

Original sponsor: Rules Committee by  
request of the Governor

Offered: 4/12/76  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 878

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 the Alaska mining license tax; and  
7 providing for an effective date."

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

9 \* Section 1. AS 43.65.010 is repealed and re-enacted to read:

10 Sec. 43.65.010 MINING LICENSE AND TAX. (a) For the privilege of  
11 engaging in the business of mining in the state, a person shall first  
12 apply and obtain a license from the department. The license fee is  
13 \$25, which must accompany the application for a license.

14 (b) There is also levied an annual license tax on each person  
15 engaging in the business of mining in the state computed on the net  
16 proceeds of the taxpayer from the mining business. The license tax  
17 shall be computed according to the following table:

18 If the net proceeds are:	Then the tax is:
19 over \$40,000 but not over \$50,000	3 per cent of the excess over 20 \$40,000
21 over \$50,000 but not over \$100,000	\$300 plus 5 per cent of the 22 excess over \$50,000
23 over \$100,000	\$2,800 plus 7 per cent of the 24 excess over \$100,000

25 (c) Upon application and receipt of an exemption certificate, a  
26 new mining business operation is exempt from the license tax levied by  
27 this chapter for three and one-half years after production from the  
28 mining business operation begins. The tax exemption granted to new  
29 mining business operations does not apply to the business of mining sand

1 and gravel. The Department of Natural Resources shall certify to the  
2 department the date upon which production began from the mining business  
3 operation, and the department shall issue a certificate of exemption to  
4 the applicant after this certification. A person must apply for an  
5 exemption certificate in the first year of production from the mining  
6 business operation in order to qualify for the exemption under this  
7 section.

8 (d) If mining business operations not subject to sec. 10(c) of  
9 this chapter are conducted in two or more places in the state by one  
10 person, those operations may, at the person's option, be considered as  
11 one mining business, and the tax shall be computed upon the net proceeds  
12 of all those mining business operations.

13 \* Sec. 2. AS 43.65 is amended by adding new sections to read:

14 Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net pro-  
15 ceeds" means the total gross receipts from the mining business less the  
16 following deductions incurred during the taxable year:

17 (1) all expenses incurred directly in the extraction of  
18 minerals in the state;

19 (2) all expenses incurred in transporting the minerals from  
20 the point of extraction to any further processing plant where only  
21 necessary treatment processes are applied to obtain a commercially  
22 marketable product;

23 (3) all expenses directly related to the production, re-  
24 fining, crushing, screening or other necessary process incurred to make  
25 a commercially marketable product;

26 (4) the actual selling expenses incurred in marketing the  
27 product;

28 (5) all expenses incurred in transporting the marketable  
29 product to a buyer;

1 (6) depreciation of the mining business equipment, works,  
2 plant and facilities used directly in the extraction, transportation and  
3 processing phases of the mining business, in accordance with sec. 167 of  
4 the Internal Revenue Code as amended (26 U.S.C. sec. 167);

5 (7) amortization of exploration and mining development costs  
6 not included in (6) of this subsection;

7 (8) an allowance for depletion on a cost or percentage basis  
8 at the rates set out in secs. 611 - 614 of the Internal Revenue Code as  
9 amended (26 U.S.C. secs. 611 - 614) except that the allowance for  
10 depletion may not exceed 50 per cent of the taxpayer's net proceeds  
11 calculated before the allowance for depletion;

12 (9) net operating losses as set out in the Internal Revenue  
13 Code as amended.

14 (b) If the taxpayer has expenses in the state other than those  
15 specified in (a) of this section, such as general overhead expenses,  
16 relating to the business of mining or to the business of mining and  
17 other business activities, the deductions shall be apportioned in the  
18 ratio which the direct expenses of the mining business in the state  
19 under (a) of this section bear to the total direct expenses of all  
20 business activities of that taxpayer in the state.

21 (c) Except for wages paid during temporary travel out of the state  
22 by an employee who is domiciled in the state, the deductions allowed in  
23 (a) and (b) of this section do not include wages or other payments for  
24 services not performed in the state.

25 (d) If a person is engaged in the business of mining and the only  
26 receipts from the business are royalties, the net proceeds of the  
27 mining business are the royalties received less the depletion allowance  
28 under sec. 15(a)(8) of this chapter.

