

SB

312

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 5, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/7/98

The FINANCE Committee considered:

SB 312

SENATE BILL NO. 312

FOOD/SEAFOOD/ORGANIC FOOD

“An Act relating to animals, to food, to pest control, and to the Alaska Food, Drug and Cosmetic Act; and providing for an effective date.”

recommends it be replaced the same title
 with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) DNR zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Tom Theriault</i> Theriault	x			
<i>Tom Martin</i> martin	x			
<i>Mark Mulder</i> mulder			x	
<i>Jim Kohring</i> Kohring	x			
<i>J. Davies</i> J. Davies	x			
<i>Ben Gussendat</i> Gussendat			x	
<i>Carl E. Moses</i> Moses			x	
<i>g. Davis</i> g. Davis	x			
<i>Kelly</i> Kelly	x			

CHAIR'S SIGNATURE: *Tom Theriault*
 Theriault

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB312

Revision Date: <u>7-May-98</u>	Dept Affected: <u>Natural Resources</u>
Title: <u>An Act relating to animals, to food, to pest control, and to the Alaska Food, Drug and Cosmetic act...</u>	BRU: <u>Agricultural Development</u>
Sponsor: <u>Sen. Wilkin by request</u>	Component: <u>Agricultural Development</u>
Requestor: <u>(H)FIN</u>	Component Serial No. <u>455</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ none

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)*

Transfers those portions of Title 3 that are enforced by DEC to Title 17.

Transfers from Title 3 those portions of the organic food statutes that have been dealt with by DEC to Title 17.

Title 3 Agriculture organic food responsibilities are clarified.

Prepared by: <u>Robert Wells, Director</u>	Phone: <u>745-7200</u>
Division: <u>Agriculture</u>	Date: <u>7-May-98</u>
Approved by Commissioner: <u>[Signature]</u>	Date: <u>5-7-98</u>
Agency: <u>Natural Resources</u>	

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 2
 Bill Version: SB312
 (S) Publish Date: 4/8/98

Revision Date: _____ Dept Affected: Natural Resources
 Title: FOOD/SEAFOOD/ORGANIC FOOD BRU: Agricultural Development
 Component: Agricultural Development
 Sponsor: Senator Wilken by Request
 Requestor: (S)L&C Component Serial No. #455

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

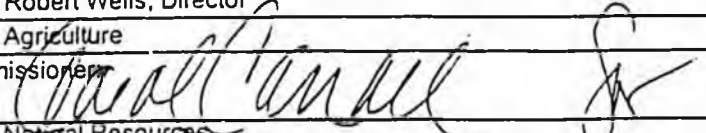
FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ none

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
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)

Removes those portions of Title 3 that have recently been enforced by DEC.
 Cuts the reindeer field kill inspection program and funding authorization.
 Removes from Title 3 those portions of the organic food statutes that have been dealt with by DEC. Takes DEC out of Title 3, organic.
 Rewords Title 3 Agriculture organic food responsibilities (need to define processed.)
 Adds Title 3 organic foods to Title 17.

Prepared by: Robert Wells, Director Phone: 745-7200
 Division: Agriculture Date: 10-Mar-98
 Approved by Commissioner:  Date: 3/10/98
 Agency: Natural Resources

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FISCAL NOTE

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

No. 1
Bill Version: SB 312
(S) Publish Date: 4/8/98

Revision Date (Note if correction) 09-Mar-98 Dept. Affected Environmental Conservation
Title Food, Drug and Cosmetic Act BRU Environmental Health
Component Seafood and Sanitation
Sponsor Senator Wilken
Requester Senate Labor & Commerce Component Serial No. 1936

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Mat	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 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)

This legislation consolidates all food-related statutes into the Food, Drug and Cosmetic Act (AS 17.20). There is no fiscal impact.

Prepared by Janice Adair, Director Phone 269-7644
Division Environmental Health Date 3/9/98
Approved by Commissioner [Signature] Date 3/9/98
Agency Department of Environmental Conservation

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SB 312

An Act relating to domestic animals, to food, to pest control, and to the Alaska Food, Drug and Cosmetic Act, and providing for an effective date.

Sectional Analysis

SB 312 consolidates statutory provisions related to processed food in AS 17.20, the Alaska Food, Drug and Cosmetic Act. Currently, statutory provisions relating to food processing and food service are in Title 3, Animals and Agriculture, and in Title 17, Food and Drugs.

In addition, this legislation repeals some obsolete statutes relating to rabies, standards for bread and flour, and a pest control fund. Other minor changes are made to ensure Alaska's food laws comply with federal food laws or to resolve conflicts between different aspects of Alaska's food statutes. Finally, the legislation proposes to repeal language requiring the establishment of a state-funded field kill inspection program for reindeer.

