

HB

227

HOUSE RESOURCES COMMITTEE

PACKET CONTENTS:

CS HB 227 (Fisheries)

Letter-of-Intent (Special Committee on Fisheries)

Memorandum: Rep. Binkley

HB 227 (First Version)

Fiscal Notes:

Department of Public Safety = 0

Department of Labor = 0

Department of Fish and Game = 0

Department of Revenue = 0

Memorandum: Rep. Goll

Back-up Letters from Rep. Binkley

Regulations for Processor Surety

Alaska Statutes for Security pertaining to HB 227



Official Business

Handwritten signature and date: 3/5

Special Committee on Fisheries

MEMORANDUM

February 4, 1986

TO: Irene Cashen
Chief Clerk

FROM: Representative Peter Goll *(Signature)*
Chairman, House Special Committee on Fisheries

SUBJECT: Letter of Intent for CS HB227 (Fisheries)

LETTER OF INTENT
CSHB 227 (Fisheries)

This legislation is designed to help ensure that Alaska fishermen have some recourse when a fish processor or primary fish buyer fails to make promised payments for the delivery of raw fisheries resources. The effectiveness of this surety bond program is questionable unless fishermen are aware of how the program works.

The Fourteenth Alaska Legislature respectfully requests the Alaska Department of Labor to work closely with the Office of Commercial Fisheries Development, Alaska Department of Commerce and Economic Development in the development of an educational program for the surety bond program. These agencies should work through the Alaska Marine Advisory Program, commercial fishermen's organizations, Native groups, fish and game advisory committees and the news media reaching coastal Alaska and the fishing fleets.

**HOUSE
COMMITTEE REPORT**

(9)

Date referred: 2/5/86

FURTHER REFERRALS: FINANCE

DATE: 2/14/86

The RESOURCES Committee has considered HB 227

"An Act relating to fish processors and primary fish buyers."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 227 (Resources) same title
- new title

and recommends Do Pass

further referral to the _____ Committee

- and attaches:
- letter of intent (Fisheries)
 - first fiscal note
 - new fiscal note
 - zero fiscal notes

SIGNING DO PASS:

Herrmann Adelheid Herrmann
Wallis F. Keywelle
Thompson Charles B. Thompson
Pearce Will Pearce
Jenkins Robert Jenkins
Cato Bette Cato
Shultz Dick Shultz

SIGNING OTHER RECOMMENDATIONS:

Sund John Sund no rec

Adelheid Herrmann
Co-Chairman

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU ALASKA 99811
19071465-4737
PO BOX 1065
BETHEL ALASKA 99559
.9071543 2922

REPRESENTATIVE JOHNE BINKLEY

February 13, 1986

MEMORANDUM

To: House Resources Committee
From: Representative Johne Binkley *Johne B.*
Re: House Bill 227

After numerous revisions since this bill was introduced on February 22, 1985, the House Special Committee on Fisheries passed HB 227.

House Bill 227 provides for an increased bond rate to \$50,000 or \$100,000 depending on previous final judgements filed against a fish processor or primary fish buyer. It attempts to address situations where the previous bond was inadequate to satisfy claims.

Operators who do not purchase fish or hire employees are exempt from the bonding requirements.

The bill requires those that were not in compliance with the bonding requirements and had not satisfied a final judgement, to post a bond at \$100,000. In Quinhagak last year, 42 fishermen and 20 employees were owed an estimated \$21,000 from a fish buyer who did not post a bond. In Elim about 16 fishermen were owed about \$11,000. In Klawock one fish buyer was assessed one final judgement which ate up his \$10,000 bond, other fishermen have filed against the fish buyer.

A letter of intent is attached to the bill to request the Department of Labor to work closely with the Department of Commerce and Economic Development to develop an educational program for fishermen and fishermen's groups throughout the state. This would be done using existing resources within these departments. A zero fiscal note is attached.

This bill would take effect immediately upon passage and signature of the Governor, and would apply towards the upcoming fishing season.

First Version

Introduced: 2/22/85
Referred: House Special Committee
on Fisheries, Resources and Finance

1 IN THE HOUSE

BY BIRNLEY

2

HOUSE BILL NO. 227

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fish processors and primary fish
7 buyers."