29 Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross

1 receipts" means all revenue received, including royalties, rental pay-  
2 ments, and all other compensation from the business of mining. Gross  
3 receipts include the actual amount received during the year for the  
4 sale of minerals or materials whether or not the minerals or materials  
5 were actually extracted during that year.

6 (b) If minerals or materials are sold or transferred at a price  
7 other than the true market price, such as when a wholly owned subsidiary  
8 transfers or sells the mineral or material to its parent at a price less  
9 than market value, gross receipts are the true market price or average  
10 market price per ton or other measurable unit of the mineral or material  
11 multiplied by the total units of the mineral or material sold or trans-  
12 ferred during the year.

13 (c) Gross receipts from the business of mining sand and gravel  
14 include

15 (1) receipts from the sale to customers directly from the pit  
16 or mine;

17 (2) receipts from the sale to customers at their place of  
18 business or their business site, including receipts relating to the  
19 delivery of the sand and gravel; and

20 (3) the average market value of sand and gravel from inter-  
21 company transfers of the minerals calculated immediately before the  
22 transfer, including intercompany transfers of sand and gravel to a  
23 ready-mix or concrete plant.

24 \* Sec. 3. AS 43.65.020 is amended to read:

25 Sec. 43.65.020. TAXPAYER'S DUTIES. (a) A person subject to tax  
26 under this chapter shall make a return stating specifically the items of  
27 gross receipts [INCOME] from the business [PROPERTY], including royalty  
28 received and the deductions [AND CREDITS] allowed by this chapter, and  
29 other information for carrying out this chapter which the department

1 [DEPARTMENT OF REVENUE] prescribes. The return shall show the mining  
2 license number and shall be signed by the taxpayer or his authorized  
3 agent, under penalty of perjury. If receivers, trustees, or assigns are  
4 operating the mining [PROPERTY OR] business, they shall make returns for  
5 the person engaged in the mining business [, OR THE RECIPIENT OF ROYALTY  
6 IN CONNECTION WITH MINING PROPERTY]. The tax due on the basis of the  
7 returns shall be collected in the same manner as if collected from the  
8 person of whose business they have custody and control.

9 (b) A return made on the basis of the calender year shall be filed  
10 [MADE] before March 15 [MAY 1] of the next year. A return made on the  
11 basis of a fiscal year shall be filed [MADE] before the 15th [FIRST] day  
12 of the third [FIFTH] month of the next fiscal year.

13 (c) The department [DEPARTMENT OF REVENUE] may grant a reasonable  
14 extension of time for filing returns, under regulations adopted [PRE-  
15 SCRIBED] by it. Except in the case of a taxpayer going abroad, no  
16 extension may be granted [MADE] for more than six months.

17 (d) A [TAXPAYER'S] return shall be filed with [MADE TO] the  
18 department using the same tax year as the person uses in filing his  
19 federal income tax return [DEPARTMENT OF REVENUE AT JUNEAU. A TAXPAYER  
20 SHALL MAKE HIS RETURN EITHER ON A CALENDER YEAR OR FISCAL YEAR BASIS, IN  
21 CONFORMANCE WITH THE BASIS USED IN MAKING HIS RETURN FOR FEDERAL INCOME  
22 TAX PURPOSES].

23 (e) The total amount of tax imposed by this chapter shall be paid  
24 on or before the due date of the tax return required under this section  
25 [THE 30TH DAY OF APRIL OF THE NEXT CALENDER YEAR, OR IF THE RETURN IS  
26 MADE ON THE BASIS OF THE FISCAL YEAR, THEN ON THE LAST DAY OF THE FOURTH  
27 MONTH OF THE NEXT FISCAL YEAR.

28 (f) EVERY PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE OR EN-  
29 GAGING IN THE BUSINESS OF MINING IN THE STATE SHALL COMPLY WITH THE

1 DEPARTMENT'S REGULATIONS AND SHALL KEEP SUCH RECORDS, GIVE SUCH STATE-  
2 MENTS UNDER OATH, AND MAKE SUCH RETURNS AS THE DEPARTMENT OF REVENUE  
3 PRESCRIBES].

4 (g) When the department considers it necessary, it may require a  
5 person, by notice served upon him, to make a return, give statements  
6 under oath, or keep records as it considers sufficient to show whether  
7 or not the person is liable for the [TO] tax under this chapter. If a  
8 person fails to file a return at the time prescribed by law or regula-  
9 tion, or makes, wilfully or otherwise, a false or fraudulent return, the  
10 department shall make the return from its own knowledge and from such  
11 information as it can obtain [THROUGH TESTIMONY OR OTHERWISE]. A  
12 return so made and subscribed by the department is prima facie good and  
13 sufficient for all legal purposes.

