

Original sponsor: Kerttula

Offered: 4/27/79
Referred: Rules

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 132 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

10 (1) funded and implemented several fisheries-related development
11 programs;

12 (2) funded and implemented fishery loan programs;

13 (3) increased its fishery protection and management program;

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

15 (5) embarked on a program of encouraging the development of a
16 bottom fishing industry.

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

18 (1) insure that the state is able to continue its efforts toward
19 overall fisheries-related development programs by raising additional revenue
20 to pay for the programs;

21 (2) make the imposition of the fisheries tax more uniform among
22 fisheries businesses; and

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

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

25 Sec. 43.75.011. FISHERIES BUSINESS LICENSE. A person engaging or
26 attempting to engage in a fisheries business shall first apply for and
27 obtain a license as provided in AS 43.75.020.

28 Sec. 43.75.015. FISHERIES BUSINESS TAX. (a) A person engaged in
29 a fisheries business is liable for and shall pay the tax levied by this

section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based cannery -- four and one-half per cent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business:

(A) until June 30, 1980 -- three per cent;

(B) after June 30, 1980 and until June 30, 1981 -- three and one-half per cent; and

(C) after June 30, 1981 -- four per cent;

(3) fisheries resources processed by a floating fisheries business:

(A) until June 30, 1980 -- five per cent;

(B) after June 30, 1980 and until June 30, 1981 -- five and one-half per cent; and

(C) after June 30, 1981 -- six per cent.

(b) Instead of the taxes levied by (a) of this section,

(1) a person engaged in a fishery business which includes processing a developing commercial fish species is liable for and shall pay a tax equal to

(A) one per cent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(B) three per cent of the value of the developing commercial fish species processed by a floating fisheries business during the year;

(2) a person engaged in a fishery business which includes

1 processing a fish species for which designation as a developing commer-
2 cial fish species has been revoked by the commissioner of fish and game
3 is liable for and shall pay a tax equal to

4 (A) for shore-based fisheries businesses:

5 (i) three per cent of the value of the fish species
6 during the first year following the year in which the designa-
7 tion of the species as a developing commercial fisheries
8 species is revoked;

9 (ii) three and one-half per cent of the value of the
10 fish species during the second year following the year in
11 which the designation of the species as a developing commer-
12 cial fisheries species is revoked; and

13 (iii) four per cent of the value of the fish species
14 thereafter;

15 (B) for floating fisheries businesses:

16 (i) five per cent of the value of the fish species
17 during the first year following the year in which the designa-
18 tion of the species as a developing commercial fisheries
19 species is revoked;

20 (ii) five and one-half per cent the value of the
21 fish species during the second year following the year in
22 which the designation of the species as a developing commer-
23 cial fisheries species is revoked; and

24 (iii) six per cent of the value of the fish species
25 thereafter.

26 (c) A person engaging or attempting to engage in a fisheries
27 business who first actually and physically processes the fishery re-
28 source is liable for and shall pay to the department the entire tax
29 imposed by this section. In determining this tax liability, the person

1 may not deduct from the value of the fishery resources processed the
2 value of fishery resources that are canned or processed for other fish-
3 eries businesses, but shall include that value as part of the value of
4 the fishery resources processed.

5 Sec. 43.75.136. APPROPRIATIONS TO COMMERCIAL FISHING AND AGRICUL-
6 TURE BANK. The legislature may annually appropriate 20 per cent of the
7 amount of tax revenue collected under this chapter to the Commercial
8 Fishing and Agriculture Bank established in AS 44.54.010 until the bank
9 is fully capitalized as determined by the commissioner of revenue based
10 upon the estimated capital needs of the bank.

11 Sec. 43.75.140. DEFINITIONS. In this chapter

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

13 (2) "developing commercial fish species" means those species
14 of fish and shellfish annually designated by the commissioner of fish
15 and game under AS 16.05.050(12);

16 (3) "fisheries business" means a person who engages in pro-
17 cessing fisheries resources for sale by freezing, cooking, salting, or
18 other method and includes but is not limited to canneries, cold stor-
19 ages, freezer ships, and processing plants;

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

23 (5) "floating fisheries business" means a fisheries business
24 which is not a shore-based fisheries business; the term includes, but is
25 not limited to, a shore-based fisheries business as defined in (6)(B) of
26 this section when it is removed from the state;

27 (6) "shore-based fisheries business" means a fisheries busi-
28 ness

29 (A) operated from a facility which is permanently

1 attached to the land; or

2 (B) operated from a facility which remains in the same
3 location in the state for the entire tax year;

4 (7) "value" means the actual price paid for the fisheries
5 resource by the fisheries business, including indirect consideration
6 such as fuel, supplies, or gear, whether paid at the time of purchase of
7 the fisheries resource or tendered as a deferred or delayed payment,
8 except that "value" means the market value of the fishery resource if
9 the fishery resource is procured in company-owned or company-subsidized
10 boats operated by employees of the fisheries business or in boats which
11 are operated under lease or other arrangement;

12 (8) "year" means the fiscal year of the state.

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) 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 is subject to the tax levied in AS 43.75.015 on the value
18 of the fishery resource sold if the person

19 (1) transports the fishery resource to a point outside the
20 taxing jurisdiction of the state for subsequent processing or sale to a
21 fisheries business outside the taxing jurisdiction of the state; or

22 (2) sells the fishery resource to a fisheries business out-
23 side the taxing jurisdiction of the state.

