

HB

309

Alaska State Legislature

Session
State Capitol Building, Room 418
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax 9907) 269-0249

Chair, House Special Committee
on Economic Development, Trade
and Tourism


Chair, Joint House and Senate
Administrative Regulation and
Review Committee

Member
Resources Committee
Rules Committee

Representative Lesil McGuire *House District 17*

MEMORANDUM

TO: Representative Drew Scalzi, Co-Chair, House Resources Committee
Representative Beverley Masek, Co-Chair, House Resources Committee

FROM: Representative Lesil McGuire 

DATE: February 28, 2002

RE: HB 390
ASMI Salmon Marketing

I respectfully request that HB 390 be scheduled for a hearing in the House Resources Committee.

Attached are the following back up:

1. Sponsor Statement
2. HB 390
3. Chapter 51. Alaska Seafood Marketing Institute
AS 16.51.100
4. Article 2. Salmon Marketing Tax
AS 43.76.110 – 130

If you have any questions please feel free to contact me personally, or my staff Sue Stancliff at ext. #4695.

under Article I, Section 10, of the Constitution of the United States. (§ 2 ch 162 SLA 1962; am §§ 1 — 3 ch 50 SLA 1969)

Revisor's notes. — To correct a manifest error in ch. 50, SLA 1969, and make the second paragraph of Article IV consistent with other provisions of that Act, in 1969 the phrase "states of California, Oregon, and Washington" in that paragraph was changed to read "compacting states."

NOTES TO DECISIONS

Construction with other statutes. — Because the salmon waste law is both more recent and more specific to the salmon resource than the Pacific Marine Fisheries Compact, its provisions control where the statutes conflict. *O'Callaghan v. Rue*, 996 P.2d 88 (Alaska 2000).

Sec. 16.45.030. Alaska representatives. In furtherance of the compact provisions, there are three members of the commission from the State of Alaska, appointed by the governor and confirmed by the legislature in joint session. One commissioner must be the administrative or other officer of the Alaska Department of Fish and Game charged with the conservation of the state's marine fisheries resource; another commissioner must be a member of the legislature of this state who is a member of the committee on resources; and another member must be a citizen of this state who has a wide knowledge of and interest in the marine fisheries problem. (§ 3 ch 162 SLA 1962)

Sec. 16.45.040. Terms of commissioners. The term of a commissioner is four years. A commissioner holds office until a successor is appointed and qualified, but the successor's term expires four years from the legal date of expiration of the term of the predecessor. A commissioner may be removed from office by the governor upon charges and after a hearing. The term of a commissioner who ceases to hold the qualifications required ends and a successor may be appointed. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term in the same manner as for a full term appointment. (§ 4 ch 162 SLA 1962)

Chapter 50. Guides and Outfitters.

[Repealed, § 4 ch 17 SLA 1973. For current law, see AS 08.54.]

Chapter 51. Alaska Seafood Marketing Institute.

Section

- 10. Alaska Seafood Marketing Institute established
- 20. Board of directors
- 30. Term of office
- 40. Removal and vacancies
- 50. Quorum
- 60. Compensation of board members
- 70. Meetings
- 80. Employment of personnel
- 90. Powers of board
- 95. Executive Budget Act
- 100. Duties of board

Section

- 110. Prohibited promotions
- 120. Seafood marketing assessment
- 130. Termination of the seafood marketing assessment
- 140. Procedures for an election to approve or terminate a seafood marketing assessment
- 150. Determination of value
- 160. Collection of assessments and disposition of proceeds
- 170. Enforcement of assessments
- 180. Definitions

Sec. 16.51.010. Alaska Seafood Marketing Institute established. There is established the Alaska Seafood Marketing Institute. The institute is a public corporation of the state. It is an instrumentality of the state in the Department of Community and Economic Development, but has a legal existence independent of and separate from the state. Exercise by the institute of the powers conferred by this chapter is an essential governmental function of the state. (§ 3 ch 106 SLA 1981)

Revisor's notes. — In 1999, "Department of Commerce and Economic Development" was changed to "Department of Community and Economic Development" in this section in accordance with § 88, ch. 58, SLA 1999.

