

**SB**

**3**

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 3

Revision Date: \_\_\_\_\_  
 Title: Antitrust Exemption for Fishermen  
 Sponsor: Senator Duncan  
 Requestor: Senator Duncan

Department Affected: Labor  
 BRU: Commissioner's Office  
 Component: Commissioner's Office

COMPONENT SERIAL NO. 340

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: 5 None

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

Prepared by: Arbe Williams, Director Phone: 465-5981  
 Division: Administrative Services Date: 1/23/95  
 Approved by Commissioner: Tom Cashen, Commissioner  
 Agency: Department of Labor Date: 1/23/95

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**SENATE COMMITTEE REPORT**  
**First Committee of Referr**

DATE: 1/16/95

FURTHER: Judiciary

Date of 5-Day Notice: 1-19-95  
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-3-95

Resources Committee considered SB 3

"An Act relating to an antitrust exemption for persons engaged in the fishing industry."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

same title

new title

House Bill:

technical change

new: SCR<sup>o</sup> \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS:	DP	DNP	NR	AM
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
Dept. of Labor	1/25/95	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**BILL NO:** Senate Bill No. 3

**DATE:** January 26, 1995

**TITLE:** Antitrust Exemption for Fishermen

**CONTACT:** Arbe Williams  
465-2700

Senate Bill No. 3 would allow fishers to form associations to negotiate fish prices. AS 16.20.280 provides that the Department of Labor serve as mediator of disputes between fishers and fish processors on the price to be paid for salmon. The department's experience has revealed that the inability of fishers to form such associations, due to current anti-trust laws, to negotiate with processors was a primary factor in the dispute.

This legislation would provide a mechanism to stabilize raw fish prices, thereby protecting Alaskan fishers and processors from the debilitating and extreme fluctuations in fish prices. A stable fishing industry will have a direct and positive effect on the Alaskan economy. It is only reasonable that Alaskan fishers and processors have the legal ability to protect themselves and this important resource from price setting by outside interests..

The Department of Labor supports Senate Bill No. 3.

APPROVED:

  
\_\_\_\_\_  
Tom Cashen, Commissioner

DATE: 1-26-95

**POSITION PAPER/Department of Labor**



Edward E. Crane  
*President*

2550 Denali Street, Suite 1201  
Anchorage, Alaska 99501  
(907) 276-2007

January 27, 1995

Senator Jim Duncan  
Alaska State Senate  
State Capitol, Room 119  
Juneau, Alaska 99801-1182

Dear Senator Duncan,

I have noted and read Senate Bill 3. In my view SB3 serves a relevant and highly significant purpose.

I have been directly or indirectly involved with individual producers of food and fiber, and with both formal and informal associations of such producers, for nearly 3 years. That includes almost continuous and intense involvement with producers and marketers of agricultural commodities of all kinds from 1965 through 1981.

As contrasted with manufacturers, an individual producer of food and fiber commodities is greatly disadvantaged by his or her isolated status within what may be a huge conformation of economic forces. The producer is further made vulnerable by the limited-life nature of most commodities and by the pressure to capture whatever value may exist on a timely basis.

There has probably been no more positive statutory force affecting commodities producers than the limited-antitrust exemptions in Federal, and most state, statutes. While a superficial glance may suggest they are merely the extension of privilege to a few, such exemptions are in actuality the cornerstones of the stability which is critical to any food production and distribution system and which provides immeasurable benefits to each of us as consumers.

Senator Jim Duncan  
January 27, 1995  
Page 2

Senate Bill 3 establishes and clarifies this important exemption for harvesters, producers, and marketers of Alaska's seafood resources. While it will solve no problems by itself, its enactment will provide significant opportunities for the creation of stabilizing forces which will benefit all of Alaska as well as seafood industry participants.

I would be most interested in knowing of any opportunities to express support for Senate Bill 3.

Very truly yours,



Edward E. Crane

EEC:dmv

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Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Senate Resources  
1-27-95 3:30pm  
1-25-95 3:37am  
SB3

Mary Pagenkopf

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

DIVISION OF ECONOMIC DEVELOPMENT

P.O. BOX 110804  
JUNEAU ALASKA 99811-0804  
PHONE (907) 465-2017

The Honorable Senator Jim Duncan  
State Capitol  
Juneau, Ak. 99811

**DCED comments on SB 3**

DCED supports passage of SB 3: "An Act relating to an anti-trust exemption for persons engaged in the fishing industry."

Currently, Alaska fishermen and processors cannot discuss price issues without violating anti-trust laws. This proposed legislation would help bring stability to the Alaska fishing industry and the communities dependent on this resource by allowing fishermen and processors to negotiate long-term price agreements.