14 \* Sec. 4. AS 43.65.030 is amended to read:

15 Sec. 43.65.030. APPLICATION FOR RENEWALS. A person engaged in the  
16 business of mining shall apply [APPLICATION] for a renewal of a mining  
17 license each year [SHALL BE MADE] before the 30th day of the first month  
18 of the person's tax year [MAY 1 OF EACH YEAR].

19 \* Sec. 5. AS 43.65.040 is repealed and re-enacted to read:

20 Sec. 43.65.040. LIMITATION. The department shall review returns  
21 and assess any additional tax due under this chapter within three years  
22 of the due date of the return or the date that the return was filed,  
23 whichever is later. If a return has not been filed the tax may be  
24 assessed at any time.

25 \* Sec. 6. AS 43.65.050 is amended to read:

26 Sec. 43.65.050. [VIOLATIONS AND] PENALTIES AND INTEREST. (a) In  
27 case of failure to obtain a license or file a return [REQUIRED BY THIS  
28 CHAPTER] within the time prescribed by this chapter, or to pay the full  
29 amount of the tax due on the return or a deficiency of the tax as

1 determined by the department [LAW OR PRESCRIBED BY THE DEPARTMENT  
2 ACCORDING TO LAW], unless it is shown that the failure is due to reason-  
3 able cause and not due to wilful neglect, five per cent is added for  
4 each 30 days or fraction of 30 days during which the failure continues,  
5 but not exceeding 25 per cent in the aggregate. The amount [SO] added  
6 to the tax shall be collected at the same time, in the same manner, and  
7 as a part of the tax. If the tax is paid before discovery of the  
8 neglect, the amount added shall be collected in the same manner as the  
9 tax.

10 [(b) IF PART OF A DEFICIENCY IN THE TAX IS DUE TO NEGLIGENCE OR  
11 INTENTIONAL DISREGARD OF REGULATIONS, BUT WITHOUT INTENT TO DEFRAUD,  
12 FIVE PER CENT OF THE TOTAL AMOUNT OF THE DEFICIENCY, IN ADDITION TO THE  
13 DEFICIENCY, SHALL BE ASSESSED, COLLECTED, AND PAID IN THE SAME MANNER AS  
14 IF IT WERE A DEFICIENCY, EXCEPT THAT (d) OF THIS SECTION IS NOT APPLI-  
15 CABLE.]

16 (c) If part of a deficiency in the tax is due to fraud with  
17 intent to evade the tax, then 50 per cent of the total amount of the  
18 deficiency, in addition to the deficiency, shall be assessed and col-  
19 lected. If this penalty is assessed, then the penalty in (a) of this  
20 section does not apply.

21 (d) When the tax levied by this chapter becomes delinquent, it  
22 bears interest at the rate of eight per cent a year. The tax is delin-  
23 quent if it is not paid on its due date. [INTEREST UPON THE AMOUNT  
24 DETERMINED AS A DEFICIENCY IN THE TAX SHALL BE ASSESSED AT THE SAME TIME  
25 AS THE DEFICIENCY, AND PAID UPON NOTICE AND DEMAND BY THE DEPARTMENT.  
26 THE INTEREST SHALL BE COLLECTED AS A PART OF THE TAX, AT THE RATE OF SIX  
27 PER CENT A YEAR FROM THE TIME PRESCRIBED FOR PAYMENT OF THE TAX TO THE  
28 DATE THE DEFICIENCY IS PAID.]

29 (e) The tax levied or accruing under this chapter and the penalties

1 and interest on the tax are a lien prior, paramount, and superior to all  
2 other liens, mortgages, hypothecations, conveyances, and assignments,  
3 upon all the real and personal property of the person liable for them,  
4 and upon the real and personal property used with the permission of the  
5 owner in carrying on the business of mining. This lien is [SHALL]  
6 not [BE CONSIDERED] exclusive of other civil or criminal remedies pro-  
7 vided by law for the recovery of license taxes.

