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1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 108

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to aquatic farming; establishing an
7 aquatic farm products tax; and providing for an
8 effective date."

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

10 * Section 1. FINDINGS AND POLICY. (a) The legislature finds that

11 (1) aquatic farming in the state would provide a consistent
12 source of quality food, provide new jobs, increase state exports, create
13 new commercial fishing and other business opportunities, and increase the
14 stability and diversity of the state's economy;

15 (2) many areas of the state are ecologically suited for aquatic
16 farming development;

17 (3) aquatic farming would complement and enhance the variety and
18 quality of Alaska seafood and aquatic products, and thereby benefit the
19 state's economy;

20 (4) development of mariculture in the state would strengthen the
21 competitiveness of Alaska seafood in the world marketplace by broadening
22 the diversity of products and providing year-round supplies of premium
23 quality seafood; and

24 (5) the principal responsibility for development of aquatic
25 farming in the state rests with the private sector.

26 (b) It is the policy of the state

27 (1) to encourage the establishment and responsible growth of an
28 aquatic farming industry in the state;

29 (2) to assist in the planning and orderly development of the

1 industry;

2 (3) that the industry be developed in a manner consistent with
3 the protection and enhancement of traditional high value industries and
4 with protection of the state's natural resources;

5 (4) that allocation of aquatic farming sites be compatible with
6 established and ongoing beneficial activities in an area; and

7 (5) that aquatic farming be developed in a manner that assures
8 full participation and full benefits to the people of the state.

9 * Sec. 2. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 06. AQUATIC FARMING.

11 Sec. 08.06.010. AQUATIC FARM AND HATCHERY PERMITS. (a) A
12 person may not, without a permit from the commissioner, construct or
13 operate

14 (1) an aquatic farm; or

15 (2) a hatchery for the purpose of supplying aquatic plants
16 or aquatic animals to an aquatic farm.

17 (b) A permit issued under this section authorizes the permittee,
18 subject to the conditions of this chapter, to acquire, purchase, offer
19 to purchase, transfer, possess, sell, and offer to sell stock and
20 aquatic farm products that are used or reared at the hatchery or
21 aquatic farm.

22 (c) Notwithstanding any other provision of law, the commissioner
23 may not issue a permit for the farming of finfish other than aquatic
24 farm finfish.

25 (d) The commissioner, with the concurrence of the commissioner
26 of fish and game and the commissioner of environmental conservation,
27 shall attach conditions to a permit issued under this section that are
28 necessary to protect the public health or wild stock.

29 Sec. 08.06.011. CRITERIA FOR ISSUANCE OF PERMITS. The

1 commissioner shall issue permits on the basis of the following crite-
2 ria:

3 (1) the biological and environmental suitability of the
4 proposed site for the farm or hatchery;

5 (2) the contribution the farm or hatchery would make to the
6 economy of the state and of the area in which it is to be located;

7 (3) the degree to which residents will participate in the
8 ownership and operation of the farm or hatchery;

9 (4) the likely economic viability of the farm or hatchery;

10 (5) the applicant's competence to manage the farm or
11 hatchery;

12 (6) the applicant's strategy for minimizing conflicts with
13 users of surrounding public land and water; and

14 (7) the degree to which the farm or hatchery would contrib-
15 ute to the achievement of diversity in the size of all farms and
16 hatcheries permitted under AS 08.06.010.

17 Sec. 08.06.012. RESTRICTIONS ON ISSUANCE OF PERMITS AND LEVELS
18 OF PRODUCTION. During each fiscal year from July 1, 1988, through
19 June 30, 1993,

20 (1) the commissioner may issue not more than 10 aquatic
21 farm permits for the farming of salmon under AS 08.06.010, not in-
22 cluding renewals; and

23 (2) an aquatic farm may not offer for sale more than 750
24 metric tons of salmon.

25 Sec. 08.06.020. PERMIT APPLICATION AND RENEWAL. (a) An appli-
26 cant for an aquatic farming or hatchery permit required under AS 08.-
27 06.010 shall apply on a form prescribed by the commissioner.

