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STATE OF ALASKA THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Special Committee on Fisheries	3/29/85, 4:30pm
" " " "	4/11/85, 12:00pm

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU ALASKA 99811
(907) 465-4737
PO BOX 1065
BETHEL ALASKA 99559
(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

March 6, 1985

MEMORANDUM

To: House Special Committee on Fisheries

From: Representative John Binkley

RE: HB 227 "An Act relating to fish processors and primary fish buyers."

HB 227 is introduced to attempt to provide some protection to fishermen and other persons furnishing labor to a primary fish buyer or fish processor. 42 fishermen and 20 employees in Quinhagak are owed an estimated \$21,000 by a fish buyer who had filed for bankruptcy in Oregon. The buyer had other court judgements against him by other fishermen and buyers. The same problem occurred in Elim where about 16 fishermen are owed \$11,000 and the buyer was using someone else's bond. This has been a long standing problem in many areas of the state where transient fish processors or buyers come into an area, acquire fish and for various reasons do not pay the fishermen. The buyer or processor usually leaves the state with the fish.

The bill requires the Department of Fish & Game to provide some notice of a fish processor and primary fish buyer's business standing and compliance to licensing and bonding requirements. It also requires the Enforcement Division to inspect the fish processor and primary fish buyer for proper licensing. The bill applies an across the board \$100,000 surety bond rate. A local appraiser can be used to assess the lienable property. According to the Department of Labor, the bond would apply to all locations. One company with multiple locations would be required to have a bond for each location. A floater/processor would be required to have two bonds - one for buying the fish and one for processing.

HB 227 Transmittal Memo
House Special Committee on Fisheries
March 6, 1985
Page Two

Several options were explored for the bond rate and enforcement: sliding fee scale based upon prior year tax information or amounts intended for purchase; separate rate for non-resident floating fish processors; lower rate for those who did not have liens filed against them in the last few years; lower rates for small mom & pop type operations; exclusion of some small catcher processors; different rates for buyers and processors with multiple locations; involving fishermen in the enforcement process; deny operating rights to fish processors and buyers who have outstanding liens against them until the lien is settled.

An across the board rate would have a negative effect on small operators and others who would not qualify for a bond, and there are numerous problems with enforcement, however, it is my intention that such issues be taken up and considered during the teleconference hearing process. And, that the testimony provided on bond rates and enforcement process be used to help in preparing a substitute to the bill.

A hearing was held yesterday, 3/6/85 on a similar bill (SB 164). J.J. O'Connor, Wage & Hour Division, Department of Labor, testified that the increase is acceptable however some fish buyers & processors may not qualify for the bond, and as a result may operate with out a bond. Rick Lauber of the Pacific Seafood Processors Association explained that the association does not have a problem with the amounts presented in the Senate bill but that they have a concern for the smaller operators. He also explained that there would be legitimate differences of opinion on the amounts to be paid when a lien is claimed. The Department would likely rule against the processor or buyer. Bob Blake, President of the United Fishermen's Association and the Cordova Fish Cooperative, said that he would like to see an across the board bond rate of \$100,000. He expressed his concern for smaller operators and that the bill should consider the smaller fish markets that would be impacted around the state. He also suggested a tier arrangement on the bond rate based upon the amount they will buy. Other information presented at that hearing is attached to this transmittal memo.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commercial Fisheries	BILL NUMBER HB 227	SPONSOR Rep. Binkley
DEPARTMENT POSITION Neutral			
PREPARED BY R. Shanks	DATE 3/22/85	COMMISSIONER'S SIGNATURE <i>Donnell</i>	DATE 3-22-85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Labor	CONSTITUENT GROUP(S) AFFECTED BY BILL Fishermen, fish buyers, and processors
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: ☐ NONE ☒ FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Currently, the ADF&G requires an approved "Notice of Intent to Operate" before a fish buyer/processor operates. This approval process cannot be completed until they have submitted their bond to the Dept. of Labor and received a valid business license for the Dept. of Revenue. We currently update this list of approved fish buyers/processors weekly and provide the information to 21 ADF&G offices, located in: Anchorage, Bethel, Chignik Lagoon, Cold Bay, Cordova, Dillingham, Dutch Harbor, Fairbanks, Glenallen, Haines, Homer, Juneau, Ketchikan, King Salmon, Kodiak, Kotzebue, Nome, Petersburg, Sand Point, Sitka and Wrangell. (continued)

ANALYSIS OF BILL/PROGRAM EFFECTS

In Section 1, we are concerned about how the Chamber of Commerce and the Better Business Bureau requirements can be met. We are also concerned about the timing of the publication. There are many commercial season openings and often times buyers/processors are not approved until after the seasons have begun. Therefore, this may not meet the intent of the legislation. We have included a fiscal note to cover the cost of publications.