Cross references. — For legislative findings in connection with the enactment of this chapter, see § 1, ch. 106, SLA 1981 in the Temporary and Special Acts.

Sec. 16.51.020. Board of directors. (a) The governing body of the institute is a board of directors. The board consists of 25 voting members appointed by the governor. In making appointments to the board, the governor shall consider, but need not appoint, nominees presented by persons engaged in fish processing, the financing of fish processing, or commercial fishing.

(b) Twelve members of the board shall be seafood processors: eight of the seafood processors must have an annual payroll in the state of more than \$2,500,000; four of the seafood processors must have an annual payroll in the state of \$50,000 — \$2,500,000. Twelve members of the board must be engaged in commercial fishing. The governor, to the extent practicable, shall appoint as commercial fishing members of the board persons engaged in commercial fishing in a fishery management region of the state in the same proportion that the region contributes, or is expected to contribute during the next year, to the total salmon marketing tax collected under AS 43.76.110 — 43.76.130. One member of the board shall be a lay person selected by the governor.

(c) The board shall annually elect a chairman and other necessary officers from among its members. (§ 3 ch 106 SLA 1981; am §§ 1, 2 ch 55 SLA 1993)

Delayed amendment of subsection (b). — Under § 3, ch. 55, SLA 1993, effective under § 12, ch. 55, SLA 1993 upon the repeal of AS 43.76.110 — 43.76.130, subsection (b) is amended by deleting the next to last sentence.

Cross references. — For transitional provisions relating to the 1993 amendments, see § 8(a) and (b), ch. 55, SLA 1993 in the Temporary and Special Acts.

Effect of amendments. — The 1993 amendment, effective September 1, 1993, in subsection (a), substituted "25 voting members" for "18 voting members"; in subsection (b), substituted "more than \$2,500,000" for "\$1,000,000 or more," "\$50,000 — \$2,500,000" for "\$50,000 — \$1,000,000," and "Twelve members" for "Five members," and added the present third sentence.

Sec. 16.51.030. Term of office. The members of the board appointed by the governor under AS 16.51.020 serve three-year terms and may be reappointed. Terms shall be staggered. An appointee to fill a vacancy shall hold office for the balance of the term for which the appointee's predecessor on the board was appointed. (§ 3 ch 106 SLA 1981)

Sec. 16.51.040. Removal and vacancies. The members of the board appointed by the governor under AS 16.51.020 serve at the governor's pleasure. A vacancy on the board occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. (§ 3 ch 106 SLA 1981)

Sec. 16.51.050. Quorum. Fourteen members of the board appointed under AS 16.51.020 constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 106 SLA 1981; am § 4 ch 55 SLA 1993)

Effect of amendments. — The 1993 amendment, effective September 1, 1993, substituted "fourteen members" for "ten members."

Sec. 16.51.060. Compensation of board members. Board members receive no salary, but are entitled to per diem and travel expenses authorized by law for other state boards and commissions under AS 39.20.180. (§ 3 ch 106 SLA 1981)

Sec. 16.51.070. Meetings. The board shall meet at least once a year. A meeting of the board shall occur at the call of the chairman, or upon the written request of two members of the board. (§ 3 ch 106 SLA 1981)

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Sec. 16.51.080. Employment of personnel. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25. (§ 3 ch 106 SLA 1981)

Sec. 16.51.090. Powers of board. In carrying out the powers of the institute, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the institute;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) cooperate with a public or private board, organization, or agency engaged in work or activities similar to the work or activities of the institute, including entering into contracts for joint programs of consumer education, sales promotion, quality control, advertising, and research in the production, processing, or distribution of seafood;
- (6) conduct, or contract for, scientific research to develop and discover health, dietetic, or other uses of seafood harvested and processed in the state;
- (7) receive contributions of money from persons;
- (8) establish offices in the state and otherwise incur expenses incidental to the performance of its duties;
- (9) appear on behalf of the institute before boards, commissions, departments, or other agencies of municipal, state, or federal government;
- (10) acquire, hold, lease, sell, or otherwise dispose of property, but such property is limited to that which is necessary to the administrative functioning of the office of the institute;
- (11) establish and maintain one or more bank accounts for the transaction of the institute's business;
- (12) prepare market research and product development plans for the promotion of any species of seafood and their by-products that may be harvested in the state and processed for sale;
- (13) establish committees related to the marketing of salmon and salmon products; the board shall, to the extent practicable, appoint equal numbers of seafood processors and persons engaged in commercial fishing to the committees. (§ 3 ch 106 SLA 1981; am § 5 ch 55 SLA 1993)

Effect of amendments. — The 1993 amendment, effective September 1, 1993, added paragraph (13).

