

Introduced: 3/21/80
Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 HOUSE BILL NO. 969

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to salmon fisheries enhancement."

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

8 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

9 (1) regional aquaculture associations qualified under AS 16.10.380
10 have been organized in many areas of the state and have initiated salmon
11 enhancement programs which will result in a general benefit to the state and
12 a direct benefit to the commercial, subsistence, and sport fisheries;

13 (2) commercial salmon harvesters in most regions where the regional
14 aquaculture associations are established have initiated self-imposed systems
15 of harvest assessments to provide financing of efficient regional salmon
16 enhancement programs;

17 (3) harvest assessments initiated in the regions are either volun-
18 tary or mandatory, depending on the choice of the commercial salmon harvesters
19 of each region;

20 (4) the mandatory assessment method initiated by many of the
21 regional aquaculture associations under the authorization of state law is
22 currently involved in protracted litigation;

23 (5) in order to ensure the uninterrupted continuation of the
24 current salmon enhancement programs, it is essential that a revenue source
25 for regional aquaculture associations be developed before a final judicial
26 determination of the constitutionality of the mandatory assessments;

27 (6) while future legislatures cannot be legally bound to return
28 revenues to each region based on the harvest assessments initiated in the
29 regions, this legislature clearly recognizes this duty.

1 (b) It is the purpose of this Act to provide a means for continuing a
2 mandatory method of revenue collection from commercial harvesters of salmon,
3 and to continue revenue distribution to those regional aquaculture associa-
4 tions which desire to use this means of ensuring that efficient salmon en-
5 hancement programs have the necessary financial resources to continue.

6 (c) It is also the purpose of this Act to establish as a legislative
7 policy the policy of making appropriations to the Department of Commerce and
8 Economic Development to provide financing for qualified regional associations,
9 and to base those appropriations on the revenue received from the collection
10 of the salmon enhancement tax. The legislature may base an appropriation for
11 a region on the value of fisheries resources caught in the region rather than
12 the value of the fisheries resources sold in the region when those values
13 differ. This section does not constitute a limitation on the use which the
14 legislature may make of the proceeds of the salmon enhancement tax collected
15 under this chapter.

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

17 CHAPTER 76. SALMON ENHANCEMENT TAX.

18 Sec. 43.76.010. SALMON ENHANCEMENT TAX. (a) A person holding a
19 limited entry permit under AS 16.43.010 - 16.43.380 shall pay a salmon
20 enhancement tax at the rate of three percent of the value of salmon the
21 person sells to a processor licensed under AS 43.75.011. The processor
22 shall collect the salmon enhancement tax at the time of the sale.

23 (b) A salmon enhancement tax may only be levied or collected under
24 (a) of this section

25 (1) in a region designated by the commissioner of fish and
26 game for the purpose of salmon production under AS 16.10.375;

27 (2) if there exists in that region an association determined
28 by the commissioner of fish and game to be a qualified regional associa-
29 tion under AS 16.10.380; and

1 (3) if the qualified regional association approves the salmon
2 enhancement tax under AS 43.76.015.

3 Sec. 43.76.015. ELECTION TO APPROVE, REDUCE OR TERMINATE SALMON
4 ENHANCEMENT TAX. (a) A qualified regional association may not conduct
5 an election under (b) of this section unless the commissioner of commerce
6 and economic development approves the form of the notice to be published
7 by the qualified regional association, the form of the ballot to be used
8 in the election, and the registration procedure established by the
9 qualified regional association under (c) of this section. The commis-
10 sioner of commerce and economic development shall consult with the
11 commissioner of fish and game before approving the form of the ballot to
12 be used in an election under (b) of this section to verify the accuracy
13 of the boundary description in the ballot. After an election is held
14 under (b) of this section, the salmon enhancement tax takes effect in
15 the region, if it is approved by a majority vote, upon the effective
16 date stated in the ballot, or when the election results are certified by
17 the commissioner of commerce and economic development, whichever is
18 later. The commissioner of commerce and economic development shall
19 certify the results of an election under (b) of this section if the
20 procedural requirements of (b) of this section have been followed.

21 (b) Before a salmon enhancement tax is levied under AS 43.76.010,
22 the qualified regional association for the region shall hold an initial
23 public meeting to explain and discuss the necessity for the tax and to
24 explain the registration procedure established by the qualified regional
25 association. The qualified regional association shall provide public
26 notice of the initial meeting by mailing notice at least 20 days before
27 the meeting to each limited entry permit holder actively participating
28 in a salmon fishery in the region, by posting the notice at least 20
29 days before the meeting in at least three public places in the region,

1 and by publishing the notice in at least one newspaper of general circu-
2 lation, if one exists, in the region at least once a week for three
3 consecutive weeks before the meeting. The notice shall briefly state
4 the amount of the tax and a short general description of the purposes
5 for which the tax is expected to be used. The qualified regional asso-
6 ciation shall mail a ballot, along with notice of the initial meeting,
7 to each limited entry permit holder actively participating in a salmon
8 fishery in the region. The ballot shall ask the question whether a
9 salmon enhancement tax shall be levied, indicate the boundaries of the
10 region in which the salmon enhancement tax will be levied, provide an
11 effective date for the levy of the salmon enhancement tax if the salmon
12 enhancement tax is approved, and indicate the date on which returned
13 ballots must be postmarked in order to be counted. At the initial
14 meeting additional ballots shall be distributed to limited entry permit
15 holders in attendance who did not return a ballot by mail within the
16 required time and who actively participate in a salmon fishery in the
17 region. All ballots (those returned by mail and those voted at the
18 meeting) shall be counted by a special committee appointed by the quali-
19 fied regional association for that purpose. After the vote is taken at
20 the initial meeting, the qualified regional association shall hold a
21 second public meeting. The qualified regional association shall give
22 notice of the second meeting by publication in a newspaper of general
23 circulation in the region each day for five consecutive days and by
24 mailing notice to each limited entry permit holder who actively parti-
25 cipates in a salmon fishery in the region at least 14 days before the
26 second public meeting. At the second meeting a vote by written ballot
27 shall be taken from among the limited entry permit holders at the
28 meeting who actively participate in a salmon fishery in the region and
29 who have not previously voted on the question. These votes shall be