In Sections 2 and 3, the legislation increases the bonding requirement from \$10,000 to \$100,000. This may adversely effect some of the approximately 300 small buyer/processors (under \$100,000 in purchases) in the state.

AMENDMENTS PROPOSED

Remove the requirement that we include information from the Chamber of Commerce and Alaska Better Business Bureau. We would also suggest changing the publication requirement to make it more timely; this may require additional funding.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

(continued from page 1)

BACKGROUND/LEGISLATIVE INTENT

The pending legislation would require us to include information regarding membership in the Chamber of Commerce and Better Business Bureau, and to publish the list in the newspaper prior to each season opening. It would also raise the bonding requirement from \$10,000 to \$100,000.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 227
Title: "An act relating to fish
processors and primary fish buyers"
Sponsor: Rep. Binkley
Requestor: Governor
Date of Request: _____

FISCAL DETAIL

Agency Affected: Fish and Game
Program Category Affected: Fisheries Resource Conservation
BRU, Program or Subprogram(s) Affected: Commercial Fisheries BRU and Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		9.3	9.8	10.3	10.8	11.3
200 TRAVEL						
300 CONTRACTUAL		50.0	52.5	55.1	57.9	60.8
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		59.3	62.3	65.4	68.7	72.1

CAPITAL						
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REVENUE		59.3	62.3	65.4	68.7	72.1
----------------	--	-------------	-------------	-------------	-------------	-------------

FUNDING: (Thousands of Dollars)

GENERAL FUND		59.3	62.3	65.4	68.7	72.1
FEDERAL FUNDS						
OTHER						
TOTAL		59.3	62.3	65.4	68.7	72.1

POSITIONS:

FULL-TIME						
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Section 1 of the bill requires obtaining and distributing information on fish buyers and processors. It is estimated that 3 man months of Range 14 level time would be required to obtain and prepare the data for distribution and \$50.0 to print and distribute the data.

Prepared By: Robert C. Clasby
Division: Commercial Fisheries

Phone: 465-4210
Date: 3/7/85

Approved by Commissioner: Don W. Collinsworth
Agency: Fish and Game

Date: 3/7/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

FISCAL INFORMATION

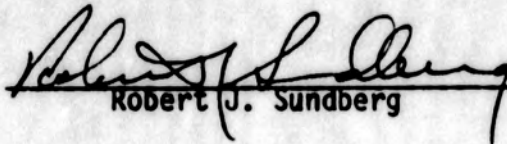
Fishing is a year-round industry in Alaska, depending on the species sought and areas open for fishing. Therefore, lists of approved fish buyers and processors must be published in many newspapers on a year-round basis. Cost to the Department of Fish and Game would be high, e.g., on ad (quarter page) per month in 20 statewide newspapers would cost approximately \$50,000, annually. The cost to mail out these monthly lists to local governments, village councils, and fishermen's associations should not exceed \$500, annually in postage. The Department of Fish and Game staff costs to perform these functions would be additional. Add 3 man months, range 14 time.

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - HB 227

Neutral

The Department is neutral on this bill. This Department has in the past inspected fish processors and primary fish buyers for proper licenses.

The Department of Public Safety has worked close with the Department of Fish & Game on matters relating to licenses and intent to operate requirements of fish processors and primary fish buyers.


Robert J. Sundberg

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 227
Title: Fish Processors and Primary
Fish Buyers
Sponsor: Rep. Binkley
Requestor: Spe. Comm on Fisheries
Date of Request: 3/7/85

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected:
Fish & Wildlife Protection
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Captain J.R. Nutgrass
Division: Fish & Wildlife Protection

Phone: 269-5534
Date: 3-7-85

Approved by Commissioner:
Agency: Public Safety

Date: 3-8-85

Distribution (by Agency preparing fiscal note):

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

7/1/84



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 <i>Sally Smith</i>	DATE 2-27-85	COMMISSIONER'S SIGNATURE <i>Walter H. Anderson</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 Collections
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 FUND	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: Harry H. Huskalo Date: 3/2/85
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

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4737
PO BOX 1065
BETHEL, ALASKA 99559
(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

March 29, 1985

MEMORANDUM

To: House Special Committee on Fisheries

From: Representative John Binkley

A handwritten signature in dark ink, appearing to read "John Binkley", followed by a large, stylized letter "B".

RE: HB 227 "An Act relating to fish processors and primary fish buyers."

As I mentioned in my memorandum of March 6, 1985, I introduced this bill to attempt to provide some protection to fishermen and persons furnishing labor to a primary fish buyer or fish processor. 42 fishermen and 20 employees in Quinhagak are owed an estimated \$21,000, and about 16 fishermen in Elim are owed \$11,000.