28 (b) A permit issued under AS 08.06.010 expires one year after
29 the date of issue.

1 (c) An application for a permit must include a plan for the
2 development of the aquatic farm or hatchery, which must be approved by
3 the commissioner before the permit is issued.

4 (d) An application for renewal must be accompanied by fees
5 required under AS 08.01.065, a report of a health inspection of the
6 farm or hatchery covered by the permit, and evidence that satisfies
7 the commissioner that the applicant has complied with the development
8 plan required under (c) of this section. The inspection shall be
9 conducted by the Department of Fish and Game or by a fish disease
10 diagnostician approved by the Department of Fish and Game. The in-
11 spection shall be conducted not more than 30 days before the applica-
12 tion is submitted to the department.

13 Sec. 08.06.030. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
14 person may not acquire aquatic plants or aquatic animals from wild
15 stock in the state for the purpose of supplying stock to an aquatic
16 farm or hatchery required to have a permit under AS 08.06.010 unless
17 the person holds an acquisition permit from the commissioner of fish
18 and game.

19 (b) An acquisition permit authorizes the permit holder to ac-
20 quire the species and quantities of wild stock in the state specified
21 in the permit for the purpose of supplying stock to an aquatic farm or
22 hatchery required to have a permit under AS 08.06.010.

23 (c) The commissioner of fish and game, in consultation with the
24 commissioner of commerce and economic development, shall specify the
25 expiration date of an acquisition permit and may attach conditions to
26 an acquisition permit, including conditions relating to the time,
27 place, and manner of harvest. Size, gear, place, time, licensing, and
28 other limitations applicable to sport, commercial, or subsistence
29 harvest of aquatic plants and aquatic animals do not apply to a

1 harvest with a permit issued under this section.

2 (d) The commissioner of fish and game shall forward a copy of
3 each permit application under this section to the commissioner of
4 commerce and economic development. The commissioner of fish and game
5 shall issue or deny a permit within 30 days after receiving an appli-
6 cation.

7 (e) The commissioner of fish and game shall deny or restrict a
8 permit under this section if the commissioner finds that the proposed
9 harvest will substantially impair sustained yield of the species. The
10 commissioner shall deny or restrict a permit under this section if the
11 commissioner finds that the proposed harvest will significantly dis-
12 rupt established uses of the resources by commercial, sport, personal
13 use, or subsistence users. The commissioner of fish and game shall
14 forward to the Board of Fisheries for action permit applications for
15 species that support commercial fisheries subject to limited entry
16 under AS 16.43. A denial of the permit by the commissioner of fish
17 and game must contain the factual basis for the findings. The commis-
18 sioner shall forward denied permit applications to the Board of Fish-
19 eries for consideration at the next regularly scheduled meeting of the
20 board.

21 (f) Except as provided in (e) of this section, the commissioner
22 of fish and game shall issue a permit if

23 (1) wild stock is necessary to meet the initial needs of
24 farm or hatchery stock;

25 (2) there are technological limitations on the propagation
26 of cultured stock for the species sought;

27 (3) wild stock sought is not fully utilized by commercial,
28 sport, personal use, or subsistence fisheries; or

29 (4) wild stock is needed to maintain the gene pool of a

1 hatchery or aquatic farm.

2 (g) Aquatic plants and aquatic animals acquired under a permit
3 issued under this section become the property of the permit holder and
4 are no longer a public or common resource.

5 Sec. 08.06.040. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
6 FOR STOCK. A person may not import into the state an aquatic plant or
7 aquatic animal for the purpose of supplying stock to an aquatic farm
8 or hatchery required to have a permit under AS 08.06.010 unless au-
9 thorized by the commissioner of fish and game or by a regulation of
10 the Board of Fisheries.

11 Sec. 08.06.050. LIMITATION ON SALE, TRANSFER OF STOCK, AND
12 PRODUCTS. (a) A private hatchery required to have a permit under
13 AS 08.06.010 may sell or transfer stock from the hatchery only to an
14 aquatic farm or other hatchery that has a permit issued under AS 08.-
15 06.010.

