

SB

115

SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT

SB 115. Repealing Certain Fish Price Requirements

I introduced SB 115 at the request of commercial fishermen who feel the current statutes mandating the recording and display of the purchase prices for salmon at the time of delivery have failed to achieve their original purpose. Moreover, the effect of these requirements have further confused the contractual obligations between harvesters and processors.

Initially, many fishermen were concerned that a whole fishing season could pass before they were notified of the actual price paid on delivered catches. The fear was that the situation could allow pricing practices that were unfair to the harvesters. The 1992 enactment of AS 16.05.690 (c) and AS 16.10.277 requires that a fisherman's fish ticket information record the price/lb. paid for each salmon species at the time of delivery and that these prices are posted at each delivery site.

In actuality, it is difficult for processors to post firm prices until well into the season without being exposed to serious business risks. This is primarily because the uncertainties of harvest volumes along with the inherent volatility of salmon markets. As a consequence, the price posting for each species was usually at an absolute minimum until wholesale market prices could be determined with some certainty. The practical effect then was that the laws only established minimum prices from which fishermen have to negotiate up from. They also raised a legal question about the contractual nature of fish tickets and whether both parties could be bound to the prices recorded.

Despite the good intentions when these laws were first enacted, they have actually worsened the problem for many fishermen. For most processors, price posting is problematic and burdensome. I believe SB 115 corrects a development that was neither contemplated nor desired for everyone's benefit.



UNITED FISHERMEN OF ALASKA

February 26, 1997

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

The Honorable Jerry Mackie
Alaska State Senate
State Capitol Building, Room 427
Juneau, Alaska 99801-1182

Dear Senator Mackie:

United Fishermen of Alaska is asking that the Legislature repeal the statutes mandating that fish tickets for salmon reflect the current price for the salmon. UFA has received many requests from around Alaska to have this law repealed.

These provisions are contained in the Alaska Statutes:

AS 16.05.690 (c) A fish ticket recording the purchase of salmon must include the current price paid per pound for each species of salmon purchased.

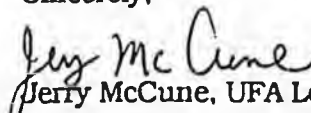
AS 16.10.277 Posting of Current Salmon Price. A fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15, shall prominently post the current price being paid for salmon at each location where salmon are purchased.

Having the price of the salmon on the fish ticket seems like a good idea but, in today's fisheries, the price on the fishing grounds is always changing. A fish ticket is a binding contract between the processor and harvester. However, the price on the tickets do not necessarily reflect the final price. This leaves the possibility that a dishonest buyer could claim a preliminary price as the "final" price because once a fisherman signs the ticket, it is a binding contract.

Many processors do not know the final price before or during the season. Therefore, the law is unenforceable and, frankly, not practical. For example, forcing the processors to post a price at five cents per pound for Bristol Bay sockeye before they know the wholesale price. Fishermen feel that forcing the processor to post prices puts both the processor and the harvester in a non-competitive situation.

The UFA Board of Directors voted unanimously to ask for the repeal of this law. Therefore, we would greatly appreciate your help in sponsoring a bill to repeal this law and to resolve what is now a confusing and unworkable situation.

Sincerely,


Jerry McCune, UFA Lobbyist
and Immediate Past President

MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association
Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association
Northern Southeast Regional Aquaculture Association • Northwest Seiners Association • Peninsula Marketing Association • Petersburg Vessel Owners Association
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative • Southeast Alaska Seiners Association
Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters

Sec. 16.05.680. Unlawful purchases. It is unlawful for a person, or an agent or representative of the person,

(1) to employ, in the harvesting, transporting or purchasing of fish, a fisherman who neither is licensed under AS 16.05.480 nor is the holder of a permit issued under AS 16.43,

(2) to purchase fish from a fisherman who neither is the holder of a limited entry, interim-use, or landing permit issued under AS 16.43, nor is exempt under AS 16.05.660, or

(3) to purchase fish from an association other than one to which a permit has been issued under AS 16.05.662. (§ 10 art III ch 94 SLA 1959; am § 2 ch 96 SLA 1963; am § 2 ch 73 SLA 1970; am § 11 ch 105 SLA 1977; am § 2 ch 145 SLA 1984)

Cross references. — For additional penalty provisions related to unlawful purchase of fish, see AS 16.10.265.