An appropriate bond rate should be applied that would protect these and other people as much as possible. Today I would like to receive testimony about these types of problems and hear suggestions on applicable bond rates, and then, discuss possible committee substitutes to the bill. I would like to offer the following to include in a committee substitute:

Suggested Committee Substitute Changes to HB 227:

Section 1. Require ADF&G to provide to each primary fish buyer and processor, that has met licensing and bonding requirements, a notice (similar to business licenses provided by the Department of Revenue), to be posted at each location. The notice shall specify that the primary fish buyer or fish processor has complied with the security bond requirements of AS 16.10.290 - 16.10.296 and has been issued a valid Alaska Business License or Fisheries Business License by the Department of Revenue.

I would also like to require the ADF&G to post notice of this notice requirement in the spring of each year in a newspaper of general circulation that serves each area of the state, and to offices of local governments and village councils and to fishermen's associations. Another alternative to the above could be to have the ADF&G issue cards similar to the limited entry permits cards that would indicate that the requirements have been met.

Section 2. Replace the first sentence with the following: The amount of the bond shall be \$20,000 for fish processors and primary fish buyers who, for the last three years immediately preceeding the date on which the bond is filed, have been licensed under AS 16.10.290 (d) and have not been required to pay a claim under this section. The amount of the bond for other fish processors and primary fish buyers shall be \$100,000. The remainder of Sec.2. shall remain the same.

Section 3. This section would be changed to reflect the changes noted above. The local appraiser requirement would stay the same.

A sliding fee scale based upon prior year tax information or on projected purchases was explored. However, the general consensus was that this type of system would create more problems than it would solve. Having the bond rate fluctuate from year to year could encourage unrealistic projections or be complicated by late payments such as bonuses. A rate based upon speculated amounts of purchases would be complicated by various problems encountered during each fishing season. Buyers and processors could simply be operating at levels much different than that speculated for the bond rate.

Specifying separate rates for non-resident floating fish processors creates constitutional problems. The same applies for excluding those who have outstanding liens filed against them. Involving fishermen in the enforcement process would be better addressed by local communities and fishermen's associations who determine themselves who they wish to do business with. Cather-processors such as some small mom and pop type operations can receive a bond waiver as long as they are not in the business of buying fish. Excluding those buyers and processors who do business with cash would not work. The buyer or processor could simply decide not to operate with cash at anytime during the season, get their fish and disappear without paying the fishermen.

Overall, the general consensus was that the two tier rate as presented above was acceptable. However, this still does not take into consideration those small operations who are starting out and have not yet established credibility in the industry. I am prepared to discuss alternatives to address this.

MAR 25 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. 218-624-0062
PO BOX 6306 55806

*
* DELIVER TO: LTCJ

*

DELIVER TO: LTCJ

*

*

* ORIGINAL

* SENT: 03/29/85 TIME: 16:38

* FROM: DAVID JENSEN

* SUBJECT: ANCHORAGE PARTICIPANTS LIST #1

* PRINT DATE: 03/29/85 TIME: 16:39

*

TO: TCJNU + ALL SITES

FROM: ANCHORAGE TELECONFERENCE OFFICE

SUBJ: PARTICIPATING IN TODAYS TELECONFERENCE,
___HOUSE FISHERIES - HB227,
ARE THE FOLLOWING PEOPLE:

TO TESTIFY=

HENRY MITCHELL

TO OBSERVE=

EQM DJ

*
* DELIVER TO: LTCJ
*
*
* ORIGINAL
* SENT: 03/29/85 TIME: 16:30
* FROM: LIOB
* SUBJECT: PARTICIPANT LIST
* PRINT DATE: 03/29/85 TIME: 16:31
*

EMAIL #1 --- FROM BETHEL

TO TESTIFY:

1. MARK ANDREWS, ALASKA LEGAL SERVICES

*
* DELIVER TO: LTCJ *
* *
* *
* ORIGINAL *
* SENT: 03/29/85 TIME: 16:38 *
* FROM: DAVID JENSEN *
* SUBJECT: ANCHORAGE PARTICIPANTS LIST #1 *
* PRINT DATE: 03/29/85 TIME: 16:39 *
* *

TO: TCJNU + ALL SITES
FROM: ANCHORAGE TELECONFERENCE OFFICE
SUBJ: PARTICIPATING IN TODAYS TELECONFERENCE,
__HOUSE FISHERIES - HB227,
ARE THE FOLLOWING PEOPLE:

TO TESTIFY=

HENRY MITCHELL

TO OBSERVE=

EOM DJ

[illegible]



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 <i>Sally Smith</i>	DATE 2-27-85	COMMISSIONER'S SIGNATURE <i>Harry G. Jordan</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 Collections 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 FUND	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: 3/2/85
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

March 29, 1985

SECTIONAL ANALYSIS OF HB 227

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

Section One: This section requires the Alaska Department of Fish and Game to maintain a list of fish buyers who have obtained the required state permits and bonds. The Department also is directed to publish the list in newspapers serving areas of Alaska in which fish buying takes place, and to distribute copies of the list to local governments and villages and fishermen's groups.

