

HB

133

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/21/93

FURTHER:

DATE TURNED INTO OFFICE: 5-3-93

The Finance Committee considered HOUSE BILL NO. 133

"An Act amending the definition of 'value' for purposes of administration of fisheries taxes; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOR	4/16/93	0	

10,000,000.

Appropriation No Fiscal Note

DO PASS:

Steve Ruff

George Miller

Bob May

OTHER RECOMMENDATIONS:

1. *Steve Ruff*
 Co-Chair: Signature/Recommendation

2. *George Miller*
 Co-Chair: Signature/Recommendation

FISCAL NOTE

No. 1
 Bill Version: HB 133
 (H) Publish Date: 2/17/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: February 16, 1993 Dept. Affected: Revenue
 Title: Amending the definition of "value" for purposes of administration of BRU: Revenue Operations
fisheries taxes Component: Income and Excise Audit
 Sponsor: House Special Committee on Fisheries
 Requestor: House Special Committee on Fisheries COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE: General Fund	10.0	550.0	550.0	550.0	550.0	550.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Larry E. Meyers, Director *Larry E. Meyers* Phone: 465-2320
 Division: Income and Excise Audit Division Date: February 16, 1993
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: February 16, 1993
 Agency: Department of Revenue

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HB 133

No. 1

HB 133
Fiscal Note Analysis
February 16, 1993
Page 2 of 2

Analysis

HB 133 clarifies the definition of "value" which is used as the basis for calculating fisheries business and salmon enhancement taxes under AS 43.75 and AS 43.76, respectively. This bill amends the current definition of value under AS 43.75.290 to specify that amounts paid for delivery are included as part of the value of fisheries resources. The department has noted through its audit efforts that some taxpayers deduct actual or imputed costs of delivery when determining value for tax computations. This bill strengthens the department's position that amounts paid for delivery are part of the value of fisheries resources. Inclusion of delivery costs will eliminate understatements of value by fisheries businesses thereby increasing fisheries business and salmon enhancement taxes collected by the State.

Alaska State Legislature

Representative Carl E. Moses



CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
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HB 133

The Definition of "Value" for Purposes of Fisheries Taxes

House Bill 133 is substantially similar to existing law [AS 43.75.290(11)], but restructures the definition of "value" used in administering fisheries taxes in order to clarify exactly what payments are included in that definition.

The bill is identical to Resources CSHB 448, introduced by Representative Gail Phillips last session, with some further clarification recommended by the Division of Legal Services. The legislation has not received any opposition.

In the past, a few processors and fishermen have disputed the definition of value in paying the raw fisheries tax and salmon enhancement tax. The argument is that bonuses and delivery costs are not part of the actual amount paid fishermen for their fish. This interpretation leaves an opening for processors to pay lower prices for the fish, and make up for this low price by giving bonuses for services such as delivery or handling. HB 133 clarifies exactly what services and forms of payment are subject to these taxes.

HB 133 would take effect on January 1, 1994.

DEPARTMENT OF FISH AND GAME
POSITION PAPER

Bill No: HB 133
Sponsor: House Fisheries Committee
Division: Commercial Fisheries
Bill Title: "An Act amending the definition of
'value' for purposes of administration of
fisheries taxes; and providing for an
effective date."
Department Position: Neutral

This legislation would plug some loopholes in the administration of the fisheries business tax. This legislation has no fiscal impact upon the department. The department has no position for or against this legislation.

Commissioner's Signature

Sam Lawrence
for

Date:

3/16/93

Ray Gillespie
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February 16, 1993

Representative Carl Moses
Chairman, House Special Committee on Fisheries
Alaska State Capitol
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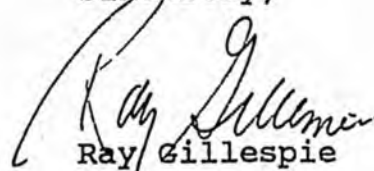
Re: House Bill 133

Dear Representative Moses:

On behalf of Cook Inlet Aquaculture Association, Prince William Sound Aquaculture Corporation, Northern Southeast Regional Aquaculture Association, and Southern Southeast Regional Aquaculture Association, I would like to express our complete support for House Bill 133.

This legislation will close loop-holes in the definition of "fisheries value." By closing the loop-holes, the incidents of tax avoidance or evasion in the collection of enhancement taxes will be minimized. This legislation is needed to give the Department of Revenue complete tools in its efforts to fully collect taxes derived from the self-imposed enhancement taxes used to support regional aquaculture programs.

Sincerely,


Ray Gillespie

fej

Sec. 43.75.290. Definitions. In this chapter(1) *[Repealed. § 7 ch 79 SLA 1986.]*(2) *[Repealed. § 38 ch 168 SLA 1990.]*

(3) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050(11);

(4) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

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

(6) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (9)(B) of this section when it is removed from the state;

(7) *[Repealed. § 7 ch 79 SLA 1986.]*(8) *[Repealed. § 7 ch 79 SLA 1986.]*

(9) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

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

(10) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(11) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrangement. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986; am § 38 ch 168 SLA 1990)

Effect of amendments. — The 1986 January 1, 1992, repealed those paragraphs (1), (7) and (8), and, effective amendment, effective July 1, 1986, added paragraphs.

Definition of "value" for raw fish tax.

(1) a petition is presented to the commissioner of commerce and economic development requesting termination of the salmon enhancement tax which is signed by at least 25 percent of the number of persons who voted under AS 43.76.015 in the election approving the salmon enhancement tax in the region;

(2) the commissioner of commerce and economic development determines that there are no outstanding loans to the qualified regional association under AS 16.10.510 that are secured by the tax;

(3) an election is held in accordance with AS 43.76.015; the ballot must ask the question whether the salmon enhancement tax for the region shall be terminated; the ballot must be worded so that a "yes" vote is for continuation of the salmon enhancement tax and a "no" vote is for termination of the salmon enhancement tax;

(4) a majority of the eligible interim-use permit and entry permit holders who vote in the election cast a ballot for the termination of the salmon enhancement tax; and

(5) the qualified regional association provides notice of the election in accordance with AS 43.76.015 within two months after receiving notice from the commissioner of commerce and economic development that a valid petition under (1) of this subsection has been received. (§ 2 ch 154 SLA 1980; am § 15 ch 117 SLA 1981; am §§ 4, 5 ch 33 SLA 1989)

Effect of amendments. — The 1989 amendment inserted the reference to "43.76.012" in subsection (a) and, in subsection (b), added present paragraph (2) and redesignated paragraphs (2) — (4) as paragraphs (3) — (5).

Sec. 43.76.025. Collection of tax and disposition of proceeds.

(a) A buyer who acquires fisheries resources that are subject to a salmon enhancement tax imposed by AS 43.76.010, 43.76.011, or 43.76.012 shall collect the salmon enhancement tax at the time of purchase, and shall remit the total salmon enhancement tax collected during each month to the department by the last day of the next month.

(b) A buyer who collects the salmon enhancement tax shall

(1) maintain records reflecting the region designated under AS 16.10.375 in which the fishery resource was caught; and

(2) report to the Department of Revenue by March 1 of each year the total value, as defined in AS 43.75.140, of the salmon caught in each region designated under AS 16.10.375 which the buyer has acquired during the preceding year.

(c) The salmon enhancement tax collected under AS 43.76.010 — 43.76.030 shall be deposited in the general fund. The legislature may make appropriations based on this revenue to the Department of Commerce and Economic Development for the purpose of providing financing for qualified regional associations. The legislature may base an appropriation for a qualified regional association operating within a