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

9 * Section 1. AS 16.10 is amended by adding new sections to read:

10 Sec. 16.10.285. NOTICE OF BONDED AND LICENSED OPERATORS. The
11 Department of Fish and Game shall maintain a list of fish processors
12 and primary fish buyers who have furnished to the department a written
13 statement of intent to operate. The list shall specify whether the
14 processor or buyer has complied with the security bond requirements of
15 AS 16.10.290 - 16.10.296 and has been issued a valid Alaska Business
16 License or Fisheries Business License by the Department of Revenue.
17 The list shall note the processor's or buyer's standing, if any, with
18 the Alaska Better Business Bureau and membership in a chamber of
19 commerce in the state. The Department of Fish and Game shall, at the
20 beginning of each commercial fishing season,

21 (1) publish the list in a newspaper of general circulation
22 that serves each area of the state in which the fish processors and
23 primary fish buyers have stated an intent to operate; and

24 (2) distribute copies of the list to the offices of local
25 governments and village councils and to fishermen's associations in
26 the areas of the state in which the fish processors and primary fish
27 buyers have stated an intent to operate.

28 Sec. 16.10.286. INSPECTION OF LICENSES. Enforcement officers of
29 the division of fish and wildlife protection shall regularly inspect

1 fish processors and primary fish buyers for possession of proper
2 licenses.

3 * Sec. 2. AS 16.10.290(b) is amended to read:

4 (b) The amount of the bond shall be \$100,000 [\$10,000]. In lieu
5 of the surety bond the fish processor or primary fish buyer may file
6 with the commissioner a cash deposit or other negotiable security
7 acceptable to the commissioner in the amount specified for the bond.
8 If no claim is asserted under this section within two years from the
9 date the bond, cash deposit or other security is filed, the term of
10 the bond, cash deposit or other security shall be two years; if a
11 claim has been asserted within two years, the term of the bond, cash
12 deposit or other security shall be for five years.

13 * Sec. 3. AS 16.10.290(c) is amended to read:

14 (c) A person applying for a license as a fish processor or
15 primary fish buyer who has less than \$100,000 [\$10,000] in lienable
16 property in the state, with proof of the property satisfactorily made
17 to the commissioner, shall file with the application a bond or other
18 security as specified in this section. A [NO] bond is not required if
19 the fish processor or primary fish buyer has more than \$100,000
20 [\$10,000] in lienable property as specified in this subsection. An
21 appraiser from the area of the state in which the lienable property is
22 located may be used to determine the value of the property for
23 purposes of this subsection.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 227 (Fish)
 Title : "An Act relating to fish processors and primary fish buyers..."
 Sponsor : Binkley
 Requestor : House Resources
 Date of Request : 2/12/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Fish & Wildlife Protection
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Kathy Niles, Admin. Assistant
 Division : Commissioner's Office

Phone : 465-4336
 Date : 2/12/86

Approved by Commissioner : [Signature]
 Agency : Public Safety

Date : 2/12/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Bill No. Committee Substitute for House Bill No. 227
(Fisheries)

Date February 6, 1986

Title "An Act relating to surety for collection
of wages and payment."


Contact: Eileen Plate
465-2700
Robert J. Sacolas
465-4870

This bill provides for an increase in the bonding requirements for fish processors and primary fish buyers if the processors or buyers previous bonding was insufficient to satisfy judgments against it. Basically, the bill provides for bonding commensurate with the processor's or buyer's track record during previous bonding periods.

The provisions of this bill, therefore, appear to be an equitable solution to the fish processor and buyer bonding problem in that they provide for the increased bonding sanction to only be imposed on those processors and buyers who fail to meet their obligations.

This legislation would not have a fiscal impact on the Department of Labor.

APPROVED:



Jim Robison, Commissioner
Department of Labor

STATE OF ALASKA 1986 LEGISLATIVE YEAR
FISCAL NOTE

Revision Date : _____

REQUEST

FISCAL DETAIL

Bill/Resolution No. : CS HB 227 (Fisheries)
 Title : "An Act relating to fish processors & primary fish buyers"
 Sponsor : Binkley
 Requestor : His Special Committee on Fisheries
 Date of Request : 2/5/86

Agency Affected : Labor
 BRU : Labor Standards & Safety
 Components : Wage :& Hour

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Bob Bacolas
 Division : Labor Standards & Safety

Phone : 465-4870
 Date : 2/5/86

Approved by Commissioner : Jim Robison
 Agency : Labor

Date : 2/5/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/11/86

REQUEST

Bill/Resolution No. : CS HB 227(Fisheries)
 Title : Fish processors and primary fish buyers
 Sponsor : Binkley
 Requestor : House Resources
 Date of Request : 2/11/86