The division of fish and wildlife protection in the Department of Public Safety is required to regularly inspect fish buyers and processors for possession of the required state licenses.

Section Two: This section raises the amount of required surety bonds for fish buyers from the present \$10,000 to \$100,000. The bond is designed to ensure that fishermen are paid for their deliveries to fish buyers and that employees of fish processing operations have the ability to recover wages dues.

Section Three: This section amends another portion of the statutes to raise the surety bonds from \$10,000 to \$100,000, and ensures that leinable property can continue to be substituted for the bond. Language is added to the statutes to clarify that local appraisers may be used to determine the value of leinable property to be substituted for the bonds.

Hein ✓
01/24/86

Original sponsor: Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2 CS FOR HOUSE BILL NO. 227 (Fisheries)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to surety for collection of wages
7 and payment; and providing for an effective date."

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

9 * Section 1. AS 16.10.290(a) is amended to read:

10 (a) A person applying for a license as a fish processor or
11 primary fish buyer shall file with the commissioner of labor a surety
12 bond running to the State of Alaska conditioned upon the promise to
13 pay (1) all persons furnishing labor to a fish processor or primary
14 fish buyer, including contractual employee benefits; and (2) indepen-
15 dent registered commercial fishermen for the price of the raw fishery
16 resource purchased from them. The surety or sureties shall be satis-
17 factory, in the determination of the commissioner.

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

19 (b) The amount of the bond shall be \$10,000 unless, during the
20 immediately preceding ^{5 years} term for which the bond was filed, that amount
21 was insufficient to satisfy a final judgment resulting from a claim
22 asserted ~~filed during that term~~ against the bond, cash deposits, or other
23 security filed under this section. If \$10,000 was insufficient, the
24 bond shall be \$50,000; if \$50,000 was insufficient, the bond shall be
25 \$100,000. In lieu of the surety bond the fish processor or primary
26 fish buyer may file with the commissioner a cash deposit or other
27 negotiable security acceptable to the commissioner in the amount
28 specified for the bond. If no claim is asserted under this section
29 within two years from the date the bond, cash deposit or other

1 security is filed, the term of the bond, cash deposit or other securi-
2 ty shall be two years; if a claim has been asserted within two years,
3 the term of the bond, cash deposit or other security shall be for five
4 years.

5 * Sec. 3. AS 16.10.290(c) is repealed and reenacted to read:

6 (c) A bond is not required if the fish processor or primary fish
7 buyer has more than the amount of the bond in lienable property in the
8 state and provides proof of the property satisfactory to the commis-
9 sioner.

10 * Sec. 4. AS 16.10.291 is repealed and reenacted to read:

11 Sec. 16.10.291. EXEMPTION FROM BONDING REQUIREMENTS. An opera-
12 tion that does not purchase fish or hire employees is exempt from the
13 bonding requirements of AS 16.10.290 - 16.10.296.

14 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).
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 * DELIVER TO: TCJNU
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 *
 * ORIGINAL
 * SENT: 01/28/86 TIME: 12:56
 * FROM: LIOPSG
 * SUBJECT: FINAL STATS-1/23/86 PHONE T/C
 * PRINT DATE: 01/28/86 TIME: 12:56
 *

*** FINAL T/C STATS ***

DATE: JANUARY 23, 1986
 SITE: PETERSBURG
 SPONSOR: SPEC. COMM. ON TELECOMMUNICATIONS
 SUBJECT: TELEPHONE RATES
 LOCAL MODERATOR: DOROTHY PENTTILA

TESTIFIED:

NAME/REPRESENTING	ADDRESS	PHONE
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OBSERVED:

NAME/REPRESENTING	ADDRESS	PHONE
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1. MATT HOLMES, KFSK	BOX 149	772-3808
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TESTIFIED: 0	TIME START: 09:45 & 11:10
OBSERVED: 1	TIME END: 10:10 & 11:30
TOTAL: 1	

EOM

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* DELIVER TO: TCJNU
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* ORIGINAL
* SENT: 01/28/86 TIME: 10:15
* FROM: LIOBET
* SUBJECT: FINAL STATS
* PRINT DATE: 01/28/86 TIME: 11:33
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FINAL STATS

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T/C: HSC ON FISHERIES
SUBJECT: HB 227
DATE: 1-28-86
SITE: BETHEL
TIME IN: 8:20A
TIME OUT: 10:00A
MODERATOR: REGGIE BELDEN

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IN BETHEL

OBSERVING

1. MAGGIE SNOW--KUSKOKWIM FISHERMAN'S CO-OP.

OBSERVING

1. JAMES R. JOHNSON--FOSS FISHERIES.

* DELIVER TO: TCJNU

* ORIGINAL

* SENT: 01/29/86 TIME: 14:03

* FROM: ELAINE SUNDE

* SUBJECT: FINAL STATS

* PRINT DATE: 01/29/86 TIME: 14:07

TO JUNEAU T.C.
FR ELAINE, SITKA

FINAL STATS 1/28 H-FISHERIES

NO PARTICIPANTS IN HAINES.