Sec. 16.05.685. Processing on commercial king crab fishing vessels. (a) Crab of any species may not be processed on a commercial crab fishing vessel unless

(1) the vessel remains within one registration area from the time the crab is caught to the time of dock delivery;

(2) the operator of the vessel notifies the department of proposed changes in location before moving to another registration area; and

(3) the operator of the vessel provides quarters for inspectors of the department who may inspect the crab catch on the vessel at any time.

(b) The restrictions set out in (a) of this section do not apply to processing aboard the fishing vessel for and as donations to charity, for consumption aboard the vessel, or for dockside retail sales from the vessel.

(c) In this section,

(1) "process" means to butcher, cook, chill, or freeze crab for commercial use;

(2) "registration area" means a specific king crab registration area as designated by regulation of the Board of Fisheries. (§ 2 ch 70 SLA 1974; am § 12 ch 206 SLA 1975; am § 17 ch 132 SLA 1984)

Sec. 16.05.690. Record of purchases. (a) Each buyer of fish shall keep a record of each purchase showing the name or number of the vessel from which the catch involved is taken, the date of landing, vessel license number, pounds purchased of each species, number of each species, and where possible, statistical area in which the fish were taken, and other information the department requires. Records may be kept on forms provided by the department. Each person charged with keeping the records shall report them to the department in accordance with regulations adopted by it.

(b) A person may not knowingly enter false information on a fish ticket or supply false information to a person who is recording information on a fish ticket.

(c) A fish ticket recording the purchase of salmon must include the current price paid per pound for each species of salmon purchased. (§ 10 art III ch 94 SLA 1959; am § 1 ch 84 SLA 1987; am § 1 ch 78 SLA 1992)

Effect of amendments. — The 1992 amendment, effective September 14, 1992, added subsection (c).

Sec. 16.05.700. Penalty for violation of AS 16.05.680 and 16.05.690. [Repealed, § 25 ch 127 1974.]

Sec. 16.05.710. Suspension of commercial license and entry permit. (a) Upon the conviction of a person for a misdemeanor or felony violation of a commercial fishing law of this state, the court, in addition to other penalties imposed by law

NOTES TO DECISIONS

Cited in *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 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. 16.10.277. Posting of current salmon price. A fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15 shall prominently post the current price being paid for salmon at each location where salmon are purchased. (§ 2 ch 78 SLA 1992)

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 estimated by the Department of Fish and Game on the basis of information available to the department, 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; am § 27 ch 132 SLA 1984)

Revisor's notes. — Enacted as AS 16.10.290. Renumbered in 1970.

Sec. 16.10.290. Security for collection of wages and payment for raw fish. [Repealed, § 4, E.O. No. 85 (1993).]

Sec. 16.10.291. Exemption from bonding requirements. [Renumbered as AS 16.10.293(a).]

Secs. 16.10.292, 16.10.293. Filing evidence of compliance; exemptions from bonding requirement. [Repealed, § 4, E.O. No. 85 (1993).]

Sec. 16.10.294. Administrative and judicial orders. (a) [Repealed, § 4, E.O. No. 85 (1993).]

(b) [Repealed, § 4, E.O. No. 85 (1993).]

(c) [Repealed, § 4, E.O. No. 85 (1993).]

(d) [Repealed, § 4, E.O. No. 85 (1993).]

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of AS 16.10.270 — 16.10.280, 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 AS 16.10.265 — 16.10.296 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 AS 16.10.265 — 16.10.296 may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977; am E.O. No. 85 § 4 (1993); am §§ 15, 16 ch 23 SLA 1995)

Effect of amendments. — The 1993 amendment, effective July 1, 1993, repealed subsections (a)-(d). section reference substitutions in subsections (f) and (g).

The 1995 amendment, effective May 11, 1995, made