FISCAL DETAIL

Agency Affected : Fish and Game
 BRU : Fisheries Resource Conservation
 Components : Commercial Fisheries
BRU and component

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Robert C. Clasby
 Division : Commercial Fisheries

Phone : 465-4210
 Date : 2/11/86

Approved by Commissioner : (Dore) Callensworth
 Agency : Fish and Game

Date : 2-11-86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Revenue	DIVISION Public Services	BILL NUMBER HB227 / SB164	SPONSOR Binkley
DEPARTMENT POSITION Neutral			
PREPARED BY Sally Smith	DATE 2-27-85	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/4/85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL The Department of Labor	CONSTITUENT GROUP(S) AFFECTED BY BILL Fisheries Businesses
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
Unknown

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill raises the bond amount on the fisheries surety bond which guarantees wages for processing workers and the purchase price of fish to fishermen.

The raise in bonding amount will raise the bond premium which could adversely impact smaller fisheries.

AMENDMENTS PROPOSED

We suggest that the bond amount be based on a percentage of the dollar amount of fish purchases. This could be set on the prior year purchases or current year estimate.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB227
 Title: An Act relating to fish processors and primary fish buyers
 Sponsor: Binkley
 Requestor: HSC on Fisheries
 Date of Request: 2-27-85

FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program or Subprogram(s) Affected: Public Services - Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: Sally Smith, Director Phone: 465-2392
 Division: Public Services Date: February 27, 1985

Approved by Commissioner: [Signature] Date: 3/1/85
 Agency: Department of Revenue

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

M E M O R A N D U M

January 23, 1986

TO: Members
House Special Committee on Fisheries

FROM: Representative Peter Goll *Peter Goll*

SUBJECT: CSHB 227 (Fish Buyers' Bonds)

Attached is a committee substitute for House Bill 227 (An Act relating to surety for collection of wages and payment). As you may recall, we decided last session to hold the original legislation over the interim for additional work.

Under existing law (AS 16.10.290), fish buyers and processors are required to post a \$10,000 bond with the Department of Labor conditioned upon the promise to pay commercial fishermen for raw seafood, and wages owed processing workers. In response to reports that many fishermen in Western Alaska were not being paid by fish buyers, Representative Binkley proposed in HB 227 to raise the amount of the bond to \$100,000.

The legislation was held for additional work when it became clear during committee hearings that the higher bond amount would cause significant problems for smaller seafood processors and fish buyers. The Senate Resources Committee made a similar determination in regard to companion legislation (SB 165).

Scores of fishermen from such widespread locations as Ruby, Haines and Klawock reported difficulties in obtaining payments for deliveries of salmon during the 1985 fishing season.

The proposed committee substitute was worked out in conjunction with staff to the Senate Resources Committee. It would raise the amount of the required bond only for those fish buyers and seafood processors who have final judgments levied against their bonds or other security deposits. The amount of the bond would be raised to \$50,000 or \$100,000 according to the amount of judgments.

CSHB 227
January 23, 1986
Page Two

The draft substitute is designed to ensure that operators who fail to pay their fishermen are required to post additional security for future purchases, while those who have a clean record are not. The proposed committee substitute would avoid undue impacts on smaller buyers.

Existing statutes provide for a waiver of the bond requirements for processors who do not purchase fish from others or hire non-family members. Section three of the committee substitute would change the waiver to an exemption so these "mom and pop" operations no longer have to apply to the Department of Labor for the waiver. If the measure is signed into law, such operators would only have to sign a form saying they qualify for the exemption when they obtain their tax security bonds from the Department of Revenue. The Department of Labor expects to receive about 300 such waiver applications this year.

The proposed substitute also provides for an immediate effective date to allow implementation for the 1986 fishing season.

City of Quinhagak
P.O. Box 58
Quinhagak, Alaska 99655
March 26, 1985

HB 22 file

APR 1 1985

Representative John Binkley
Pouch V
Juneau, Alaska 99801

Dear John,

The Quinhagak City Council support the increase of the bond rate of primary fish buyers and processors. The main problem of some fish buyers is they often don't have the funds to pay the fishermen on time. The average individual fisherman earns about \$6,000.00 in a commercial season, and that money is of a great need to the person to pay some bills that accumulated over the winter. We would like the situation remedied, so that the fishermen would be assured to get paid on time for what they bargained for.

Thank you for your time.

Sincerely,

Albert Foster
Albert Foster, Mayor

cc: file

MAR 20 1985

March 20, 1985

Representative John Binkley
Pouch V
Juneau, AK 99811

Dear John:

Thank you for the opportunity to respond to this issue.

