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SENATE COMMITTEE REPORT

FURTHER

2/9/89

DATE TURNED INTO OFFICE 1/31/90

Mr. President:

Finance

Committee considered

SB 112

exempting farming from the business license requirement

and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new <sup>updated</sup>  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]  
[Signature]  
[Signature] (DO PASS)

[Signature] No Rec  
[Signature] No Rec  
[Signature] No Rec

[Signature] DO PASS

Chairman signature and recommendation

Committee Backup attached

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act exempting farming from the business license requirement.  
Sponsor: Senator Kerttula  
Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
Division: Occupational Licensing Date: January 20, 1989  
Approved by Commissioner: Larry Mercuri/eff Date: 1/21/89  
Agency: Commerce and Economic Development

**Distribution (by preparer):**

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

Lack of fiscal impact  
would continue beyond  
1996. 1/31/90 JFC/jm

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 112

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act exempting farming from the business license  
7 requirement."

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

9 \* Section 1. AS 43.70.110 is amended to read:

10 Sec. 43.70.110. DEFINITIONS. In this chapter, unless the con-  
11 text otherwise requires,

12 (1) "business" includes all activities or acts, personal,  
13 professional, or corporate, engaged in or caused to be engaged in, or  
14 following or engaging in a trade, profession, or business, including  
15 receipts from advertising services, rental of personal or real proper-  
16 ty, construction, processing, or manufacturing, but excluding farming,  
17 fisheries businesses, fishermen, liquor licenses, insurance busi-  
18 nesses, mining, and coin-operated amusement and gaming machines,  
19 calling or vocation, with the object of financial or pecuniary gain,  
20 profit or benefit, either direct or indirect, and not exempting subac-  
21 tivities producing marketable commodities or services used or consumed  
22 in the main business activity, each of which subactivities shall be  
23 considered business; the giving or supplying of services as an em-  
24 ployee and the furnishing of property, services, substances, or  
25 things, by a person who does not represent to be regularly engaging in  
26 those transactions, does not constitute business under the meaning of  
27 this chapter;

28 (2) "commissioner" means the commissioner of commerce and  
29 economic development;

1                   (3) "department" means the Department of Commerce and  
2       Economic Development;

3                   (4) "person" includes an individual, firm, partnership,  
4       joint venture [ADVENTURE], association, corporation, estate trust,  
5       business trust, receiver, or any group or combination acting as a  
6       unit.



Official Business

# Alaska State Legislature

## Senate

P.O. BOX V  
State Capitol  
Juneau, Alaska 998

POSITION STATEMENT OF SENATOR JAY KERTTULA ON SB112  
(FARMING EXEMPTION FROM BUSINESS LICENSE REQUIREMENT)  
FEBRUARY 8, 1989

The Alaska Business License Act (AS 43.70 et seq) imposes taxes on Alaskan businesses as a condition of doing business. The purpose of the act is not to regulate but to generate revenue to the State.

In most cases the tax imposed is nominal (\$25/year); at times, however, it has been a significant percentage of net business income (for example, the 7% banking and savings and loan tax, repealed in 1984).

Historically, farming and some other types of businesses have been exempted from business license taxation. Recent legal analysis suggests that the practice of exempting farm operations is not consistent with the existing statutory scheme. SB112 will correct the statute to make it consistent with traditional practice.

It should be noted in support of the proposed bill that although the financial consequences of imposing a mandatory business tax on Alaska farmers would not be significant at the current rate of taxation, it is philosophically inconsistent with the trend of Alaska legislation to favor producers of local products whenever it is constitutionally and financially permissible to do so. Most other states specifically exempt farming operations from business licensing/taxation requirements-- typical examples being the states of Washington, Missouri, Minnesota, and New Jersey. One of the most obvious justifications for such an exemption is that it is not to a state's economic advantage to tax local produce twice-- once at production level and again at wholesale and retail outlets-- when imported produce is taxed only at the wholesale/retail end. Without an exemption, there is actually a disincentive created by a business license tax that operates in favor of producers in other states and against local farmers.

It should be noted also that most local farmers (about 450-- more than half) voluntarily pay the business license tax because for a very nominal price, it affords them easy access to wholesale businesses which typically require a business license as a condition of purchasing. This trend will undoubtedly continue as long as the tax is nominal.

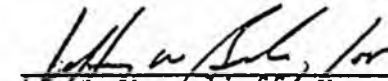
Nonetheless, in order to continue current practice and minimize the risk of placing local producers at a competitive disadvantage because of a mandatory taxation scheme from which agricultural producers in other states are normally exempt, SB 112 should be passed.

SB 112: An Act exempting farming from the business license requirement.

The bill proposes to exempt farming from the Alaska business license requirement. Although licensing requirements have not been enforced on farmers who commercially sold their products, current regulations do not exempt commercial farmers/farms from having to hold a business license. Many of the regulations are no longer applicable since they referenced a tax liability which has been long since removed; 15 AAC 70.080 entitled "Farmers," which succinctly states, "Farmers not liable under the Alaska Business License Act" clearly references a tax liability exemption, and not an exemption for the need to hold a business license. Farmers have been incorrectly exempted from the business licensing requirement for some years.

The department feels that the requirement for farmers to obtain business licenses is, above all else, an equity issue. Any person engaging in a business in the state is first required to have a business license. Some 51,000 businesses are licensed in the state; farmers who sell their products, goods and services commercially should also be licensed.

In the absence of a statutory amendment as proposed in the bill, the department intends to require the farming community to meet the business licensing requirement.

  
Larry Mercurieff, Commissioner  
Department of Commerce and  
Economic Development

Date: 1/27/89