1 counted with the votes counted at the initial meeting. A majority vote
2 for the salmon enhancement tax is required from the combined total of
3 the returned ballots and the votes cast at both public meetings, before
4 a salmon enhancement tax may be levied or collected. A person may not
5 vote twice.

6 (c) An election to reduce or terminate a salmon enhancement tax
7 shall be conducted under the same procedural requirements established
8 under (a) and (b) of this section for an election to approve a salmon
9 enhancement tax.

10 (d) The qualified regional association shall establish standard
11 registration procedures for voting on approval, reduction or termination
12 of the salmon enhancement tax.

13 Sec. 43.76.020. REDUCTION OR TERMINATION OF SALMON ENHANCEMENT
14 TAX. (a) The salmon enhancement tax levied under AS 43.76.010 may be
15 reduced to a rate which is less than three percent or may be terminated
16 by the commissioner of revenue

17 (1) upon the recommendation of the commissioner of commerce
18 and economic development;

19 (2) upon request of a majority of the board of directors of
20 the qualified regional association for the region in which the salmon
21 enhancement tax is levied; or

22 (3) upon majority vote at an election held under (b) of this
23 section in the region in which the tax is levied.

24 (b) A salmon enhancement tax may be reduced or terminated by the
25 commissioner of revenue under (a)(3) of this section following an elec-
26 tion in a region if

27 (1) a petition is presented to the commissioner of commerce
28 and economic development requesting reduction or termination of the
29 salmon enhancement tax which is signed by at least 25 percent of the

1 number of persons who were qualified to vote under AS 43.76.015(b) in
2 the election approving the salmon enhancement tax in the region;

3 (2) an election is held in accordance with AS 43.76.015(c);
4 the ballot shall ask the question whether the salmon enhancement tax for
5 the region shall be terminated or reduced, as appropriate; in the case
6 of termination, the ballot shall be worded so that a "yes" vote is for
7 continuation of the salmon enhancement tax and a "no" vote is for term-
8 ination of the salmon enhancement tax;

9 (3) a majority of the people who vote cast a ballot for the
10 termination or reduction of the salmon enhancement tax; all limited
11 entry permit holders actively participating in a salmon fishery in the
12 area are eligible to vote;

13 (4) the qualified regional association provides notice of the
14 election in accordance with AS 43.76.015(b) within two months after
15 receiving notice from the commissioner of commerce and economic develop-
16 ment that a valid petition under (1) of this subsection has been re-
17 ceived.

18 Sec. 43.76.025. COLLECTION OF TAX AND DISPOSITION OF PROCEEDS.

19 (a) A processor who buys fisheries resources which are subject to the
20 salmon enhancement tax imposed by AS 43.76.010 shall collect the tax at
21 the time of purchase, and shall remit the total tax collected during
22 each month to the Department of Revenue by the last day of the next
23 month.

24 (b) A processor who collects the salmon enhancement tax shall
25 maintain records reflecting the location of the catch of the fisheries
26 resources.

27 * Sec. 3. AS 16.10 is amended by adding a new section to read:

28 Sec. 16.10.385. ACCOUNTING OF FINANCING RECEIVED AS A RESULT OF
29 THE SALMON ENHANCEMENT TAX. A qualified regional association requesting

1 state financial assistance shall submit an annual financial report to
2 the Department of Commerce and Economic Development on a form provided
3 by the Department of Commerce and Economic Development. The Department
4 of Commerce and Economic Development may, by regulation, require that a
5 qualified regional association use a uniform system of accounting. A
6 qualified regional association requesting state assistance shall submit
7 an annual budget to the Department of Commerce and Economic Development
8 on or before a date specified by the Department of Commerce and Economic
9 Development.

10 * Sec. 4. The commissioner of commerce and economic development shall
11 direct that no further royalty assessments be collected under AS 16.10.530 on
12 or after the effective date of an election in the region of a qualified
13 regional association that approves a salmon enhancement tax in accordance
14 with AS 43.76.010 - 43.76.015.

15 * Sec. 5. The approval of a salmon enhancement tax in accordance with
16 AS 43.76.010 - 43.76.015 constitutes compliance with the requirements of
17 AS 16.10.530 for the imposition of a mandatory assessment on the sale of
18 salmon under AS 16.10.530.

19 * Sec. 6. Sections 1 and 4 of this Act, AS 43.76, and AS 16.10.385 are
20 repealed.

21 * Sec. 7. Sections 1 - 4 and 7 of this Act take effect immediately in
22 accordance with AS 01.10.070(c).

23 * Sec. 8. Sections 5, 6 and 8 of this Act take effect on the publication
24 date of a decision by the Alaska Supreme Court in the appeal of State of
25 Alaska v. Wayne Alex, et al (Supreme Court File No. 5065), if the decision
26 holds that AS 16.10.530 is constitutional as applied before July 13, 1979.
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