First of all, I find fault in the proposal that the surety bond be necessary for each location. For example, last year we leased a facility in Togiak where we purchased and dressed out the fish. The expense necessary to fly product elsewhere for freezing and packaging, encourages me to defend against yet another expense. Does it mean our Bethel operation would have to add a bond to buy at Goodnews or Platinum? What if we buy at both places and fly from both, is that one or two locations?

Any attempt to have the bond amount fluctuate from year to year, might encourage unrealistic projections or be complicated by late paying methods of reward to fishermen, such as "bonuses".

I favor the plan proposed to recognize processors that have demonstrated reliability over the years, and some incentive be present for them to continue business in Alaska. The suggested amount of \$20,000. is acceptable and appreciated.

I would guess that enforcement would be easy in some fisheries and very difficult in others. It would be necessary for their presence most of a season since buyers might move in at any time during the course of a season.

I'm hopeful this letter is timely in reaching you.

Sincerely,
Tom Hyland
General Manager



KEMP-PAULUCCI SEAFOODS, INC. 4832 W. SUPERIOR STREET DULUTH MINN. 218-624-0000
PO BOX 6506 55806

file

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
POST OFFICE BOX 248
BETHEL, ALASKA 99559
TELEPHONE 543-2238

December 20, 1984

Bob Charles
Assistant to Rep. John Binkley
Bethel, Alaska

Re: Meeting of December 20

Dear Bob;

Thanks for the opportunity to meet with you personally about the needs which we see for legislative changes which could help the people on the Yukon-Kuskokwim Delta. Here are four suggestions which we can make to Rep. Binkley.

1. It is necessary to tighten restrictions on fish buyers who do business in Alaska in order to protect fishermen and other buyers.

John attended a meeting in Quinhagak in October where local fishermen discussed their problems caused by a fish buyer who received fish from them but did not pay for the fish. The buyer was Phil Lesher, and he has since filed for bankruptcy in Oregon. The bankruptcy papers show that Lesher had several court judgments against him. He owed money to other fishermen and other fish buyers. We had already learned that earlier in the year his bond had expired. Here are some things which might be done.

First, deny all operating rights to buyers who have outstanding fishermen's liens against them. This will not stop dishonest people who are buying fish in Alaska for the first time, but it will stop them from returning year after year unless they are willing to pay their debts.

It would work like this. Right now, fishermen who are owed money from a buyer can file a lien under AS 34.35.391. This is filed in the local recorder of deeds office. This section of the law could be amended to require the recorder of deeds to send copies of such liens to the Department of Fish and Game; the Department of Fish and Game would then deny approval of the Intent to Operate, and refuse to approve issuance of fish tickets. When the applicant showed that the liens had been released, then the Department would issue the necessary papers to buy fish in Alaska.

Bob Charles
December 20, 1984
Page Two

This system would help prevent deadbeats from getting receiving permissions to operate.

Second, the bond for fish buyers should be raised from \$10,000 to \$75,000. I do not know what current regulations are in this area, but I think that the Department of Fish and Game should evidence in advance that the fish buyer has paid in full the premiums for a bond which will be effective at least through December 31 of the current year. These two bonding modifications would help protect other fish buyers, as well:

2. The Commercial Fisheries Entry Commission or the State Legislature should make some rule to cover a situation where a permit holder dies leaving a minor to inherit the permit.

This situation is causing a lot of headaches in Alaska Legal Services. Typically, a young man who has a small child dies in an accident. Either the man is divorced, widowed, or dies with his wife in the same accident; the permit holder and the mother of the child might not be married at all. In the absence of a surviving wife, the minor child is left as the only heir.

The net result is a mess. The child cannot fish with the permit because he or she is too young. The Commission will allow the permit to be transferred to somebody else on an emergency basis for only one year; this means that nobody can use the permit until the child is grown, except for that one year. The Superior Court appoints a personal representative for the deceased permit holder, who is authorized to take care of the decedent's property; however, the court does not want to hold the probate case open for 14 or 16 years while the minor is growing up. The court wants to close the case within a year or two, and closing the case and the authority of the personal representative. The permit absolutely cannot be transferred with the promise that the buyer will return it at the end of a year; such restrictions are completely illegal. The only thing left for the family is to sell the limited entry permit, and, of course, nobody wants to do that. The permit is often the family's only source of income.