Sec. 16.51.095. Executive Budget Act. The operating budget of the institute shall be prepared and submitted in accordance with AS 37.07 (Executive Budget Act). (§ 3 ch 106 SLA 1981)

Sec. 16.51.100. Duties of board. The board shall

- (1) conduct programs of education, research, advertising, or sales promotion designed to accomplish the purposes of this chapter;
- (2) ~~promote all species of seafood and their by-products that are harvested in the state and processed for sale;~~
- (3) develop market-oriented quality specifications for Alaska seafoods to be used in developing a high quality image for Alaska seafood in domestic and world markets, and adopt and distribute recommendations regarding the handling of seafood from the moment of capture to final distribution;
- (4) prepare market research and product development plans for the promotion of all species of seafood and their by-products that are harvested in the state and processed for sale;

(5) submit an annual report to the governor describing the activities of the institute and notify the legislature that the report is available;

(6) develop marketing programs based on the "inspection" and "premium quality" seals designed under AS 17.20.066 and use the seals in advertising and promotion efforts of the institute;

(7) collect, organize, distribute, and make available to the public information on prices paid and market conditions for raw salmon and salmon products and provide this information on a regular and timely basis to all salmon fishermen who hold permits under AS 16.43 and to all nonprofit salmon enhancement organizations that hold a permit under AS 16.10.400;

(8) cooperate with commercial salmon fishermen, fishermen's organizations, seafood processors, the Alaska Fisheries Development Foundation, the Fisheries Industrial Technology Center, state and federal agencies, and other relevant persons and entities to investigate market reception to new salmon product forms and develop commodity standards and future markets for salmon products;

(9) establish a salmon marketing committee to assist and advise the board in administering the domestic salmon marketing program that is funded through the tax collected under AS 43.76.110 — 43.76.130; the committee shall consist of seven persons selected by the board, as follows:

(A) four persons shall be engaged in commercial salmon fishing and hold salmon permits under AS 16.43, of whom

(i) one person shall be a member of the board of directors of the institute; and

(ii) three persons shall be Alaska residents from different salmon administrative areas established by the Alaska Commercial Fisheries Entry Commission; and

(B) three persons shall be engaged in processing of salmon, of whom

(i) one person shall be a member of the board of directors of the institute;

(ii) one person shall be a salmon processor who is not on the board of directors of the institute and who has an annual payroll in the state of more than \$2,500,000; and

(iii) one person shall be a salmon processor who is not on the board of directors of the institute and who has an annual payroll in the state of \$50,000 — \$2,500,000. (§ 3 ch 106 SLA 1981; am § 5 ch 57 SLA 1982; am § 6 ch 55 SLA 1993; am § 24 ch 21 SLA 1995; am § 8 ch 72 SLA 1998)

Delayed repeal of paragraphs (7)-(9). — Under § 10, ch. 55, SLA 1993, as amended by § 2, ch. 111, SLA 1998, effective June 30, 2004, paragraphs (7)-(9) are repealed.

Effect of amendments. — The 1993 amendment, effective September 1, 1993, inserted in paragraph (3) "domestic and" and added present paragraphs (7)-(9).

The 1995 amendment, effective August 8, 1995, in paragraph (5), deleted "and the legislature" following "to the governor" and added "and notify the legislature that the report is available" at the end.

The 1998 amendment, effective July 1, 1998, made a section reference substitution in paragraph (6).

