

Original sponsor: Kerttula

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1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

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CS FOR SENATE BILL NO. 132

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to fisheries taxes; and providing for
7 an effective date."

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

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* Section 1. FINDINGS. The legislature finds that the state has

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(1) funded and implemented several fisheries enhancement programs;

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(2) funded and implemented fishery loan programs;

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(3) increased its fishery protection and management program;

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(4) funded and implemented a limited entry program; and

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(5) embarked on a program of encouraging the development of a

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bottom fishing industry.

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* Sec. 2. PURPOSE. The purposes of this Act are to

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(1) insure that the state is able to continue its efforts toward

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overall fishery enhancement by raising additional revenue to pay for fishery
19 enhancement projects;

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(2) make the imposition of the fishery tax more uniform among

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fisheries businesses; and

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(3) provide funding for the development of new fisheries.

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* Sec. 3. AS 43.75 is amended by adding new sections to read:

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Sec. 43.75.011. FISHERIES BUSINESS LICENSE. A person engaging or

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attempting to engage in a fisheries business shall first apply for and

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obtain a license as provided in AS 43.75.020.

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Sec. 43.75.015. FISHERIES BUSINESS TAX. (a) A person engaged in

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a fisheries business is liable for and shall pay a tax equal to six per

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cent of the value of the fishery resource processed by his fisheries

1 business during the year.

2 (b) A person engaging or attempting to engage in a fisheries
3 business who actually and physically processes the fishery resource is
4 liable for and shall pay to the department the whole tax imposed by this
5 section. In determining this tax liability, the person may not deduct
6 from the value of the fishery resource processed the value of fishery
7 resources canned or processed for other fisheries businesses, but shall
8 include this as part of the value of the fishery resources canned or
9 processed.

10 Sec. 43.75.131. REFUND TO LOCAL GOVERNMENTS. (a) The department
11 shall pay to each borough, to each city of the first class, and to each
12 municipality unified under AS 29.68.240 - 29.68.440, an amount equal to
13 33 1/3 per cent of the amount of tax revenue collected in the municipal-
14 ity from taxes levied in this chapter. In the case of tax revenue
15 collected inside a city within a borough, the revenue to be shared shall
16 be divided equally between the city and the borough.

17 (b) One-half of the revenue shared with a borough or city of the
18 first class shall be used for docks or other fishery enhancement pro-
19 jects and those expenditures must be certified and reported to the
20 department annually no later than January 30.

21 Sec. 43.75.136. PAYMENTS TO COMMERCIAL FISHING AND AGRICULTURE
22 BANK. The legislature may appropriate 33 1/3 per cent of the amount of
23 tax revenue levied under this chapter to the Commercial Fishing and
24 Agriculture Bank established in AS 44.54.010 until that bank is fully
25 capitalized as determined by the commissioner of commerce and economic
26 development based upon the estimated capital needs of the bank.

27 Sec. 43.75.140. DEFINITIONS. In this chapter

28 (1) "department" means the Department of Revenue;

29 (2) "fisheries business" means a person who engages in pro-

1 censing fisheries resources for sale by freezing, cooking, salting, or
2 other method and includes but is not limited to canneries, cold
3 storages, freezer ships, and processing plants;

4 (3) "fishery resource" means fin fish, shellfish and fish
5 by-products, including but not limited to salmon, halibut, herring,
6 crab, clam, cod, shrimp, and pollock;

7 (4) "value" means the actual price paid for the fisheries
8 resource by the fisheries business including indirect consideration such
9 as fuel, supplies, or gear, except that "value" means the market value
10 of the fishery resource if procured in company-owned or subsidized boats
11 operated by employees of the fisheries business or under lease or other
12 arrangement.

13 * Sec. 4. AS 43.75.100 is repealed and re-enacted to read:

14 Sec. 43.75.100. TAX IMPOSED ON TAKING OF FISHERY RESOURCE. A
15 person taking, purchasing, or otherwise acquiring a fishery resource
16 covered by this chapter which has not been subject to the tax imposed in
17 AS 43.75.015 who sells the fishery resource to a fisheries business
18 outside the taxing jurisdiction of the state is subject to the tax set
19 out in AS 43.75.015 on the value of the fishery resource sold.

20 * Sec. 5. AS 43.75.030(a) is amended to read:

21 (a) A person subject to the tax shall file a return stating the
22 value of [RAW] fisheries resources [PRODUCTS] processed during the
23 license year, computed as required by [AS 43.75.010 - 43.75.050 OF] this
24 chapter, and such other information as the department prescribes by
25 regulation. The return shall show the license number and shall be
26 signed by the taxpayer or his authorized agent, under penalty of per-
27 jury. If a receiver, trustee, or assign is operating the property or
28 business, he shall file the return for the person. A tax due on the
29 basis of such a return shall be collected in the same manner as if

1 collected from the person of whose business he has custody and control.