NOTE: COPIES OF THE DRAFT LEGISLATION WERE TELECOPIED TO HAINES
AND KLAUOCK...AND MAILED TO CRAIG AND HYDABURG. IF THIS BILL IS
RE-SCHEDULED FOR TELECONFERENCE, THOSE COMMUNITIES MAY WISH TO
PARTICIPATE.

*Sharon
For your info*

*
* DELIVER TO: TCJNU
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*
* ORIGINAL
* SENT: 01/29/86 TIME: 10:39
* FROM: DOROTHY LARSON
* SUBJECT: FINAL STATS
* PRINT DATE: 01/29/86 TIME: 10:39
*

DATE: JANUARY 28, 1986-TUESDAY
SITE: DILLINGHAM-ANNA MAY
SPONSOR\SUBJECT: HOUSE SPECIAL COMMITTEE ON FISHERIES, HB227:
FISH PROCESSORS AND PRIMARY FISH BUYERS

-0- TESTIFIED T\C STARTED 8:30 A.M.
-1- OBSERVED T\C ENDED 10:00 A.M.
-1- TOTAL

NAME\REP. ADDRESS\PHONE

OBSERVE

1. JIM TIMMERMAN, BRISTOL BAY NATIVE ASSOC. DILLINGHAM, AK. 99576
842-5257

(4 OBSERVERS STOPPED BY FOR A WHILE WHO DID NOT SIGN IN)

TOGIAC WAS TO BE INCLUDED BUT NO ONE ARRIVED, SO JONNY DID NOT
CALL IN.

EOM

**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 buyer w proof of with the No bond than \$1

(d) U for a lice AS 16.1 person a fish buy

(e) Th a person section a on beha which tl may be of a pers fish proc bond, ca plaint sh sioner a record, a this sub: the com surety w

(f) If t may do cancel. T to the co

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(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)

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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

- 300. Declaration of policy
- 310. Powers of the department
- 315. Allocation of loans
- 320. Limitations on loans
- 325. Guarantors
- 333. Loans for purchase of Alaska limited entry permits
- 335. Default and foreclosure
- 337. Deficiencies and transfer of entry permits after foreclosure

Section

- 338. Entry permits as collateral
- 339. Regulations
- 340. Creation of fund
- 342. Special account established
- 350. Administration of fund
- 360. Definitions
- 370. Short title

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.

Alaska State Legislature

House of Representatives

SPECIAL

COMMITTEE ON FISHERIES

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

HEARING DATE:

April 11

HB 227 +
Fishing Loans

[illegible]



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

MEMORANDUM

March 28, 1985

TO: Members
House Special Committee on Fisheries

FROM: Representative Peter Goll *Peter*
Chairman

SUBJECT: House Bill 227

Attached are background materials on House Bill 227 which the Fisheries Committee will hear at 4:30 p.m. Friday, March 29. Public testimony on the measure will be taken via teleconference from a number of locations and at least two state agencies will testify in person.

A similar bill (SB 164) has been heard in Senate Resources committee and a number of changes have been suggested. A committee substitute for the senate bill should be available for your review by Friday's hearing.

I have scheduled a work session on HB 227 for 8:30 a.m. Tuesday, April 2. A measure we considered earlier, HB 120 (Leasing of limited entry permits by minor heirs), also will be considered at the work session.

Sec. 1. AS 16.10 is amended by adding new sections to read:

Sec. 16.10.285. NOTICE OF BONDED AND LICENSED OPERATORS.

(a) The Department of Labor shall provide to each primary fish buyer and fish processor [✓] that has met licensing and bonding requirements, [✓] a certificate of bonding to be posted at each location operated by the primary fish buyer or fish processor. The certification of bonding shall specify the amount of the bond and that the primary fish buyer or fish processor has complied with the security bond requirements of AS 16.10.290 - 16.10.296.

(b) The primary fish buyer or fish processor shall post a copy of the business or fisheries business license along with a copy of the certificate of bonding at each location operated by the fish processor or primary fish buyer.