16 (b) Stock may not be transferred to or from an aquatic farm or
17 hatchery required to have a permit under AS 08.06.010 without prior
18 notice of the transfer to the commissioner. A notice of transfer
19 shall be submitted at least 30 days before the proposed date of trans-
20 fer.

21 (c) A notice of transfer must be accompanied by a report of a
22 health inspection of the stock. The inspection shall be conducted by
23 the Department of Fish and Game or by a disease diagnostician approved
24 by the Department of Fish and Game.

25 (d) The Department of Fish and Game shall restrict or disapprove
26 a transfer of stock if it finds that the transfer

27 (1) would present a substantial risk of spreading disease;

28 or

29 (2) in the case of a transfer from a hatchery for which a

1 permit has been issued under AS 16.10.400, would significantly impair
2 the production needs of the hatchery.

3 (e) A person may not sell, transfer, or offer to sell or trans-
4 fer, or knowingly purchase or receive, an aquatic farm product grown
5 or propagated in the state unless the product was grown or propagated
6 on a farm with a permit issued under AS 08.06.010. The permit must be
7 in effect at the time of the sale, transfer, purchase, receipt, or
8 offer.

9 Sec. 08.06.060. RELEASE OF CERTAIN FISH PROHIBITED. Stock may
10 not be intentionally released into the public water of the state from
11 a hatchery or aquatic farm required to have a permit under AS 08.06.-
12 010 without prior authorization from the Department of Fish and Game.

13 Sec. 08.06.070. DISEASE CONTROL AND INSPECTION. (a) The De-
14 partment of Fish and Game shall order the quarantine or the destruc-
15 tion and disposal of diseased hatchery stock or of aquatic farm
16 products when necessary to protect wild stock or other aquatic farm
17 products. A holder of a permit issued under AS 08.06.010 shall report
18 to the Department of Fish and Game an outbreak or incidence of disease
19 among stock or aquatic farm products of the permit holder within 48
20 hours after discovering the outbreak or incidence.

21 (b) As a condition of and in consideration for a permit to
22 operate an aquatic farm or hatchery under this chapter, the permit
23 holder shall allow an inspection of the aquatic farm or hatchery
24 facility by inspectors of the Department of Fish and Game or the
25 Department of Environmental Conservation at any time the aquatic farm
26 or hatchery is operating. An inspection shall be conducted in a
27 reasonable manner. The cost of an inspection shall be borne by the
28 Department of Fish and Game.

29 (c) The Department of Fish and Game shall develop a disease

1 management and control program for aquatic farms and hatcheries. The
2 program shall include guidelines for aquatic farm stock culturing
3 densities. The Department of Fish and Game may require stocking
4 densities of an aquatic farm to be reduced if the densities being
5 employed are contributing to the outbreak of disease that affects the
6 aquatic farm's stocks.

7 (d) The Department of Fish and Game may enter into an agreement
8 with a state or federal agency or a private contractor to provide ser-
9 vices under (b) and (c) of this section, or inspections under AS 08.-
10 06.020(d).

11 Sec. 08.06.080. REPORT. The commissioner shall submit to the
12 legislature, not later than the first day of each regular legislative
13 session, a report concerning the progress of the aquatic farming
14 industry, including the number of permits issued under AS 08.06.010,
15 the names and addresses of permit holders, the effect of the industry
16 on the commercial fishing industry in the state, environmental and
17 biological effects, and recommendations for legislation relating to
18 aquatic farming.

19 Sec. 08.06.085. EXPERIMENTAL SPECIES DESIGNATION. Not later
20 than January 31 of each year, the commissioner shall provide to the
21 commissioner of revenue the names of those aquatic animal species and
22 aquatic plant species that the commissioner designates as aquatic farm
23 experimental species for that calendar year. The commissioner may
24 designate a species as experimental upon a finding that significant
25 technological problems are posed by the cultivation of that species of
26 aquatic farm finfish, shellfish, or aquatic plant in an aquatic farm.

