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Offered: 4/22/77
Referred: Rules

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 350

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 16.10.270(a) is amended to read:

10 (a) A fish processor or primary fish buyer shall purchase raw fish
11 by the pound. The poundage of the fish to be purchased shall be deter-
12 mined by weighing the fish unless both the buyer and seller agree in
13 writing upon a sample weighing technique which will fairly determine the
14 average weight of the fish purchased.

15 * Sec. 2. AS 16.10 is amended by adding new sections to read:

16 Sec. 16.10.290. SECURITY FOR COLLECTION OF WAGES AND PAYMENT FOR
17 RAW FISH. (a) A fish processor or primary fish buyer shall file with
18 the commissioner of labor a surety bond running to the State of Alaska
19 conditioned upon the promise to pay (1) all persons furnishing labor to
20 a fish processor or primary fish buyer, including contractual employee
21 benefits; and (2) independent registered commercial fishermen for the
22 price of the raw fishery resource purchased from them. The surety or
23 sureties shall be satisfactory, in the determination of the commissioner

24 (b) The amount of the bond shall be \$10,000. In lieu of the
25 surety bond the fish processor or primary fish buyer may file with the
26 commissioner a cash deposit or other negotiable security acceptable to
27 the commissioner in the amount specified for the bond. If no claim is
28 asserted under this section within two years from the date the bond,
29 cash deposit or other security is filed, the term of the bond, cash

1 deposit or other security shall be two years; if a claim has been as-
2 serted within two years, the term of the bond, cash deposit or other
3 security shall be for five years.

4 (c) A person applying for a license as a fish processor or primary
5 fish buyer who has less than \$10,000 in lienable property in the state,
6 with proof of the property satisfactorily made to the commissioner,
7 shall file with the application a bond or other security as specified in
8 this section. No bond is required if the fish processor or primary fish
9 buyer has more than \$10,000 in lienable property as specified in this
10 subsection.

11 (d) Upon certification by the commissioner that a person applying
12 for a license as a fish processor or primary fish buyer has complied
13 with secs. 290 - 296 of this chapter, the Department of Revenue may
14 issue that person a license to engage in the business of fish processor
15 or primary fish buyer.

16 (e) The commissioner may accept the assignment of a claim held by
17 a person against a fish processor or primary fish buyer under this
18 section and may bring suit upon the bond, cash deposit or other security
19 on behalf of the assignor in the superior court of the judicial district
20 in which the work is done or in any judicial district in which juris-
21 diction may be obtained. This action shall not be construed to limit
22 the right of a person having a claim under secs. 270 - 296 of this
23 chapter against a fish processor or primary fish buyer to bring suit
24 upon the bond, cash deposit or other security in his own right, in which
25 case a copy of the complaint shall be served by registered or certified
26 mail upon the commissioner at the time suit is filed. The commissioner
27 shall maintain a record, available for public inspection, of all suits
28 commenced under this subsection. The service shall constitute service
29 on the surety, and the commissioner shall transmit the complaint or a

1 copy of it to the surety within 72 hours after it has been received.

2 (f) If the surety on the bond desires to cancel the bond, he may
3 do so by giving the commissioner written notice of his intention to
4 cancel. The cancellation is effective 30 days after the notice is
5 delivered to the commissioner.

6 (g) If a judgment is entered against the cash deposit, the commis-
7 sioner, upon receipt of a certified copy of a final judgment, shall pay
8 the judgment from the amount of the deposit.

9 Sec. 16.10.292. FILING EVIDENCE OF COMPLIANCE. A fish processor
10 or primary fish buyer subject to secs. 270 - 296 of this chapter shall
11 initially file evidence of his compliance with the bonding requirements
12 of secs. 290 - 296 of this chapter, in the form prescribed by the
13 commissioner.

14 Sec. 16.10.294. SUSPENSION AND REVOCATION OF LICENSE. (a) If a
15 final judgment impairs the liability of the surety upon the bond or
16 depletes the cash deposits or other security so that there is not in
17 effect the bond, undertaking cash deposit or other security in the full
18 amount prescribed in sec. 290 of this chapter, the license of the fish
19 processor or primary fish buyer shall be suspended until the liability
20 in the required amount, unimpaired by unsatisfied judgment claims, has
21 been furnished.

22 (b) If a bonding company cancels its bond of a fish processor or
23 primary fish buyer, the fish processor's or primary fish buyer's license
24 shall be revoked. He may again obtain a license by complying with the
25 requirements of this chapter.

26 (c) If a licensed fish processor or primary fish buyer fails to
27 fulfill his obligations as set out in sec. 290 of this chapter, his
28 license shall be suspended for a period of time the commissioner deter-
29 mines is appropriate. After three suspensions his license may be

1 permanently revoked.

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

4 (e) If the commissioner determines that a fish processor or pri-
5 mary fish buyer is acting in violation of secs. 270 - 296 of this chap-
6 ter, he shall give written notice prohibiting further action by the
7 person as a fish processor or primary fish buyer. The prohibition
8 continues until the person has submitted evidence acceptable to the
9 commissioner showing that the violation has been corrected.

10 (f) A person affected by an order issued under this chapter may
11 seek equitable relief preventing the commissioner from enforcing the
12 order.

13 (g) In an action instituted in the superior court by the commis-
14 sioner or his representative, a person acting in the capacity of a fish
15 processor or primary fish buyer in violation of this chapter may be
16 enjoined from acting as a fish processor or primary fish buyer.

17 Sec. 16.10.296. DEFINITIONS. In secs. 270 - 296 of this chapter,
18 unless the context otherwise requires,

19 (1) "commissioner" means the commissioner of labor;

20 (2) "fish" means any species of aquatic fin fish, inverte-
21 brates and amphibians, shellfish, or any other raw fishery resource, in
22 any stage of its life cycle, found in or introduced into the state;

23 (3) "fish processor" means a person engaging or attempting to
24 engage in a business for which a license is required under AS 43.75.010
25 43.75.090;

26 (4) "primary fish buyer" means a person, other than a coopera-
27 tive corporation organized under AS 10.15, engaging or attempting to en-
28 gage in the business of originally purchasing or buying any raw fishery
29 resource in intrastate, interstate, or foreign commerce.