24 (b) A person whose liability for a tax is established by this
25 section shall pay the same rate of tax that a person in the fisheries
26 business would pay on the value of the fishery resource under AS 43.75.-
27 015.

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

29 (a) A person subject to the tax shall file a return stating the

1 value of [RAW] fisheries resources [PRODUCTS] processed during the
2 license year, computed as required by [AS 43.75.010 - 43.75.050 OF] this
3 chapter, and such other information as the department prescribes by
4 regulation. The return shall show the license number and shall be
5 signed by the taxpayer or his authorized agent, under penalty of per-
6 jury. If a receiver, trustee, or assign is operating the property or
7 business, he shall file the return for the person. A tax due on the
8 basis of such a return shall be collected in the same manner as if
9 collected from the person of whose business he has custody and control.

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

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

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

17 (f) A person who wilfully fails to obtain a license, pay a tax,
18 make a return, keep or display a record, or supply the information at
19 the time required by law or regulation, in violation of [AS 43.75.010 -
20 43.75.055 OF] this chapter, is, in addition to other penalties provided
21 by law, guilty of a misdemeanor, and upon conviction is punishable by a
22 fine of not more than \$1,000, or by imprisonment for not more than one
23 year, or by both, together with the cost of prosecution.

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

25 Sec. 43.75.055. SECURITY FOR COLLECTION OF TAXES. Each applicant
26 for a license under this chapter shall, in or with his application,
27 state under oath the amount of each of the products which he expects to
28 produce during the license year. The applicant shall further state the
29 extent of lienable real property owned by the applicant in the state

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against which the tax may be collected and other information with respect to description, location and value of the property which the department prescribes. If the lienable value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may not issue the license until the applicant files with the department a surety bond approved by the attorney general in a penal sum equal to twice the probable amount of the tax for which the applicant will be liable, conditioned upon payment of the tax in full when due, with interest if not paid before delinquency. However, if the applicant purchases salmon for export from Alaska in the round, the amount of the bond is \$50,000 unless the applicant is the owner of lienable real property in the state of a value of at least \$50,000, and the bond must be conditioned upon payment to the fisherman of the full purchase price for the salmon and the payment of the tax in full when due. The department may waive the bond requirement if the applicant posts other security in the form of collateral acceptable to the department or prepays the estimated tax.

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

Sec. 43.75.110. DUTY OF TAXPAYER AND PAYMENT OF TAX. A person subject to taxes under AS 43.75.100 - 43.75.120 shall make a return stating the value of [RAW] fisheries resources [PRODUCTS] taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses [FREEZER SHIPS, FLOATING COLD STORAGES, OR FLOATING CANNERIES] outside of the taxing jurisdiction of the state computed as required by AS 43.75.100 - 43.75.120, and other information to carry out the provisions of AS 43.75.100 - 43.75.200 as may be prescribed by the department. The return shall contain the license number and shall be signed by the taxpayer or his authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or

business, he shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business he has custody and control. The requirements for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner of revenue are the same as those prescribed in AS 43.75.011 - 43.75.050 [THE BUSINESS LICENSE TAX LAW FOR SALMON CANNERIES].

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

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

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

* Sec. 11. AS 43.75.130 is repealed and re-enacted to read:

Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of revenue shall pay

(1) to each municipality unified under AS 29.68.240 - 29.68.-440, and to each city located in the unorganized borough, 30 per cent of the amount of tax revenue collected in the municipality from taxes levied by AS 43.75;

(2) to each city located within a borough, 15 per cent of the amount of tax revenue collected in the city from taxes levied by AS 43.-75; and

(3) to each borough

(A) 30 per cent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied by

1 AS 43.75; and

2 (B) 15 per cent of the amount of tax revenue collected
3 in cities located within the borough from taxes levied by AS 43.75.

4 * Sec. 12. AS 16.05.050 is amended by adding a new paragraph to read:

5 (12) not later than March 31 of each year, provide to the
6 commissioner of revenue the names of those fish and shellfish species
7 which he designates as developing commercial fish species for the follow-
8 ing fiscal year of the state; a fish or shellfish species is a develop-
9 ing commercial fish species if, within a specified geographical region,

10 (A) the optimum yield from the harvest of the species
11 has not been reached;

12 (B) a substantial portion of the allowable harvest of
13 the species has been allocated to fishing vessels of a foreign
14 nation; or

15 (C) a commercial harvest of the fish species has recent-
16 ly developed.

17 * Sec. 13. AS 43.75.010, 43.75.060, 43.75.070, 43.75.080, 43.75.090,
18 43.75.095, and 43.75.135 are repealed.

19 * Sec. 14. TRANSITION. The taxes paid for the 1979 calendar year under
20 AS 43.75 shall be shared with municipalities in accordance with AS 43.75.130
21 and 43.75.135, as those sections read before their respective amendment and
22 repeal by this Act. The taxes paid for the 1980 calendar year and for each
23 succeeding calendar year shall be shared with municipalities in accordance
24 with AS 43.75.130, as amended by sec. 11 of this Act.

25 * Sec. 15. This Act take effect immediately in accordance with AS 01.10.-
26 070(c).