The law must be modified to allow the minor heir to take the permit when he or she is old enough, and to allow someone to use the permit while the minor is growing up. Often the permit is the family's only substantial asset, and its only means of earning a living. Some agency, either the court or the Commission, will have to bear the administrative burden of supervising the permit for possibly 18 years. However, it is more desirable for a state agency to alter its procedures than it is for the family to do with the permit.

Bob Charles
December 20, 1984
Page Four

My impression now is that there is enough work in the Bethel area to keep a second judge busy. I donnot know if part-time judicial positions can be created, but this might be considered.

Those are my suggestions. Again, thanks very much for the opportunity to talk with you.

Good luck in Juneau, and a Merry Christmas to you and Johnie.

Very truly yours,

ALASKA LEGAL SERVICES CORPORATION

Mark Andrews

MA/fa

cc: Robert Hickerson, ALSU

April 12, 1985

Ms. Linda Schmitz
P. O. Box 47
Wrangell, Alaska 99929

Re: House Bill 227

Dear Ms. Schmitz:

I appreciate your taking time to write about House Bill 227 which would increase bonding amounts for fish processors and buyers.

I can assure you that the intent of HB 227 is not to stamp out small businesses. It's intent is to protect fishermen. The problem is that a lot of fishermen get ripped off by unscrupulous processors. What do you suggest we do to protect them?

You're just regular people like yourself. That's why we need input from the public. The reason we held hearings through our statewide teleconference system on proposed legislation is to get input from people who are affected. The next time you're at a teleconference and you have an opinion on something, speak up--we want to hear from you.

The House Special Committee on Fisheries met again to consider HB 227 yesterday, and has decided to do further work on the bill during the interim months. Thank you for comments.

Sincerely,

Johna Binkley
Representative

cc: Senator Robert Mueller, Jr.
Senator Richard Ellison
Representative Robin Taylor
Representative John Sund
Representative Peter Gall

APR 2 1985

April 2, 1985

Dear Mr. John Bentley,

I observed the March 29th teleconference having to do with your house bill 227 asking to change the surety bond requirements for fish processors, buyers from \$10,000 to \$100,000.

This deeply concerns me. I am land in Unalaska str. 31 years. I'm in the process of starting a business of buying, freezing and marketing our Alaskan products. I will be buying a maximum of 5,000 lbs of shrimp or month from 4 local fishermen. This involves one shipping and one process (freezing). A \$10,000 bond is reasonable for a small volume business. However, it is not right for my small volume business to pay the same bond amount as the large (full scale) companies who deal in large volume, various fisheries, different methods of processing and retail. (cans, gear, ice, etc.)

If the federal government were to impose a flat tax to be the same fee every working person, regardless of income level; would this be constitutional?

Is it the intent of H.B. 227 to set forth laws to protect the fishermen?

Is it the intention of H.B. 227 to stamp-out small business?

I feel the needs of both the fishermen and the processor can be addressed in this bill.

We are all vulnerable to the fly-by-night who leave the country with-out paying their dues.

Someone has to be held accountable and I'm confident good lawmakers such as yourself will find a means of doing this.

This Bill needs to be written allowing for input from Alaskans involved in the fisheries. All applications for processor, buyer permits should be reviewed individually and seriously. All processor buyers should be bonded including those who pay cash. Bonding amounts should vary according to guidelines set forth and agreed upon by the special fisheries committee. Guidelines should be written into the bill, after considering testimony offered by Alaskans involved in the fisheries.

Thank-you for your time and patients.

Sincerely,

Jenka Schmitz

P.O. Box 47

Kenai, AK 9952

Ph: (907-574-5755)

cc, copies sent to:

Robert H. Taylor

John Sund

Robert H. Taylor Sr.

Andie Morrow

Peter Bell

ALASKA LEGAL SERVICES CORPORATION

MARK ANDREWS

12/20/84

LEGISLATIVE CONTACTS: DON COOPER, CHIEF COUNSEL (276-6282)
MICHEAL STURM, CONTROLLER
ROBERT DICKERSON, EXECUTIVE DIRECTOR (DOES LOBBYING)
ISSUES: (REFER TO LETTER)

1. RESTRICTION ON FISH BUYERS.

THERE IS A PROBLEM WITH FISH BUYERS NOT PAYING THE FISHERMEN IN QUINHAGAK AND ELIM.

THERE ARE 42 FISHERMEN IN QUINHAGAK--\$16,000 EST. OWED TO FISHERMEN

\$4,000 -- \$5,000 OWED TO 20 EMPLOYEES WHO ARE PAID
COMMISSIONS/SALARIES/RENT.