Three years ago former Governor Hickel assigned DCED to head a Salmon Strategy Task Force to investigate the cause of salmon price declines. It was determined that increased world production of salmon had caused prices to decrease in recent years. Specifically, Alaska salmon has lost market share to increased farmed salmon production which is able to deliver to the marketplace a product that offers consistent supply, quality and price. A strategy to help recover market share was developed which included: expanded marketing efforts, improved consistency of quality, reduced costs of production and increased product options to consumers. While all these issues can not be addressed in a single piece of legislation, SB 3 is an important first step that offers the hope of stable pricing and supply necessary for food manufacturers to commit to new product development.

As part of its efforts to develop a price recovery strategy for salmon, DCED conducted a comparison study of Alaska and Canadian salmon prices. It was learned that a similar anti-trust exemption exists in Canada where long-term price contracts have helped keep Canadian pink salmon prices 113% higher and sockeye prices 60% higher than ex-vessel prices paid in Alaska.

While a federal anti-trust exemption may be necessary to fully remove liability, this is an important first step in a direction that will help the Alaska salmon industry to recover lost market share.

**BILL NO:** Senate Bill No. 3

**DATE:** February 23, 1995

**TITLE:** Antitrust Exemption for Fishermen

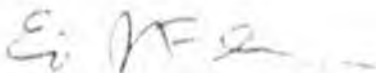
**CONTACT:** Dwight Perkins  
465-2700

Senate Bill No. 3 would allow fishers to form associations to negotiate fish prices. AS 16.10.280 provides that the Department of Labor serve as mediator of disputes between fishers and fish processors on the price to be paid for salmon. The department's experience has revealed that the inability of fishers to form associations to negotiate with processors has been a primary factor in such disputes as the 1991 Bristol Bay strike.

This legislation would provide a mechanism to stabilize raw fish prices, thereby protecting Alaskan fishers and processors from the debilitating and extreme fluctuations in fish prices. A stable fishing industry will have a direct and positive effect on the Alaskan economy. It is only reasonable that Alaskan fishers and processors have the legal ability to protect themselves and this important resource from price setting by outside interests.

The Department of Labor supports Senate Bill No. 3.

APPROVED:



DATE:

2/23/95

Tom Cashen, Commissioner

**POSITION PAPER/Department of Labor**

# BSFA

## Bering Sea Fishermen's Association



725 Christenson Drive  
Anchorage, Alaska 99501  
(800) 770-6519 (Within Alaska)  
(907) 279-6519  
FAX (907) 258-6888

*Serving western Alaska small boat fisheries since 1980*

January 24, 1995

The Honorable Jim Duncan  
Alaska State Senate  
State Capitol  
Juneau, Alaska 99801

Dear Senator Duncan:

The Bering Sea Fishermen's Association supports Senate Bill No. 3, "An Act relating to an antitrust exemption for persons engaged in the fishing industry", as positive legislation that will benefit commercial fishermen in western Alaska and statewide.

Western Alaska small boat fishermen, which BSFA represents, are engaged continually in a process of trying to develop and market fish products from their region. Their efforts involve species such as salmon, herring, and halibut.

By clarifying present law, SB 3 makes clear that commercial fishermen may join together to produce and market their catches, as well as bargain collectively with processors for better prices. In a region where there are few alternate sources of income, these activities are vital to the ability of western Alaska fishermen to strengthen their markets and achieve the best possible return from their seasonal fisheries.

Thank you for introducing SB 3. Please do not hesitate to contact our office if we can provide you with further information.

Yours truly,

A handwritten signature in cursive script that reads "Karl Ohls". The signature is written in dark ink and is positioned above the printed name and title.

Karl Ohls  
Fisheries Development Specialist

**SB 3, Antitrust exemption for fishermen:**

Those expected to testify at hearing, scheduled for 3:30 pm, Friday, 1/27/95:

Senator Jim Duncan (to testify from Sitka LJO. Located at 210 Lake Street.  
Phone: 747-6276

Ed Crane, CFAB (to testify from Anchorage CFAB office. Has been instructed to call 1-700-222-1000 at 3:25 pm, then stand by until asked to testify.)

Dorne Hawxhurst, Cordova District Fishermen United (to testify from CDFU office. Will call 1-800-478-7612 at 3:25 pm, then stand by until asked to testify. )

Jerry McCune, UFA

Donna Parker, Commerce and Economic Development

Rick Lauber, Pacific Seafood Processors Association

George Utermohle, Legal Services, will be at the hearing to answer questions.

Letters have been received Cordova District Fishermen United (Dorne Hawxhurst) and Bering Sea Fishermen's Association (Karl Ohls). These should have been distributed to the committee on Wednesday.

A position paper is expected today from Department of Labor, and will be distributed at the hearing.