27 Sec. 08.06.090. REGULATIONS. The commissioner shall adopt regu-
28 lations necessary to implement this chapter and to effect state policy
29 concerning aquatic farming.

1 Sec. 08.06.100. PENALTY. A person who violates a provision of
2 this chapter, a regulation adopted under this chapter, or a term or
3 condition of a permit issued under this chapter, is guilty of a class
4 B misdemeanor.

5 Sec. 08.06.900. DEFINITIONS. In this chapter

6 (1) "aquatic farm" means a facility that grows, farms, or
7 cultivates aquatic farm products in captivity or under positive con-
8 trol;

9 (2) "aquatic farm finfish" includes salmon, halibut,
10 pollack, black cod, Pacific cod, trout, char, sheefish, and other
11 finfish designated by the commissioner;

12 (3) "aquatic farm product"

13 (A) includes an aquatic plant or aquatic animal, or
14 fish parts that are propagated, farmed, or cultivated in an
15 aquatic farm and sold or offered for consumption;

16 (B) does not include finfish or parts of finfish,
17 other than aquatic farm finfish;

18 (4) "commissioner" means the commissioner of commerce and
19 economic development;

20 (5) "hatchery" means a facility for the artificial incu-
21 bation of stock, including rearing of juvenile aquatic plants or
22 aquatic animals;

23 (6) "positive control" means, for fish and other mobile
24 species, enclosed within a natural or artificial escape-proof barrier;
25 for species with limited or no mobility, such as a bivalve or an
26 aquatic plant, "positive control" also includes managed cultivation in
27 unenclosed water;

28 (7) "salmon" means a fish of the species oncorhynchus;

29 (8) "stock" means live aquatic plants and aquatic animals

1 acquired, collected, possessed, or intended for use by a hatchery or
2 aquatic farm for the purpose of further growth or propagation.

3 * Sec. 3. AS 03.05.011(a) is amended to read:

4 (a) To carry out the requirements of this title, the commis-
5 sioner of environmental conservation may issue orders, regulations,
6 permits, quarantines, and embargoes relating to

7 (1) examination and inspection of premises containing
8 products, articles, and commodities carrying pests;

9 (2) establishment of quarantines for eradication of pests;

10 (3) establishment of standards and labeling requirements
11 pertaining to the sale of meat, fish, and poultry;

12 (4) tests and analyses which may be made and hearings which
13 may be held to determine whether the commissioner will issue a stop
14 order or quarantine;

15 (5) cooperation with federal and other state agencies;

16 (6) regulation of fur farming; for purposes of this para-
17 graph, "fur farming" means the raising of and caring for animals for
18 the purpose of marketing their fur, or animals themselves for breeding
19 stock;

20 (7) examination and inspection of meat, fish, and poultry
21 advertised for sale or sold to the public;

22 (8) enforcement of quality assurance plans developed in
23 cooperation with appropriate industry representatives;

24 (9) establishment of standards and conditions of operations
25 for aquatic farms.

26 * Sec. 4. AS 03.05.040(a) is amended to read:

27 (a) On any business day during the usual hours of business the
28 commissioner or an authorized inspector may, for the purpose of in-
29 specting agricultural, [OR] fisheries, or aquatic farm products or

1 aquatic farm sites subject to regulation, enter a storehouse, ware-
2 house, cold storage plant, packing house, slaughterhouse, retail store
3 or other building or place where those products are kept, stored,
4 processed or sold.

5 * Sec. 5. AS 03.05.100 is amended to read:

6 Sec. 03.05.100. DEFINITIONS. In this chapter,

7 (1) "agricultural products" does not include fish or fish-
8 eries products;

9 (2) "aquatic farm" and "aquatic farm product" have the
10 meanings given in AS 08.06.900;

11 (3) "fish or fisheries products" means any aquatic animal,
12 including amphibians, or aquatic plants or parts of those plants,
13 animals or amphibians that are usable as human food.