Sec. 16.51.110. Prohibited promotions. The board may not promote or make a contract that promotes seafood by

(1) geographic origin other than from the state generally;

(2) geographic region of the state; or

(3) specific brand name. (§ 3 ch 106 SLA 1981)

Sec. 16.51.120. Seafood marketing assessment. (a) A seafood marketing assessment shall be levied on the value of seafood products produced in Alaska as provided in (b), (c), (d), or (e) of this section if an election is held under AS 16.51.140 at which the assessment is approved by eligible processors who together produce at least 51 percent of the value of seafood products produced in Alaska in the calendar year.

(b) Each processor shall pay a seafood marketing assessment of .1 percent of the value of seafood products produced in Alaska by the processor.

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(c) Each processor shall pay a seafood marketing assessment of .2 percent of the value of seafood products produced in Alaska by the processor.

(d) Each processor shall pay a seafood marketing assessment of .3 percent of the value of seafood products produced in Alaska by the processor.

(e) Each processor shall pay a seafood marketing assessment of .4 percent of the value of seafood products produced in Alaska by the processor.

(f) An election under (a) of this section shall be held if the proposed election for the levying of an assessment under (b), (c), (d), or (e) of this section is approved by a majority of the whole membership of the board at a regularly scheduled meeting.

(g) Notwithstanding (a) — (e) of this section and AS 16.51.150(c), a processor is not subject to, or liable for payment of, an assessment under this section on the value of the seafood products produced in Alaska if the value of seafood products produced in Alaska by the processor is less than \$50,000 in a calendar year. This subsection does not exempt a processor from liability for payment of taxes imposed under AS 43.75 or AS 43.77. (§ 3 ch 106 SLA 1981; am §§ 2 — 7 ch 81 SLA 1996)

Cross references. — For legislative findings, intent, and purpose relating to the 1996 amendments to subsections (a)-(e) and to the enactment of subsection (g) by ch. 81, SLA 1996, see § 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1996 amendment, effective June 21, 1996, rewrote subsection (a); in subsections (b)-(e), deleted "who purchases at least

\$50,000 or more of seafood products in Alaska" following "Each processor" and substituted "value of seafood products produced in Alaska" for "value paid"; and added subsection (g).

Editor's notes. — Section 29, ch. 81, SLA 1996 makes the 1996 amendments to subsections (a)-(e) and the 1996 enactment of subsection (g) retroactive to January 1, 1994.

Sec. 16.51.130. Termination of the seafood marketing assessment. (a) A seafood marketing assessment levied under AS 16.51.120(b), (c), (d), or (e) shall be terminated by the commissioner of revenue if

(1) an election is held under AS 16.51.140 in which the termination is approved by eligible processors who together produce at least 51 percent of the total value of seafood products produced in Alaska during the calendar year; or

(2) the board, at a regularly scheduled meeting, adopts a resolution approved by two-thirds of the voting membership of the board requesting the commissioner of revenue to terminate the assessment.

(b) An election under (a)(1) of this section shall be held if

(1) the proposed election for the termination of the assessment is approved by a majority of the whole membership of the board at a regularly scheduled meeting; or

(2) a petition is presented to the director of elections requesting termination of the assessment by eligible processors who together produce at least 25 percent of the total value of seafood products produced in Alaska during the calendar year.

(c) The institute shall provide notice of an election in accordance with AS 16.51.140 within 60 days after receiving notice from the director of elections that a valid petition under (b)(2) of this section has been received.

(d) The seafood marketing assessment is terminated on the effective date stated on the ballot. (§ 3 ch 106 SLA 1981; am §§ 8, 9 ch 81 SLA 1996)

Cross references. — For legislative findings, intent, and purpose relating to the 1996 amendments to subsections (a) and (b) of this section by ch. 81, SLA 1996, see § 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1996 amendment, effective June 21, 1996, in paragraph (a)(1), substi-

tuted "under" for "in accordance with" and, in paragraphs (a)(1) and (b)(2), substituted "produce" for "purchase" and "produced" for "purchased."

Editor's notes. — Section 29, ch. 81, SLA 1996 makes the 1996 amendments to subsections (a) and (b) of this section retroactive to January 1, 1994.