8 (f) A person who is required under this chapter to pay the [A]  
9 tax, make a return, keep records, or supply information [FOR THE COM-  
10 PUTATION, ASSESSMENT, OR COLLECTION OF THE TAX IMPOSED BY THIS CHAPTER],  
11 who wilfully fails to pay the tax, make the return, keep the records, or  
12 supply the information, at the time required by law or regulations, is,  
13 in addition to other penalties provided by this chapter [LAW], guilty of  
14 a misdemeanor, and upon conviction is punishable by a fine of not more  
15 than \$1,000, or by imprisonment for not more than one year, or by both  
16 [, TOGETHER WITH THE COST OF PROSECUTION].

17 [(g) A PERSON WHO WILFULLY MAKES AND SIGNS A RETURN WHICH HE DOES  
18 NOT BELIEVE TO BE TRUE AND CORRECT AS TO EVERY MATERIAL MATTER IS  
19 GUILTY OF A FELONY, AND UPON CONVICTION IS SUBJECT TO THE PENALTIES  
20 PRESCRIBED FOR PERJURY UNDER THE LAWS OF THE STATE.]

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

24 (i) A person who wilfully attempts to evade the tax imposed by  
25 this chapter is, in addition to other penalties provided by this chapter  
26 guilty of a felony and, upon conviction, is punishable by a fine of not  
27 more than \$5,000, or by imprisonment for not more than five years, or  
28 by both.

29 (j) A person who wilfully makes and subscribes a return, statement,

1 or other document required under this chapter which contains or is  
2 verified by a written declaration that it is made under the penalties of  
3 perjury which he does not believe to be true and correct as to every  
4 material matter is, in addition to other penalties provided by this  
5 chapter, guilty of a felony and, upon conviction, is punishable by a  
6 fine of not more than \$5,000, or by imprisonment for not more than three  
7 years, or by both.

8 (k) A person who wilfully or knowingly aids, procures, or counsels  
9 the preparation or presentation in connection with any matter arising  
10 under this chapter of a return, affidavit, claim, or other document,  
11 which is fraudulent or is false as to any material matter is guilty of a  
12 felony whether or not the falsity or fraud is with the knowledge or  
13 consent of the person required to present the return, affidavit, claim,  
14 or document, and, upon conviction, is punishable by a fine of not more  
15 than \$5,000, or by imprisonment for not more than three years, or by  
16 both.

17 (l) A person who wilfully delivers or discloses to the department  
18 under this chapter any list, return, account, statement, or other  
19 document, known by him to be fraudulent or to be false as to any materi-  
20 al matter is, upon conviction, punishable by a fine of not more than  
21 \$1,000, or by imprisonment for not more than one year, or by both.

22 \* Sec. 7. AS 43.65.060(4) is amended to read:

23 (4) "new mining business operation [OPERATIONS]" means a  
24 mining operation [OPERATIONS] which began production after January 1,  
25 1953, and which has not acquired the ownership or property of another  
26 mining business which has previously received an exemption certificate  
27 under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A  
28 MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1,  
29 1948];

1 \* Sec. 8. AS 43.65.060 is amended by adding new paragraphs to read:

2 (7) "minerals" means all locatable and leasable minerals  
3 except sand, gravel, oil, gas, building materials and topsoil;

4 (8) "materials" includes sand, gravel, building material and  
5 topsoil;

6 (9) "business of mining"

7 (A) means a business operation for the extraction of  
8 minerals from the earth or water of the state, operated by a person

9 (i) who owns and operates, works, or develops a  
10 mineral property, whether or not that property is currently  
11 producing a marketable product;

12 (ii) who leases a mineral property and operates the  
13 mineral property, whether or not the mineral property is  
14 producing a marketable product;

15 (iii) who leases a mineral property and pays royal-  
16 ties, rents or other payments to the owner of the property;

17 (iv) who has an interest in a lease, concession,  
18 joint venture, or other agreement for the exploration or  
19 development, or extraction of a mineral property if royalties,  
20 rents, or other payments are to be paid for that interest;

21 (B) does not include a prospector who explores for new  
22 mineral deposits, stakes a claim, performs the required assessment  
23 work to keep it in good standing, and holds it for possible devel-  
24 opment by others;

25 (10) "department" means the Department of Revenue.

26 \* Sec. 9. AS 43.65.060(1) - (3) are repealed.

27 \* Sec. 10. This Act is retroactive to January 1, 1976.

28 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.

29 070(c).