14 * Sec. 6. AS 08.01.065(a) is amended to read:

15 (a) The department shall adopt regulations that establish the
16 amount and manner of payment of application fees, examination fees,
17 license fees, registration fees, permit fees, investigation fees, and
18 all other fees as appropriate for the occupations covered by this
19 chapter, and for aquatic farms and hatcheries under AS 08.06.

20 * Sec. 7. AS 08.01.100 is amended by adding a new subsection to read:

21 (e) This section does not apply to permits issued under AS 08.-
22 06.010.

23 * Sec. 8. AS 16.05.251 is amended by adding a new subsection to read:

24 (f) Except as expressly provided in AS 08.06.030 - 08.06.040,
25 the Board of Fisheries may not adopt regulations or take action re-
26 garding the issuance, denial, or conditioning of a permit under
27 AS 08.06, the construction or operation of a farm or hatchery required
28 to have a permit under AS 08.06.010, or a harvest with a permit issued
29 under AS 08.06.030. Regulations or orders adopted by the Board of

1 Fisheries under this section do not apply to a harvest with a permit
2 issued under AS 08.06.030.

3 * Sec. 9. AS 16.05.330(a) is amended to read:

4 (a) Except as otherwise permitted in this chapter, a person may
5 not engage in sport fishing, including the taking of razor clams; in
6 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [.,]
7 or game; or in taxidermy, without having the appropriate license or
8 tag in actual possession.

9 * Sec. 10. AS 16.05.920(a) is amended to read:

10 (a) Unless permitted by AS 16.05 - AS 16.40 or AS 08.06, or by
11 regulation adopted under AS 16.05 - AS 16.40 or AS 08.06, a person may
12 not take, possess, transport, sell, offer to sell, purchase, or offer
13 to purchase fish, game, or marine aquatic plants, or any part of fish,
14 game, or aquatic plants, or a nest or egg of fish or game.

15 * Sec. 11. AS 16.05.930 is amended by adding a new subsection to read:

16 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
17 thorized by a permit issued under AS 08.06.010 or 08.06.030, or to a
18 person or vessel employed in an activity authorized by a permit issued
19 under AS 08.06.010 or 08.06.030.

20 * Sec. 12. AS 16.05.940(14) is amended to read:

21 (14) "[FISH OR] game farming" means the business of prop-
22 agating, breeding, raising, or producing [FISH OR] game in captivity
23 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
24 ucts, and "captivity" means having the [FISH OR] game under positive
25 control, as in a pen [, POND,] or an area of land that [OR WATER
26 WHICH] is completely enclosed by a generally escape-proof barrier;

27 * Sec. 13. AS 16.10 is amended by adding a new section to read:

28 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
29 apply to the purchase or sale of aquatic farm products from a holder

1 of a permit issued under AS 08.06.010 or stock from a holder of a
2 permit issued under AS 08.06.030.

3 * Sec. 14. AS 16.10.380(b) is amended to read:

4 (b) In this section "user group" includes, but is not limited
5 to, sport fishermen, processors, commercial fishermen, aquatic farm-
6 ers, subsistence fishermen, and representatives of local communities.

7 * Sec. 15. AS 16.10.400 is amended by adding a new subsection to read:

8 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
9 operation of a private hatchery that has a permit issued under AS 08.-
10 06.010.

11 * Sec. 16. AS 16.10.420 is amended to read:

12 Sec. 16.10.420. CONDITIONS OF A PERMIT. The department shall
13 require, in a permit issued to a hatchery operator, that

14 (1) salmon eggs procured by the hatchery must be from the
15 department or a source approved by the department;

16 (2) no salmon eggs or resulting fry be placed in waters of
17 the state other than those specifically designated in the permit;

18 (3) no salmon eggs or resulting fry, sold to a permit
19 holder by the state or by another party approved by the department,
20 may be resold or otherwise transferred to another person, unless that
21 person holds a permit issued under AS 08.06.010;

22 (4) no salmon be released by the hatchery before department
23 approval, and, for purposes of pathological examination and approval,
24 the department shall be notified of the proposed release of salmon at
25 least 15 days before the date of their proposed release by the hatch-
26 ery;