Sec. 16.10.286. INSPECTION OF LICENSES. Enforcement officers of the division of fish and wildlife protection shall regularly inspect fish processors and primary fish buyers for possession of proper licenses and compliance to AS 16.10.285.

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

See attached
(b) ~~The amount of the bond shall be \$20,000, except for a fish processor or primary fish buyer whose principals, with at least 10% ownership, has had a final judgement against them required to satisfy a claim filed against the bonds, cash deposits, or other security filed under this section, during any of the three years preceeding the year for which the bond is due; the amount of the bond shall be the amount of the final judgment or \$100,000, whichever is less. [\$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.~~

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

(c) A person applying for a license as a fish processor or primary fish buyer who ^(POSSESSES SECURITY) has less than the amount of the bond [\$10,000] in ^{IN FULL} lienable ~~REAL~~ ^{REAL}

property in the state, with proof of the ^{EQUITY} property satisfactorily made to the commissioner, shall file with the application a bond or other security as specified in this section. A [NO] bond is not required if the fish processor or primary fish buyer ^{possesses equity in excess of} has more than the amount of the bond ^{in equity} [\$10,000] in ^{lien} lienable property as specified in this subsection. An ^{on marine surveyor} appraiser from the area of the state in which the ^{lien} lienable property is located may be used to determine the value of the property for purposes of this subsection.

REPLACE "PROPERTY" WITH "EQUITY"?

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

(b) The amount of the bond shall be \$20,000, except that the amount of the bond shall be \$100,000 if (1) the fish processor or primary fish buyer, during any of the three years immediately preceding the year for which the bond is due, has been required as a result of a final judgment to satisfy a claim filed during those years against the bonds, cash deposits, or other security filed under this section; or (2) a principal with at least 10 percent ownership interest of the fish processor or primary fish buyer was a principal with at least a 10 percent ownership interest of another fish processor or primary fish buyer during any year, of the three years immediately preceding the year for which the bond is due, in which a claim filed against the bonds, cash deposits, or other security filed under this section that has resulted in a final judgment that required that other fish processor or primary fish buyer to satisfy the claim <\$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

Hein
3/29/85

Original sponsors: Coghill and Sackett

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 164 (Resources)

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 surety for collection of wages
7 and payment."

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

9 * Section 1. AS 16.10.290(b) is amended to read:

10 (b) The amount of the bond shall be \$20,000, except that the
11 amount of the bond shall be \$100,000 for (1) a fish processor or
12 primary fish buyer who has engaged in the business of fish processor
13 or primary fish buyer in the state but not in compliance with this
14 section; (2) a fish processor or primary fish buyer who, during any of
15 the three years immediately preceding the year for which the bond is
16 due, has been required to satisfy a claim filed during those years
17 against the bonds, cash deposits, or other security filed under this
18 section; (3) a nonresident fish processor or nonresident primary fish
19 buyer who is applying for a license to engage in the business of fish
20 processor or primary fish buyer for the first time in the state; or
21 (4) a nonresident fish processor or nonresident primary fish buyer who
22 has engaged in the business of fish processor or primary fish buyer in
23 the state in compliance with this section for only the year or two
24 years immediately preceding the year for which the bond is due
25 [\$10,000]. In lieu of the surety bond the fish processor or primary
26 fish buyer may file with the commissioner a cash deposit or other
27 negotiable security acceptable to the commissioner in the amount
28 specified for the bond. If no claim is asserted under this section
29 within two years from the date the bond, cash deposit or other

1 security is filed, the term of the bond, cash deposit or other securi-
2 ty shall be two years; if a claim has been asserted within two years,
3 the term of the bond, cash deposit or other security shall be for five
4 years.

5 * Sec. 2. AS 16.10.290(c) is amended to read:

6 (c) A person applying for a license as a fish processor or
7 primary fish buyer who has less than the amount of the bond [\$10,000]
8 in lienable property in the state, with proof of the property satis-
9 factorily made to the commissioner, shall file with the application a
10 bond or other security as specified in this section. A [NO] bond is
11 not required if the fish processor or primary fish buyer has more than
12 the amount of the bond [\$10,000] in lienable property as specified in
13 this subsection.
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Original sponsor: Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2 CS FOR HOUSE BILL NO. 227 (Fisheries)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to surety for collection of wages
7 and payment; and providing for an effective date."

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

9 * Section 1. AS 16.10.290(a) is amended to read:

10 (a) A person applying for a license as a fish processor or
11 primary fish buyer shall file with the commissioner of labor a surety
12 bond running to the State of Alaska conditioned upon the promise to
13 pay (1) all persons furnishing labor to a fish processor or primary
14 fish buyer, including contractual employee benefits; and (2) indepen-
15 dent registered commercial fishermen for the price of the raw fishery
16 resource purchased from them. The surety or sureties shall be satis-
17 factory, in the determination of the commissioner.