Sec. 16.51.140. Procedures for an election to approve or terminate a seafood marketing assessment. (a) The institute may conduct an election under this section after the director of elections approves

(1) the notice to be published by the institute;
(2) the ballot to be used in the election; and
(3) the registration and voting procedures for the approval or termination of the seafood marketing assessment.

(b) In conducting the election under this section, the institute shall adopt the following procedures:

(1) the proposed levy or termination of the assessment shall be adopted at a regularly scheduled meeting of the board held not less than 60 days before the date on which the ballots must be postmarked to be counted unless the election is for termination of the assessment and has been initiated by a petition under AS 16.51.130(b)(2);

(2) the institute shall hold at least one meeting, not less than 30 days before the date on which ballots must be postmarked to be counted, to explain the reason for the proposed seafood marketing assessment or termination of the assessment and to explain the voting procedure to be used in the election; the institute shall provide notice of the meeting by

(A) mailing the notice to each eligible processor; and

(B) publishing the notice in at least one newspaper of general circulation in each region of the state at least two weeks before the meeting;

(3) the institute shall mail ballots to each eligible processor not more than 45 days before the date specified as the date ballots must be postmarked;

(4) the ballot must

(A) indicate whether the assessment is to be levied under AS 16.51.120(b), (c), (d), or (e) and must state the percentage of the assessment;

(B) indicate the effective date of the levy of the assessment or termination of the assessment;

(C) ask whether the assessment shall be levied or, if the election is to terminate the assessment, whether the assessment shall be terminated;

(5) the ballots shall be returned by mail and shall be counted by the director of elections or a representative.

(c) The director of elections shall certify the results of an election under this section if the director determines that the requirements of (a) and (b) of this section have been satisfied.

(d) For the purposes of this section a ballot submitted by a corporation is presumed valid if the ballot is signed by an individual who is indicated to be an officer of the corporation and the ballot is imprinted with the corporate seal. (§ 3 ch 106 SLA 1981)

Sec. 16.51.150. Determination of value. (a) Upon request from the director of elections, the commissioner of revenue shall determine

(1) the total value of seafood products produced in Alaska during any calendar year;

(2) whether the eligible processors approving the levy or termination of a seafood marketing assessment together produced at least 51 percent of the total value of seafood products produced in Alaska during the calendar year; or

(3) whether the eligible processors petitioning for an election under AS 16.51.130(b)(2) together produced at least 25 percent of the total value of seafood products produced in Alaska during the calendar year.

(b) The total value of seafood products produced in Alaska in a calendar year is the sum of the

(1) total value of the fisheries resource on which the tax imposed under AS 43.75.015 and 43.75.100 is levied in that calendar year; and

(2) total value of the fisheries resource on which the tax imposed under AS 43.77 is levied in that calendar year.

(c) The value of seafood products produced in Alaska by a processor during a calendar year is the sum of the

(1) total value of the fisheries resource on which the processor must pay the tax imposed under AS 43.75.015 and 43.75.100 in that calendar year; and

(b) If the owner of salmon is liable for payment of the salmon enhancement tax under (a) of this section, the owner shall comply with the requirement of AS 43.76.025(b) to report the owner's liability for payment of the tax. (§ 18 ch 117 SLA 1981; am § 7 ch 33 SLA 1989)

Effect of amendments. — The 1989 amendment inserted the reference to "43.76.012" and made stylistic changes in subsection (a).

Sec. 43.76.030. Accounting of financing received as a result of the salmon enhancement tax. [Repealed, § 19 ch 6 SLA 1998.]

Sec. 43.76.035. Exemption. AS 43.76.010 — 43.76.040 do not apply to salmon harvested under a special harvest area entry permit issued under AS 16.43.400. (§ 2 ch 152 SLA 1988; am § 8 ch 33 SLA 1989)

Effect of amendments. — The 1989 amendment deleted "to a regional association established under AS 16.10.380" at the end of the section.

Sec. 43.76.040. Definition. In AS 43.76.010 — 43.76.040, unless the context otherwise requires, "buyer" means a person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding a transfer to a person engaged solely in interstate transportation of goods for hire. (§ 19 ch 117 SLA 1981)

Article 2. Salmon Marketing Tax.