27 (5) diseased salmon be destroyed in a specific manner and
28 place designated by the department;

29 (6) adult salmon be harvested by hatchery operators only at

1 specific locations as designated by the department;

2 (7) surplus eggs from salmon returning to the hatchery be
3 made available for sale first to the department and then, after in-
4 spection and approval by the department, to operators of other hatch-
5 eries authorized by permit to operate under AS 16.10.400 - 16.10.470,
6 or AS 08.06.010;

7 (8) if surplus salmon eggs are sold by a permit holder to
8 another permit holder, a copy of the sales transaction be provided to
9 the department;

10 (9) [REPEALED

11 (10)] a hatchery be located in an area where a reasonable
12 segregation from natural stocks occurs, but, when feasible, in an area
13 where returning hatchery fish will pass through traditional salmon
14 fisheries.

15 * Sec. 17. AS 16.10.420 is amended by adding a new subsection to read:

16 (b) In this section, "surplus eggs" means eggs that are

17 (1) derived from adult salmon that were not harvested
18 through commercial, sport, subsistence, or personal use fishing; and

19 (2) not needed to supply the state or private nonprofit
20 ocean ranching industry.

21 * Sec. 18. AS 16.10.450 is amended to read:

22 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
23 hatchery operator who sells salmon returning from the natural water
24 [WATERS] of the state, or sells salmon eggs to another hatchery op-
25 erating under AS 16.10.400 - 16.10.470 or with a permit issued under
26 AS 08.06.010, after utilizing the funds for reasonable operating
27 costs, including debt retirement, expanding its facilities, salmon
28 rehabilitation projects, fisheries research, or for costs of operating
29 the qualified regional association for the area in which the hatchery

1 is located, shall expend the remaining funds on other fisheries activ-
2 ities of the qualified regional association. Fish returning to hatch-
3 eries and sold for human consumption must [SHALL] be of comparable
4 quality to fish harvested by commercial fisheries in the area, and
5 shall be sold at prices commensurate with the current market.

6 * Sec. 19. AS 16.43.140 is amended by adding a new subsection to read:

7 (d) This chapter does not apply to activities authorized by a
8 permit issued under AS 08.06.010 or 08.06.030.

9 * Sec. 20. AS 16.51.180(5) is amended to read:

10 (5) "seafood" means finfish, shellfish, and fish by-prod-
11 ucts, including but not limited to salmon, halibut, herring, flounder,
12 crab, clam, cod, shrimp, and pollack, but does not include aquatic
13 farm products as defined in AS 08.06.900;

14 * Sec. 21. AS 38.05 is amended by adding a new section to read:

15 Sec. 38.05.088. AQUATIC FARM PERMITTEE'S LEASING PREFERENCE.
16 Before offering to the public for lease a site that has been developed
17 for aquatic farming or related hatchery activities under a permit
18 issued under AS 38.05.820, the commissioner shall offer the site for
19 leasing to the permittee at not less than its appraised fair market
20 value. A permittee who exercises the preference under this section
21 may use the site only for purposes allowed under the permit. The
22 lease may be revoked upon violation of the terms of the lease.

23 * Sec. 22. AS 38.05.820 is amended by adding a new subsection to read:

24 (e) A land use or tidelands permit issued under this section for
25 aquatic farming or related hatchery operations under AS 08.06 may be
26 issued only to a resident or to a corporation licensed to do business
27 in the state and the majority of shares of which are owned by resi-
28 dents.

29 * Sec. 23. AS 43.75.140(5) is amended to read:

1 (5) "fishery resource" means finfish, shellfish and fish
2 by-products, including but not limited to salmon, halibut, herring,
3 flounder, crab, clam, cod, shrimp, and pollack, that are not aquatic
4 farm products as defined in AS 08.06.900;

5 * Sec. 24. AS 43 is amended by adding a new chapter to read:

6 CHAPTER 77. AQUATIC FARM PRODUCTS TAX.

7 Sec. 43.77.005. POLICY AND PURPOSE. It is the policy of the
8 state to ensure a fair return to the state for the use of public water
9 and tideland by aquatic farm businesses. The purpose of the aquatic
10 farm product tax is to provide a mechanism for compensating the state
11 for the use of these common property resources, for covering the cost
12 of state services for the aquatic farming industry, and for ensuring
13 that local governments have the financial resources to provide support
14 services to aquatic farms.