# SENATOR JIM DUNCAN

ALASKA STATE LEGISLATURE

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Alaska State Senate

State Capitol • Room 119 • Juneau, Alaska 99801-1182 • (907) 467-4766 • Fax 465-4748

January 1995

## SPONSOR STATEMENT, SB 3:

### ANTITRUST EXEMPTION FOR COMMERCIAL FISHERMEN

Senator Jim Duncan

Senate Bill 3 will allow fishermen to form associations to collectively negotiate raw or processed fish prices with processors. It does not authorize processors to agree among themselves on the prices they will pay fishermen; it only covers collective bargaining between fishermen and a processor, or group of processors.

A state antitrust exemption is a first step to stabilizing Alaska's fishing industry. While this exemption applies only to state antitrust laws, it is necessary to gaining Congressional approval for a federal exemption, so that fishermen and processors could negotiate prices. Once the legislature has approved SB 3, the state, fishermen and processors would be in a position to request the federal exemption. The attitude toward a federal exemption may be favorable now that Alaska's congressional delegation is in the majority.

In order to permit collective bargaining, fishermen must be allowed to market and sell their fish as a group. Current state antitrust law does not mention whether fishermen could collectively sell their raw catch or fish products, although it permits them to form associations to catch and prepare their fish for market. SB 3 clarifies this ambiguity, making state law consistent with federal law, which expressly permits fishermen to collectively engage in more activities, including marketing their fish. The incongruities between current state and federal law make it possible for some fishermen's organizations to be in compliance with federal antitrust law, yet breaking state law, or be in compliance with state antitrust law and violating federal law.

State legislation such as this, and pursuit of a corresponding federal exemption were recommended in the 1993 Alaska attorney general's report on the Bristol Bay sockeye salmon industry. The fishing industry is Alaska's largest private employer, and affects every segment of our economy, from small coastal villages to the state's general fund. Collective bargaining between fishermen and processors will help stabilize commercial fishing prices, bolstering local and state economies. Stable raw fish prices will promote stable consumer prices for processed seafood products, which means greater sales of Alaska seafood.

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130 Seward Street, Suite 409  
Juneau, Alaska 99801-2103

MEMORANDUM

January 20, 1995

**SUBJECT:** SB 3 Summary (Work Order No. 9-LS0043VA)  
**TO:** Senator Jim Duncan  
**FROM:** George Utermohle *GU*  
Legislative Counsel

This memorandum summarizes SB 3, An Act relating to an antitrust exemption for persons engaged in the fishing industry.

SB 3 proposes two significant changes to the state antitrust law.

First, SB 3 eliminates an ambiguity in state law as to whether commercial fishermen can collectively market their fish and fish products and makes the state antitrust exemption for fishermen compatible with the analogous federal exemption. See, section 1, SB 3.

When the state antitrust law was enacted in the mid-1970's, the legislature created an exemption from the law so that fishermen could agree among themselves to collectively engage in the harvesting and processing of fish. AS 45.50.572(c). Unfortunately the law does not mention whether fishermen could collectively market their fish and fish products. By expressly allowing fishermen to engage in collective harvesting and processing activities and not mentioning marketing activities, it must be presumed that the law precludes collective marketing activities by fishermen. SB 3 amends the state antitrust exemption for fishermen so that fishermen are clearly allowed to collectively engage in the marketing of their fish and fish products.

The federal antitrust law already contains an exemption that permits fishermen to collectively engage in catching, processing, and marketing their fish and fish products. 15 U.S.C. 521. But the federal law also places specific restrictions on the legal structure of the cooperatives that fishermen may form. SB 3 rewrites the state exemption so that it directly parallels the provisions of the federal law.

Thus SB 3 expands the kinds of activities that fishermen may engage in without violating the state antitrust law and substantially eases the burden on fishermen to simultaneously comply with the state antitrust law and the federal antitrust law.

Research

Senator Jim Ducan

January 20, 1995

Page 2

Second, SB 3 creates a new exemption from the state antitrust law to allow fishermen and processors to collectively agree on the price that fishermen would receive for their fish and on the price that processors would accept for processed fish. See, section 2, SB 3. The exemption would allow fishermen to enter into price agreements with a processor or a group of processors. SB 3 does not allow groups of processors to agree among themselves on the price that they would pay fishermen for fish or they would charge for their product. Groups of processors may agree on prices, only if fishermen participate in the agreement and are a party to the agreement.

Once SB 3 is enacted and the state antitrust law provides an exemption for collective agreements between fishermen and processors, the state, fishermen, and processors can approach the Congress for a comparable exemption from the federal antitrust laws. The state exemption can serve as a model for the federal exemption. In the mean time, it would be very risky for fishermen and processors to rely solely upon the state antitrust exemption as authority to engage in collective price setting. Because the Alaska fishing and fish processing industries significantly affect interstate and international commerce, the federal antitrust laws are certain to apply to, and thus prohibit, any price agreements between fishermen and processors. Fishermen and processors should wait for the Congress to enact the appropriate exemption from the federal antitrust law before attempting any such agreements.

If I may be of further assistance, please advise.

GU glc

95-076 glc