THERE ARE 15-16 FISHERMEN IN ELIM -- \$9,000 TO \$11,000 OWED TO FISHERMEN

SOME WAGES ARE ALSO OWED TO EMPLOYEES.

FISH BUYERS BOND SHOULD COVER THE ENTIRE FISHING SEASON. PREMIUMS SHOULD BE FOR THE WHOLE CALENDAR YEAR.

~~2. PERMIT HOLDER INHERITANCE -- ONE HEIR.~~

~~3. PERMIT HOLDER INHERITANCE -- TWO OR MORE HEIRS.~~

~~THERE ARE 5 CASES (#2 ABOVE), 3 CASES (#3 ABOVE) BEING PROCESSED BY THE BETHEL ALS OFFICE. THE LIMITED ENTRY COMMISSION IS NOT DEALING WITH THE PROBLEM. THE PERMIT IS BEING HELD AND IS NOT ABLE TO BE USED. SOMEONE IN THE FAMILY SHOULD BE ABLE TO USE IT DURING THE SEASON. FOR MINORS, THE PROBLEM IS HAVING TO HANDLE THE CASE UNTIL THE MINOR COMES OF AGE.~~

DETERMINE THE IMPACT ON THIS PROBLEM IN OTHER AREAS OF THE STATE (ACQUIRE STATISTICS FROM OTHER ALS OFFICES.) LOOK AT THE RESTRICTIONS ON LIMITED ENTRY PERMITS (AS16.43.140-182, 20AAC05.700-770) REFER TO RESEARCH AGENCY ON THE LEGAL ASPECTS ON THE LIMITATIONS ON THE PERMITS.

OPERATING NEEDS:

1. MAINTAIN 3RD ATTORNEY POSITION.

CURRENTLY HAS 3 ATTORNEYS PLUS ONE PART-TIME. 180-210 CASES ARE BEING PROCESSED AT ANY GIVEN TIME. THE OFFICE HANDLES 1800 NATIVE ALLOTMENT OPEN CASES. BETHEL ALS IS LOSING ONE ATTORNEY POSITION. NO MONEY TO JUSTIFY IT. THE FAIRBANKS AND BETHEL OFFICES ARE IN TIGHT SITUATIONS. (DETERMINE ORGANIZATIONAL STRUCTURE--STAFFING & EQUIPMENT PRIORITIES.) THE CASE LOAD CAN JUSTIFY KEEPING THE 3RD ATTORNEY POSITION.

CHAPTER 27.
FISH PROCESSORS AND
PRIMARY FISH BUYERS

Article

- 1. Security (8 AAC 27.010-8 AAC 27.050)
- 2. Suspension and Revocation of License (8 AAC 27.060)
- 3. Assignment of Claims (8 AAC 27.070)
- 4. General Provisions (8 AAC 27.900)

ARTICLE 1.
SECURITY

Section

- 10. Security required
- 20. Certification of license applicant
- 30. Waiver of security
- 40. Revocation of waiver of security
- 50. Release of security

8 AAC 27.010. SECURITY REQUIRED. (a) A fish processor or primary fish buyer shall file with the division evidence of compliance with AS 16.10.290 and this chapter on forms prescribed by the commissioner. Acceptable security includes

(1) a surety bond in the amount of \$10,000 issued by a surety company licensed to do business in Alaska with an assignment in favor of the commissioner;

(2) lienable real property located in Alaska, provided

(A) an appraisal is filed with the commissioner which was issued by a public tax assessor or by a bona fide real estate appraiser, current within 12 months before the date of application;

(B) a title search is filed with the commissioner which was issued by a company or person qualified to perform a title search, current within 30 days before the date of application and which clearly demonstrates the license applicant has an equity of at least \$10,000 in the real property; and

(C) the license applicant executes a lien upon the real property in favor of the commissioner in the amount prescribed by AS 16.10.290(b);

(3) a negotiable instrument as defined in AS 45.03.104, assigned to the commissioner, in the amount of \$10,000; or

(4) a combination of acceptable security, including those listed in (1) - (3) of this subsection, which equals the amount of \$10,000.