The end result will find all food processing and service statutes in the Alaska Food, Drug and Cosmetic Act, making it easier for businesses that must follow these laws. It does not increase DEC's food processing authority at all.

Section 1. This amendment clarifies the Department of Environmental Conservation's authority to establish quarantines to eradicate diseases in livestock and brings this provision in statute in line with AS 03.45, Diseased Livestock.

Section 2. This section removes food-related duties of the commissioner of Environmental Conservation from Title 3, Animals and Agriculture. Some of these duties are moved to Title 17 while others are deleted.

- Page 1, lines 9 - 14 and page 2, lines 1 - 8 will be moved to Title 17 in Section 10 (page 6, lines 4 - 10) of this bill, except for authority to establish standards of identity and composition of food (page 1, lines 12 - 13). This provision already exists in current law at AS 17.20.010. Page 2, lines 17 - 28 will be consolidated and moved to Title 17 in Section 10 (page 6, lines 18 - 21).
- The language dealing with a field kill inspection program for reindeer at state expense on page 2, lines 29 - 31 and page 2, lines 1 - 2, is proposed for deletion.

Section 3. This amends the inspection requirements in Title 3 by removing all references to fish, aquatic farm products, and aquatic farm sites. These requirements are moved to Title 17 in Sections 14 and 17 of this bill.

Section 4. This amends the enforcement provisions of Title 3 by deleting all references to fisheries products. Title 17 already has a similar provision in existing law at AS 17.20.230.

Sections 5 and 6. Under current law, both DEC and DNR have the responsibility for ensuring that organic food is properly labeled. These sections of the bill delete the organic food statutes that are within the purview of DEC. They are reestablished in Title 17 by Section 9 of this bill. The statutory authorities for DNR remain in Title 3.

Section 7. This is a conforming amendment changing cross-references to the new cross-references in Title 17.

Section 8. This is also a conforming amendment changing the cross-references to Title 17.

Section 9. This section reinstates DEC's organic food authorities, which are deleted in Sections 5 and 6. This language is identical to existing law that can be found at AS 03.58.

Section 10. This is a new section in Title 17. It consists of language currently in Title 3, slightly reworded for context.

- The introductory paragraph (page 6, lines 4 - 6) is the same language currently found at AS 03.05.011.
- Page 6, lines 7 - 10 corresponds with the language deleted in Section 2 of the bill and provides the authority to inspect food products offered to the public as well as authority to set standards of sanitation and handling methods for

all phases of food production and sale.

- Page 6, line 11 is currently found at AS 03.05.011(a)(3), proposed for repeal in Section 26 of this bill. It provides the authority to establish food labeling requirements.
- Page 6, line 12 repeats the current AS 03.05.011(a)(2). The control and eradication of pests is critical for proper management of animals and agriculture as well as food products, therefore this language appears in both statutes.
- Page 6, lines 13 - 17 can be found in current law at AS 03.05.011(a)(8). (AS 03.05.011(a)(8) is repealed in Section 26.)
- Page 6, lines 18 - 21 is a restatement of language proposed for deletion in Section 2. It establishes the authority for standards for milk and milk products. In addition, this section will allow DEC to use the most current version of the U.S. Food and Drug Administration's Pasteurized Milk Ordinance (PMO) without the expense of the regulatory process to update the reference. Milk may not be sold in interstate commerce which includes sales to the military and other institutions that receive federal funding such as schools unless it meets the standards of the PMO. Dairies must follow the most recent version of the PMO by federal law, therefore this change will negate the possibility of the state using an older standard while the federal government uses a newer one, which could cause problems for our dairy producers.
- Page 6, lines 22 - 31 can be found in current law at AS 03.05.011(a)(9) and (10). (Both of these statutes are proposed for deletion in Section 26.) This language provides the authority to establish requirements for aquatic farms and aquatic farm products. In addition, subsection 7 allows the department to use the most current version of the National Shellfish Sanitation Program (NSSP) published by the Food and Drug Administration. Compliance with the NSSP is required before shellfish may be sold on the interstate market. This amendment will ensure compliance between the state's requirements and those of the federal government.
- Page 7, lines 1 - 2 can be found in current law at AS 03.05.011(a)(4), and provides the department with the ability to conduct tests or analyses or hold hearings to determine whether a stop order or quarantine needs to be issued. Because this is critical for proper management of animals and agriculture as well as food products, this language will appear in both statutes.

- Page 7, lines 3 - 4 is a restatement of language proposed for deletion in Section 2 of this bill. It provides the department with authority regarding quarantined or embargoed food products. The language has been updated to reflect the department's current practice of issuing notices of recalls and or warnings regarding quarantined or embargoed food products.
- Page 7, line 5 is taken from AS 03.05.011(5). It will continue to appear in Title 3, and is simply a statement of cooperation with the federal government and other state agencies.