2 * Sec. 6. AS 43.75.030(e) is amended to read:

3 (e) Every person engaging or attempting to engage in a business
4 for which a license is required under [AS 43.75.010 - 43.75.050 OF] this
5 chapter shall keep [SUCH] records, make [SUCH] statements under oath,
6 file [SUCH] returns, and comply with all [SUCH] regulations which [AS]
7 the commissioner of revenue may prescribe.

8 * Sec. 7. AS 43.75.050(f) is amended to read:

9 (f) A person who wilfully fails to obtain a license, pay a tax,
10 make a return, keep or display a record, or supply the information at
11 the time required by law or regulation, in violation of [AS 43.75.010 -
12 43.75.055 OF] this chapter, is, in addition to other penalties provided
13 by law, guilty of a misdemeanor, and upon conviction is punishable by a
14 fine of not more than \$1,000, or by imprisonment for not more than one
15 year, or by both, together with the cost of prosecution.

16 * Sec. 8. AS 43.75.055 is amended to read:

17 Sec. 43.75.055. SECURITY FOR COLLECTION OF TAXES. Each applicant
18 for a license under this chapter shall, in or with his application,
19 state under oath the amount of each of the products which he expects to
20 produce during the license year. The applicant shall further state the
21 extent of lienable real property owned by the applicant in the state
22 against which the tax may be collected and other information with respect
23 to description, location and value of the property which the department
24 prescribes. If the lienable value of the property is not equal to three
25 times the amount of the tax for which the applicant will probably be
26 liable under this section, the department may not issue the license
27 until the applicant files with the department a surety bond approved by
28 the attorney general in a penal sum equal to twice the probable amount
29 of the tax for which the applicant will be liable, conditioned upon

1 payment of the tax in full when due, with interest if not paid before
2 delinquency. However, if the applicant purchases salmon for export from
3 Alaska in the round, the amount of the bond is \$50,000 unless the appli-
4 cant is the owner of lienable real property in the state of a value of
5 at least \$50,000, and the bond must be conditioned upon payment to the
6 fisherman of the full purchase price for the salmon and the payment of
7 the tax in full when due. The department may waive the bond requirement
8 if the applicant posts other security in the form of collateral accept-
9 able to the department or prepays the estimated tax.

10 * Sec. 9. AS 43.75.110 is amended to read:

11 Sec. 43.75.110. DUTY OF TAXPAYER AND PAYMENT OF TAX. A person
12 subject to taxes under AS 43.75.100 - 43.75.120 shall make a return
13 stating the value of [RAW] fisheries resources [PRODUCTS] taken, pur-
14 chased, or otherwise acquired during the license year for sale to
15 fisheries businesses [FREEZER SHIPS, FLOATING COLD STORAGEES, OR FLOATING
16 CANNERIES] outside of the taxing jurisdiction of the state computed as
17 required by AS 43.75.100 - 43.75.120, and other information to carry out
18 the provisions of AS 43.75.100 - 43.75.200 as may be prescribed by the
19 department. The return shall contain the license number and shall be
20 signed by the taxpayer or his authorized agent, under penalty of per-
21 jury. If a receiver, trustee, or assign is operating the property or
22 business, he shall make the return for the person. A tax due on the
23 basis of such return shall be collected in the same manner as if
24 collected from the person of whose business he has custody and control.
25 The requirements for time and place of payment of tax, and the obliga-
26 tion to keep records and make the records available to the commissioner
27 of revenue are the same as those prescribed in AS 43.75.011 - 43.75.050
28 [THE BUSINESS LICENSE TAX LAW FOR SALMON CANNERIES].

29 * Sec. 10. AS 43.75.120 is amended to read:

1 Sec. 43.75.120. VIOLATIONS AND PENALTIES. (a) The liability to
2 file returns and pay interest and deficiency assessments, and the sub-
3 jection of property to liens is the same as prescribed in AS 43.75.011 -
4 43.75.050 [THE BUSINESS LICENSE TAX LAW FOR SALMON CANNERIES].

5 (b) A violation of AS 43.75.100 - 43.75.120 or the regulations
6 issued under AS 43.75.100 - 43.75.120 is a misdemeanor subject to
7 punishment as prescribed in AS 43.75.011 - 43.75.050 [THE BUSINESS
8 LICENSE TAX LAW FOR SALMON CANNERIES].

9 * Sec. 11. AS 43.75.010, 43.75.060, 43.75.070, 43.75.080, 43.75.090,
10 43.75.095, 43.75.130, and 43.75.135 are repealed.

11 * Sec. 12. TRANSITION. The tax paid for the 1978 calendar year shall be
12 shared in accordance with AS 43.75.130 and 43.75.135, as those sections read
13 before repeal by this Act. The tax paid for the 1979 calendar year and for
14 each succeeding calendar year shall be shared in accordance with AS 43.75.131
15 added by sec. 3 of this Act.

16 * Sec. 13. This Act is retroactive to January 1, 1979.

17 * Sec. 14. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).