(b) Separate security is required for each operational location which requires a separate license. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290(a), (b), (c)

8 AAC 27.020. CERTIFICATION OF LICENSE APPLICANT. The commissioner will certify in writing to the Department of Revenue and the Department of Fish and Game when the license applicant has complied with the provisions of this chapter. The license applicant will receive notice of this certification. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290(d)

8 AAC 27.030. WAIVER OF SECURITY. (a) An operation which does not purchase raw fish and which does not hire employees may request a waiver from the provisions of AS 16.10.290 - 16.10.296 by submitting Form 07-6086 to the commissioner, at least 30 days before commencement of operation, setting out

(1) the names of the persons involved in the operation;

(2) the relationship of the persons to the operation;

(3) the name of the business, if applicable;

(4) the location of the operation;

(5) the date that the operation will commence; and

(6) certification that no fish will be purchased and that no employees will be used in the operation.

Editor's Note: Form 07-6086, mentioned in 8 AAC 27.030(a), may be obtained from the Department of Labor, Box 1149, Juneau, AK. 99811.

(b) Within 15 days after receipt of a properly prepared and sworn application, the director, after investigation by the division, will approve or deny the application for a waiver. The director will deliver a written notice of approval or denial of the waiver to the applicant in person or by certified mail. A notice of denial must set out the reasons for the denial.

(c) An applicant may appeal a denial to the commissioner within 30 days after receipt of the notice of denial. No particular form for the appeal is prescribed. However, the appeal must be specific in its reasons.

(d) A waiver approved under this section is valid for one year from the date of approval. Re-application for a waiver must be made in accordance with this section.

(e) The commissioner will notify the Department of Revenue and the Department of Fish and Game of a person or business granted a waiver from the provisions of AS 16.10.290 - 16.10.296. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290(d)
AS 16.10.291

8 AAC 27.040. REVOCATION OF WAIVER OF SECURITY. (a) The department will, in its discretion and for good cause, revoke a waiver granted to a person or business under AS 16.10.291 and 8 AAC 27.030 and require filing of security as required by AS 16.10.290 and as prescribed in this chapter.

(b) The commissioner will notify the Department of Revenue and the Department of Fish and Game of a person or business whose waiver has been revoked. The commissioner will request suspension of the license of the fish processor or primary fish buyer until the person or business complies with AS 16.10.290 - 16.10.296. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.291
AS 16.10.294

8 AAC 27.050. RELEASE OF SECURITY. When the term of security filed with the commissioner under AS 16.10.290(b) has expired, the department shall release the security to the fish processor or primary fish buyer.

Notification of release of security will be delivered in person or by certified mail. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290

ARTICLE 2. SUSPENSION AND REVOCATION OF LICENSE

Section

60. Notification

8 AAC 27.060. NOTIFICATION. (a) If the liability of the security required by AS 16.10.290 is impaired or depleted, if a bonding company cancels its bond of a fish processor or primary fish buyer, or if a fish processor or primary fish buyer violates the provisions of AS 16.10.290 - 16.10.296, the commissioner will

(1) immediately notify the Department of Revenue by certified mail of the specific sections of AS 16.10.270 - 16.10.296 which the fish processor or primary fish buyer has violated, request that the license of the fish processor or primary fish buyer be suspended or revoked under AS 16.10.294, and recommend a period of time for which the license should be suspended;

(2) by copy of the notice, through certified mail, inform the Department of Fish and Game and the fish processor or primary fish buyer of the action; and

(3) issue a cease and desist order to the fish processor or primary fish buyer who is violating AS 16.10.270 - 16.10.296, prohibiting the individual or business from acting as a fish processor or primary fish buyer.

(b) The cease and desist order will be rescinded upon a showing, acceptable to the commissioner, that the fish processor or primary fish buyer has complied with AS 16.10.270 - 16.10.290 and the requirements of this chapter. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.294

year, or by a fine of not more than \$5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

Legislative history reports. — For report on ch. 34, SLA 1969 (CSHB 40 am S), see 1969 House Journal, p. 142.

NOTES TO DECISIONS

Cited in *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

Sec. 16.10.275. Regulations. The commissioner may adopt regulations to carry out the provisions of AS 16.10.270 — 16.10.296. (§ 1 ch 18 SLA 1981)

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 120 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970; am § 1 ch 59 SLA 1980)

Revisor's notes. — Enacted as AS 16.10.290. Renumbered in 1970. Amendment substituted "120" for "30" near the middle of the section.

Effect of amendments. — The 1980

Sec. 16.10.290. Security for collection of wages and payment for raw fish. (a) A fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; and (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them. The surety or sureties shall be satisfactory, in the determination of the commissioner.