Section

- 110. Salmon marketing tax
- 120. Collection of tax
- 130. Definition

Effective date of article. — Section 11, ch. 55, SLA 1993, as amended by § 1, ch. 111, SLA 1998 makes this article effective July 1, 1993. SLA 1993, as amended by § 1, ch. 111, SLA 1998 repeals this article effective June 30, 2003.

Delayed repeal of article. — Section 9, ch. 55,

Sec. 43.76.110. Salmon marketing tax. A person holding a limited entry permit or interim-use permit under AS 16.43 shall pay a salmon marketing tax at the rate of one percent of the value, as defined in AS 43.75.290, of salmon that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon marketing tax at the time the salmon is acquired by the buyer. (§ 7 ch 55 SLA 1993)

Sec. 43.76.120. Collection of tax. (a) A buyer who acquires salmon that is subject to a salmon marketing tax imposed by AS 43.76.110 shall collect the salmon marketing tax at the time of purchase and shall remit the total salmon marketing tax collected during each month to the Department of Revenue by the last day of the next month.

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

- (1) maintain records of the value of salmon purchased in the state;
- (2) report to the Department of Revenue by March 1 of each year the total value, as defined in AS 43.75.290, of the salmon that the buyer has acquired during the preceding year.

(c) The owner of salmon removed from the state is liable for payment of a salmon marketing tax imposed by AS 43.76.110 if, at the time the salmon is removed from the state, the tax payable on the salmon has not been collected by a buyer. If the owner of the

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salmon is liable for payment of the salmon marketing tax under this subsection, the owner shall comply with the requirements under (a) and (b) of this section to remit the tax to the Department of Revenue, to maintain records, and to report to the Department of Revenue.

(d) The salmon marketing tax collected under this section shall be deposited in the general fund. The legislature may appropriate revenue generated by the salmon marketing tax to the Alaska Seafood Marketing Institute for the purpose of supporting the institute's salmon marketing program under AS 16.51.100(7) — (9) and the institute's domestic salmon marketing program. Except as otherwise provided in an appropriation by the legislature, the amount of the allocation made to the institute's salmon marketing program under AS 16.51.100(7) and (8) should not exceed 10 percent of the total amount of salmon marketing tax revenue appropriated for the institute. (§ 7 ch 55 SLA 1993)

Sec. 43.76.130. Definition. In AS 43.76.110 — 43.76.130, "buyer" means a person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon, but does not include a person engaged solely in interstate transportation of goods for hire. (§ 7 ch 55 SLA 1993)

Article 3. Dive Fishery Management Assessment.

Section	Section
150. Dive fishery management assessment	190. Collection of assessment
160. Election to approve, amend, or terminate dive fishery management assessment	200. Funding for qualified regional dive fishery development associations
170. Amendment of dive fishery management assessment	210. Definitions
180. Termination of dive fishery management assessment	

Effective dates. — Section 3, ch. 90, SLA 1997 makes this article effective June 21, 1997, in accordance with AS 01.10.070(c).

Sec. 43.76.150. Dive fishery management assessment. (a) A dive fishery management assessment on fishery resources taken by dive gear shall be levied on the value of the fishery resource taken in a dive gear fishery. The species of fishery resources subject to the assessment and the rate of the assessment, as determined under (b) — (e) of this section, shall be determined by an election under AS 43.76.160.

(b) A person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43 shall pay a dive fishery management assessment of one percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.160, that is taken by dive gear, and that the person removes from the state or transfers to a buyer in the state.

(c) A person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43 shall pay a dive fishery management assessment of three percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.160, that is taken by dive gear, and that the person removes from the state or transfers to a buyer in the state.