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

19 (b) The amount of the bond shall be \$10,000 unless, during the
20 immediately preceding term for which the bond was filed, that amount
21 was insufficient to satisfy a final judgment resulting from a claim
22 asserted during that term against the bond, cash deposits, or other
23 security filed under this section. If \$10,000 was insufficient, the
24 bond shall be \$50,000; if \$50,000 was insufficient, the bond shall be
25 \$100,000. In lieu of the surety bond the fish processor or primary
26 fish buyer may file with the commissioner a cash deposit or other
27 negotiable security acceptable to the commissioner in the amount
28 specified for the bond. If no claim is asserted under this section
29 within two years from the date the bond, cash deposit or other

1 security is filed, the term of the bond, cash deposit or other securi-
2 ty shall be two years; if a claim has been asserted within two years,
3 the term of the bond, cash deposit or other security shall be for five
4 years.

5 * Sec. 3. AS 16.10.290(c) is repealed and reenacted to read:

6 (c) A bond is not required if the fish processor or primary fish
7 buyer has more than the amount of the bond in lienable property in the
8 state and provides proof of the property satisfactory to the commis-
9 sioner.

10 * Sec. 4. AS 16.10.291 is repealed and reenacted to read:

11 Sec. 16.10.291. EXEMPTION FROM BONDING REQUIREMENTS. An opera-
12 tion that does not purchase fish or hire employees is exempt from the
13 bonding requirements of AS 16.10.290 - 16.10.296.

14 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).



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

*each company
or
each buyers station*

*= Equity in Real
property"*

*regs - say "real property"
law - says property*

BY BINKLEY

1 IN THE HOUSE

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 buyers."

7

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

*moving
notice to
be
posted*

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 ~~\$10,000~~ [\$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.



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 485-4924

January 27, 1986

SECTIONAL ANALYSIS OF CSHB 227

"An Act relating to fish buyers and primary fish processors;
and providing for an effective date."

Section One: This section clarifies existing statutes so it is clear that the surety bond is required before a person or company can be licensed to purchase or process fish. This provision now is contained in 16.10.290 (c) which this legislation would repeal and reenact.

Section Two: This section would automatically raise the amount of the required bond for primary fish processors and fish buyers who fail to pay fishermen or processing workers. The amount of the bond would be raised in those cases where final judgments against a processor or fish buyer have exceeded the amount of the posted bond or other security in the past. If the amount of the final judgments were between \$10,000 and \$50,000, the processor or fish buyer would be required to post a \$50,000 bond. If the amount of judgments exceed \$50,000, the applicant would be required to post a \$100,000 bond.

Section Three: This section re-writes AS 16.10.290(c) to make it conform with the requirements for higher bond amounts this legislation would enact.

Section Four: This section exempts "mom and pop" operators who do not buy fish or hire non-family employees. The existing 16.10.291 provides for a waiver process which has resulted in unnecessary paperwork for such operators and the Department of Labor.

Section Five: This section would ensure the legislation becomes effective in advance of the 1986 salmon season.

A M E N D M E N T

#1

Offered in the HOUSE

TO: CSHB 227(Fisheries)

Page 2, line 17 through line 20, delete all material and insert:

"Sec. 16.10.291. EXEMPTION FROM BONDING REQUIREMENTS. A fish processor or primary fish buyer is exempt from the bonding requirements of AS 16.10.290 - 16.10.296 if

(1) the processor or fish buyer does not purchase fish or hire employees; or

(2) the processor or fish buyer has operated lawfully in the state in each of the preceding 10 years, and during that period a final judgment has not been entered against

(A) the bond, cash deposits, or other security filed under AS 16.10.290; or

(B) the processor or fish buyer for payment for labor furnished to, or raw fishery resources purchased by, the processor or fish buyer."

A M E N D M E N T

#2

Offered in the HOUSE

TO: CSHB 227(Fisheries)

Page 1, after line 8, insert a new bill section to read:

"* Section 1. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.285. NOTICE OF OPERATORS REQUIRED TO FILE INCREASED BOND. At the beginning of each commercial fishing season, the department shall compile a list of fish processors and primary fish buyers that have been required to file a bond covering the season in an amount exceeding \$10,000. The department shall publish the list in a newspaper of general circulation that serves each area of the state in which the fish processors and primary fish buyers have stated an intent to operate."

Page 1, line 9, delete "Section 1" and insert "Sec. 2."

Renumber remaining bill sections accordingly.



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

February 4, 1986

TO: Irene Cashen
Chief Clerk

FROM: Representative Peter Goll
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.



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 *P. 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.

