29 final judgment impairs the liability of the surety upon the bond or

1 depletes the cash deposits or other security so that there is not in  
2 effect the bond, undertaking cash deposit or other security in the full  
3 amount prescribed in sec. 290 of this chapter, the license of the fish  
4 processor shall be suspended until the liability in the required amount,  
5 unimpaired by unsatisfied judgment claims, has been furnished.

6 (b) If a bonding company cancels its bond of a fish processor, the  
7 fish processor's license shall be revoked. He may again obtain a  
8 license by complying with the requirements of this chapter.

9 (c) If a licensed fish processor fails to fulfill his obligations  
10 as set out in sec. 290 of this chapter his license shall be suspended  
11 for a period of time the commissioner determines is appropriate. After  
12 three suspensions his license may be permanently revoked.

13 (d) Proceedings to suspend or revoke a license are governed by the  
14 Administrative Procedure Act (AS 44.62).

15 (e) If the commissioner of labor determines that a fish processor  
16 is acting in violation of secs. 290 - 296 of this chapter, he shall give  
17 written notice prohibiting further action by the person as a fish pro-  
18 cessor. The prohibition continues until the person has submitted  
19 evidence acceptable to the commissioner of labor showing that the viola-  
20 tion has been corrected.

21 (f) A person affected by an order issued under this chapter may  
22 seek equitable relief preventing the commissioner of labor from en-  
23 forcing the order.

24 (g) In an action instituted in the superior court by the commis-  
25 sioner of labor or his representative, a person acting in the capacity  
26 of a fish processor in violation of this chapter may be enjoined from  
27 acting as a fish processor.

28 Sec. 16.10.295. WAIVER. (a) If the commissioner of labor deter-  
29 mines that a fish processor, otherwise acting in good faith, cannot meet

1 the security requirement imposed under sec. 290 of this section for the  
2 reason that a bond is unavailable or that a bond cash deposit or other  
3 security requirement cannot reasonably be afforded, considering the size  
4 of the business, he may, subject to (b) of this section, waive the bond  
5 or security requirement for a limited or long-term period.

6 (b) Before waiving a bond, cash deposit or security requirement  
7 under (a) of this section, the commissioner or labor shall demand  
8 written proof of the necessity for the waiver and may require other  
9 assurances or impose other conditions necessary to protect the persons  
10 specified in sec. 290(a) of this chapter.

11 Sec. 16.10.296. DEFINITIONS. In secs. 290 - 296 of this chapter,  
12 unless the context otherwise requires,

13 (1) "commissioner" means the commissioner of revenue;

14 (2) "fish processor" means a person engaging or attempting to  
15 engage in a business for which a license is required under AS 43.75.-  
16 010 - 43.75.090.