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

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

(d) Upon certification by the commissioner that a person applying for a license as a fish processor or primary fish buyer has complied with AS 16.10.290 — 16.10.296, the Department of Revenue may issue that person a license to engage in the business of fish processor or primary fish buyer.

(e) The commissioner may accept the assignment of a claim held by a person against a fish processor or primary fish buyer under this section and may bring suit upon the bond, cash deposit or other security on behalf of the assignor in the superior court of the judicial district in which the work is done or in any judicial district in which jurisdiction may be obtained. This action shall not be construed to limit the right of a person having a claim under AS 16.10.270 — 16.10.296 against a fish processor or primary fish buyer to personally bring suit upon the bond, cash deposit or other security, in which case a copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed. The commissioner shall maintain a record, available for public inspection, of all suits commenced under this subsection. The service shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received.

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

(g) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit. (§ 2 ch 102 SLA 1977)

Sec. 16.10.291. Waiver of bonding requirement. The commissioner may, after investigation, grant a waiver from the bonding requirement of AS 16.10.290 — 16.10.296 for those operations that do not purchase fish or hire employees. (§ 2 ch 18 SLA 1981)

Editor's notes. — Enacted as AS 16.10.292(b). Renumbered in 1981.

Sec. 16.10.292. Filing evidence of compliance. A fish processor or primary fish buyer subject to AS 16.10.270 — 16.10.296 shall initially file evidence of compliance with the bonding requirements of AS 16.10.290 — 16.10.296, in the form prescribed by the commissioner. (§ 2 ch 102 SLA 1977)

Sec. 16.10.293. Exemptions from bonding requirement. (a) Restaurants, grocery stores, and established fish markets are exempt from the bonding requirement of AS 16.10.290 — 16.10.295.

(b) For purposes of this section

(1) "established fish market" means a market maintained in a permanent structure exclusively for the sale of seafood to the public at retail;

(2) "grocery store" means a store maintained for the sale of food products exclusively to the public at retail;

(3) "restaurant" includes a place maintained for the sale and on-premise consumption of food, and a street vendor who sells food prepared for immediate consumption. (§ 1 ch 23 SLA 1982)

Sec. 16.10.294. Suspension and revocation of license. (a) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposits or other security so that there is not in effect the bond, undertaking cash deposit or other security in the full amount prescribed in AS 16.10.290, the license of the fish processor or primary fish buyer shall be suspended until the liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

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

(c) If a licensed fish processor or primary fish buyer fails to fulfill the obligations as set out in AS 16.10.290, the license of the processor or buyer shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions the license may be permanently revoked.

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

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of AS 16.10.270 — 16.10.296, the commissioner shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

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

(g) In an action instituted in the superior court by the commissioner or a representative of the commissioner, a person acting in the capacity of a fish processor or primary fish buyer in violation of this chapter may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977)

Sec. 16.10.295. Penalty. A person who is required to obtain the bond required by AS 16.10.290 — 16.10.296 and fails to obtain that bond is guilty of a class A misdemeanor. Each day a violation occurs constitutes a separate offense. (§ 3 ch 18 SLA 1981)

Cross references. — For sentences for misdemeanors, see AS 12.55.135.

Sec. 16.10.296. Definitions. In AS 16.10.265 — 16.10.296, unless the context otherwise requires,

- (1) "commissioner" means the commissioner of labor;
- (2) "fish" means any species of aquatic finfish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state, and includes fish eggs except fish eggs sold for stock enhancement purposes;
- (3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75.010 — 43.75.090;
- (4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce. (§ 2 ch 102 SLA 1977; am § 3 ch 94 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "AS 16.10.265 — 16.10.296" for "AS 16.10.270 — 16.10.296" in the introductory language, added the language beginning "and includes fish eggs" to the end of paragraph (2), and deleted "raw" preceding "fishery resource" in paragraph (4).

Article 7. Commercial Fishing Loan Act.

Section	Section
300. Declaration of policy	338. Entry permits as collateral
310. Powers of the department	339. Regulations
315. Allocation of loans	340. Creation of fund
320. Limitations on loans	342. Special account established
325. Guarantors	350. Administration of fund
333. Loans for purchase of Alaska limited entry permits	360. Definitions
335. Default and foreclosure	370. Short title
337. Deficiencies and transfer of entry permits after foreclosure	

Legislative history reports. — For report on ch. 134, SLA 1972 (SCS CSHB 102 am FCC), see 1971 House Journal, p. 399; 1972 House Journal p. 554. For statement of legislative intent, see 1983 Senate Journal, p. 621.