Hein ✓
01/24/86

Original sponsor: Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2 CS FOR HOUSE BILL NO. 227 (Fisheries)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to surety for collection of wages
7 and payment; and providing for an effective date."

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

9 * Section 1. AS 16.10.290(a) is amended to read:

10 (a) A person applying for a license as a fish processor or
11 primary fish buyer shall file with the commissioner of labor a surety
12 bond running to the State of Alaska conditioned upon the promise to
13 pay (1) all persons furnishing labor to a fish processor or primary
14 fish buyer, including contractual employee benefits; and (2) indepen-
15 dent registered commercial fishermen for the price of the raw fishery
16 resource purchased from them. The surety or sureties shall be satis-
17 factory, in the determination of the commissioner.

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

19 (b) The amount of the bond shall be \$10,000 unless, during the
20 immediately preceding term for which the bond was filed, that amount
21 was insufficient to satisfy a final judgment resulting from a claim
22 filed during that term against the bond, cash deposits, or other
23 security filed under this section. If \$10,000 was insufficient, the
24 bond shall be \$50,000; if \$50,000 was insufficient, the bond shall be
25 \$100,000. In lieu of the surety bond the fish processor or primary
26 fish buyer may file with the commissioner a cash deposit or other
27 negotiable security acceptable to the commissioner in the amount
28 specified for the bond. If no claim is asserted under this section
29 within two years from the date the bond, cash deposit or other

1 security is filed, the term of the bond, cash deposit or other securi-
2 ty shall be two years; if a claim has been asserted within two years,
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6 (c) A bond is not required if the fish processor or primary fish
7 buyer has more than the amount of the bond in lienable property in the
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11 Sec. 16.10.291. EXEMPTION FROM BONDING REQUIREMENTS. An opera-
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13 bonding requirements of AS 16.10.290 - 16.10.296.

14 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).
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25
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27
28
29

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

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

FISCAL DETAIL

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: 57 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)

PROPOSED AMENDMENTS TO CSHB 227 (Fisheries)
January 27, 1986

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

(b) The amount of the bond shall be \$10,000 unless, during the preceding five years, that amount was insufficient to satisfy a final judgment resulting from a claim asserted against the bond, cash deposits, or other security filed under this section. If \$10,000 was insufficient, the bond shall be \$50,000; if \$50,000 was insufficient, the bond shall be \$100,000. If the commissioner determines that during the preceding five years, a fish processor or primary fish buyer (1) has engaged in the business of fish processor or primary fish buyer in the state, but not in compliance with this section and (2) has not yet satisfied a final judgment entered against the processor or fish buyer for payment of labor furnished to, or raw fishery resources purchased by, the processor or fish buyer, then the amount of the bond for the processor or fish buyer shall be \$100,000. 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.

Add a new Sec. 4, and renumber accordingly:

* Sec. 4. AS 16.10.290 is amended by adding a new subsection to read:

(h) A fish processor or primary fish buyer shall file a surety bond in the amount required under (b) of this section for each location for which the processor or buyer is to be licensed.



Alaska State Legislature

House of Representatives

**SPECIAL
COMMITTEE ON FISHERIES**

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

HEARING DATE:

Jan 28, 1986

AB 227

[illegible]

PROPOSED AMENDMENTS TO CSHB 227 (Fisheries)
January 27, 1986

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COMMITTEE REPORT

HOUSE

2/5
RESOURCES

(7)

FURTHER: FINANCE

2/22/85

Date: 2-4-86

Mr. Speaker:

The Committee on HOUSE SPECIAL COMMITTEE
ON FISHERIES

has had HB 227

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

under consideration and reports it back as follows:

☐ do pass ☐ do not pass

☐ do pass with attached amendments(s)

☒ replace with CS for HB 227 (FISH)

☒ same title
☒ new title

and recommends _____

☒ AND attaches a "Letter of Intent"

☐ New Fiscal Note

☐ reports it back without recommendation

☒ Zero Fiscal Note Attached

☐ referred to the _____

Committee

MEMBERS SIGNING DO PASS

Peter J. ...
John ...
...
...
...
...
...
...
...

MEMBERS HAVING OTHER RECOMMENDATIONS:

... (No Rec)
... (No Rec)
...
...
...
...

Peter J. ...
CHAIRMAN

Hein
2/3/86

Original sponsor: Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2 CS FOR HOUSE BILL NO. 227 (Fisheries)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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26 buyer (1) has engaged in the business of fish processor or primary
27 fish buyer in the state while not in compliance with this section and
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1 fishery resources purchased by, the processor or fish buyer, then the
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3 In lieu of the surety bond the fish processor or primary fish buyer
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5 security acceptable to the commissioner in the amount specified for
6 the bond. If no claim is asserted under this section within two years
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20 16.10.296.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-
10.070(c).