Section 11. This is currently AS 03.05.035 (which will be deleted in Section 26 of this bill.) No changes are proposed to the existing language.

Section 12. Page 7, lines 18 - 31, and page 8, line 1 are in current law at AS 03.05.025 (which will be repealed in Section 26 of this bill). There is one minor change to the current language that will amend the state's current definition of "A critical control point" so it is the same as the federal definition. A comparison is attached.

Section 13. This is the same as current law that can be found at AS 03.05.026 and AS 03.05.085 (both are repealed in Section 26). This language is the same as existing law with only conforming amendments changing cross references to the new sections in Title 17.

Section 14. This reestablishes the inspection authority for "aquatic farms" in Title 17. In current law, this authority is in Title 3. (It is proposed for deletion from that title in Section 3 of this bill.)

Section 15. This is a conforming amendment to reflect the new sections in Title 17.

Section 16. This is a conforming amendment to reflect the new sections in Title 17.

Section 17. This relates to Section 14 and also eliminates statute language that is out of sync with current practice.

- Page 9, lines 16 - 23 is a companion amendment to that made in Section 14 adding "aquatic farms" to the inspection authority in Title 17. The current authority is in Title 3. (It is proposed for deletion in Section 3 of this bill.)
- Page 9, line 25 would delete the current requirement that DEC pay for food samples obtained for testing purpose to ensure the food is safe for consumption. The department does not pay for samples. Food processors

and other food establishments are equally interested in their products' safety and provide samples to the department for testing when necessary.

This deletion also impacts the Department of Health and Social Services by deleting the same requirement for that agency as it relates to testing drugs for safety.

Section 18. This is a conforming amendment.

Section 19. This is currently AS 03.05.090, and is being repeated in Title 17 to conform to the transfer of other food statutes from Title 3. It has been modernized to include "recalls" and adding "criminal negligence" as the state of mind necessary to find a violation of the statutes. ("Criminal negligence" is defined at AS 11.81.900(a)(4) as "when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.")

Section 20. This is a conforming amendment.

Section 21. This is a conforming amendment.

Section 22. This is a conforming amendment.

Section 23. This is a conforming amendment.

Section 24. Currently, AS 03.04.100 has a different definition of "aquatic farm" than that found in AS 17.20.370. Section 25 of this bill moves the definition in Title 3 to Title 17. Therefore this section amends AS 17.20.370 to avoid conflicting definitions. The substance of the law is not changed.

Section 25. These definitions are moved from AS 03.05.100(2). (AS 03.05.100(2) is repealed in Section 26.)

Section 26. This is the repealer section. Some statutes are being repealed in Title 3 and readopted in Title 17, some are repealed because they already exist in Title 17, and others are being repealed completely. Please see the following breakdown:

Repealed and moved, or already in Title 17:
AS 03.05.011(a)(3), Powers of the Commissioner
AS 03.05.011(a)(7), Powers of the Commissioner
AS 03.05.011(a)(8), Powers of the Commissioner

AS 03.05.011(a)(9), Powers of the Commissioner
AS 03.05.011(a)(10), Powers of the Commissioner
AS 03.05.025, Seafood Permits
AS 03.05.026, Seafood Quality Standards
AS 03.05.035, Sale and Labeling of Frozen Food
AS 03.05.085, Seafood Processing Research
AS 03.05.100(2), Definition of Aquatic Farm and Aquatic Farm Products
AS 17.05.010, Sale of Unwholesome Provisions Prohibited
AS 17.05.020, Adulteration Prohibited

Repealed completely:

AS 03.05.070, Rabies (rabies control powers of the Department of Health and Social Services, coupled with the animal control powers of local governments, will continue)

AS 03.15.020, Purpose of appropriations (obsolete: this relates to appropriations from the Agriculture Pest and Disease Control Fund, which was repealed in 1968)

AS 17.05.050, Re-serving Prohibited (obsolete: safe re-service should be allowed.)

AS 17.07, Flour and Bread Standards (obsolete: currently regulated by the FDA; the State has authority to implement similar regulations, if necessary, under AS 17.20.010)

AS 17.20.210, Reimbursement for Expenses (obsolete: conflicts with procurement procedures promulgated by the Department of Administration)

AS 17.20.310, Penalties (obsolete: currently used language is in AS 03.05.090, which will be moved to Title 17 by Section 19 of the bill)

Section 27. This is standard language that allows any permits, regulations, embargoes, etc. done under current law to remain in effect despite the changes contained in this legislation.

Section 28. This is the effective date clause: July 1, 1998.