15 Sec. 43.77.010. AQUATIC FARM PRODUCTS TAX. (a) A person li-
16 censed under AS 08.06.010 is liable for and shall pay the tax levied
17 by this section on the value of each of the following aquatic farm
18 products sold, consigned, or otherwise transferred during the year at
19 the rate set out after each:

20 (1) aquatic farm finfish -- three percent;

21 (2) aquatic farm shellfish and aquatic farm sea vegetables
22 -- two percent; and

23 (3) aquatic farm experimental species designated under
24 AS 08.06.085 -- one percent.

25 (b) A person is not liable for the tax under (a) of this section
26 for an aquatic farm product that

27 (1) is sold, consigned, or otherwise transferred by the
28 taxpayer for the purpose of sale or resale by another for consumption
29 within the state; and

1 (2) before the sale, consignment, or transfer by the tax-
2 payer, is not processed beyond heading, gutting, cleaning, or shuck-
3 ing.

4 Sec. 43.77.020. FILING RETURN AND PAYMENT OF TAX. A person
5 subject to the tax under AS 43.77.010 shall file a return, pay the
6 tax, keep records, and provide information required by the department
7 in the same manner as provided for the fisheries business tax under
8 AS 43.75.030. All other provisions of AS 43.75.030 apply to this
9 section, as appropriate.

10 Sec. 43.77.030. SECURITY FOR COLLECTION OF TAXES. Each appli-
11 cant for a license under AS 08.06.010 shall, in or with the applica-
12 tion, state under oath the amount of each of the aquatic farm products
13 that the applicant expects to produce during the license year. The
14 applicant shall further state the extent of lienable real property
15 owned by the applicant in the state against which the tax under
16 AS 43.77.010 may be collected, and other information with respect to
17 description, location, and value of the property that the department
18 specifies. If the lienable value of the property is not equal to
19 three times the amount of the tax for which the applicant will prob-
20 ably be liable under this section, the Department of Commerce and
21 Economic Development may not issue the license until the applicant
22 files with the department a surety bond approved by the attorney
23 general in a penal sum equal to twice the probable amount of the tax
24 for which the applicant will be liable, conditioned upon payment of
25 the tax in full when due, with interest if not paid before delinquen-
26 cy. The department may waive the bond requirement if the applicant
27 posts other security in the form of collateral acceptable to the
28 department, or prepays the estimated tax.

29 Sec. 43.77.040. REFUNDS TO LOCAL GOVERNMENTS. The commissioner

1 of revenue shall make refunds of the aquatic farm products tax to
2 local governments in the same manner and in the same percentages as
3 provided for refunds of the fisheries business tax under AS 43.75.-
4 130(a).

5 Sec. 43.77.100. DEFINITIONS. In this chapter, unless the con-
6 text indicates otherwise,

7 (1) "aquatic farm product" has the meaning given in AS 08.-
8 06.900;

9 (2) "processing" means the preparation of aquatic farm
10 products for marketing by cleaning, gutting, heading, filleting,
11 freezing, canning, cooking, salting, shucking, smoking, or other
12 methods;

13 (3) "value" means the market value of an aquatic farm
14 product when taken from the water before processing or exporting from
15 the state, or otherwise transferring from the ownership of the aquatic
16 farmer for the ultimate purpose of processing or exporting from the
17 state.

18 * Sec. 25. AS 16.05.340(a)(14) is repealed.

19 * Sec. 26. AS 08.06.012 is repealed.

20 * Sec. 27. Sections 1 - 25 of this Act take effect July 1, 1988.

21 * Sec. 28. Section 26 of this Act takes effect July 1, 1993.