(d) A person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43 shall pay a dive fishery management assessment of five percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.160, that is taken by dive gear, and that the person removes from the state or transfers to a buyer in the state.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 390
 (H) Publish Date: 2/27/02

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Reauthorization of the 1% Salmon Tax BRU Alaska Seafood Marketing Institute (126)
 Component Alaska Seafood Marketing Institute
 Sponsor Representative McGuire
 Requester _____ Component No. 393

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	226.0	226.0	226.0	226.0	226.0	226.0
Travel	74.0	74.0	74.0	74.0	74.0	74.0
Contractual	1,467.0	1,467.0	1,467.0	1,467.0	1,467.0	1,467.0
Supplies	32.0	32.0	32.0	32.0	32.0	32.0
Equipment	1.0	1.0	1.0	1.0	1.0	1.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0
TOTAL	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	18	18	18	18	18	18
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Receipt Supported Services fund source stated here is derived from the collection of the 1% Salmon Marketing Tax. The 1% Salmon Marketing Tax is calculated on the actual Annual Harvest ex-vessel value of all salmon harvested in Alaska in any given year. Because of the varying cyclic nature of the salmon harvests from year to year, an average salmon ex vessel harvest value of \$180,000,000 per year of which 1% Salmon Marketing Tax equals \$ 1,800,000 has been used as the estimated collectable revenue for ASMI.

The estimated expenditures are based on a percentage ratio .

Prepared by: Barbara Belknap, Director Phone 907-465-5570
 Division Alaska Seafood Marketing Institute Date/Time 2/11/02 4:26 PM
 Approved by: Deborah B. Sedwick, Commissioner Date 2/11/2002
 Agency Department of Community & Economic Development

Sponsor Statement for HB 390 ASMI Salmon Marketing

An Act extending the termination dates of certain activities and salmon marketing programs of the Alaska Seafood Marketing Institute and of the salmon marketing tax; expanding the allowable use of that tax for the salmon marketing programs of the Alaska Seafood Marketing Institute; relating to the Alaska Seafood Marketing Institute's salmon marketing committee; and providing for an effective date.

Released: February 22, 2002
Contact: Representative Lesil McGuire's office at (907) 465-4695

HB 390 extends the termination date of certain activities and salmon marketing programs of the Alaska Seafood Marketing Institute, and the salmon marketing tax.

Under current uncodified law, the salmon marketing activities and programs of the Alaska Seafood Marketing Institute described in AS 16.51.100 (7) – (9) terminate on June 30, 2004. The salmon marketing tax described in AS 43.76.110 – 43.76.130, which supports certain ASMI activities and the ASMI's domestic salmon marketing program, terminates June 30, 2003. HB 390 would extend those activities and programs, and the tax for an additional five years.

In addition, HB 390 amends AS 43.76.120 (d) to permit salmon marketing tax revenue to be appropriated for use in ASMI's international salmon marketing program as well as for use in its domestic salmon marketing program. These changes would assure the continuation of the important work of ASMI and would provide greater flexibility in the marketing of Alaska salmon in the international marketplace.

SPONSOR

under Article I, Section 10, of the Constitution of the United States. (§ 2 ch 162 SLA 1962; am §§ 1 — 3 ch 50 SLA 1969)

Revisor's notes. — To correct a manifest error in ch. 50, SLA 1969, and make the second paragraph of Article IV consistent with other provisions of that Act, in 1969 the phrase "states of California, Oregon, and Washington" in that paragraph was changed to read "compacting states."

NOTES TO DECISIONS

Construction with other statutes. — Because the salmon waste law is both more recent and more specific to the salmon resource than the Pacific Marine Fisheries Compact, its provisions control where the statutes conflict. *O'Callaghan v. Rue*, 996 P.2d 88 (Alaska 2000).

Sec. 16.45.030. Alaska representatives. In furtherance of the compact provisions, there are three members of the commission from the State of Alaska, appointed by the governor and confirmed by the legislature in joint session. One commissioner must be the administrative or other officer of the Alaska Department of Fish and Game charged with the conservation of the state's marine fisheries resource; another commissioner must be a member of the legislature of this state who is a member of the committee on resources; and another member must be a citizen of this state who has a wide knowledge of and interest in the marine fisheries problem. (§ 3 ch 162 SLA 1962)

Sec. 16.45.040. Terms of commissioners. The term of a commissioner is four years. A commissioner holds office until a successor is appointed and qualified, but the successor's term expires four years from the legal date of expiration of the term of the predecessor. A commissioner may be removed from office by the governor upon charges and after a hearing. The term of a commissioner who ceases to hold the qualifications required ends and a successor may be appointed. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term in the same manner as for a full term appointment. (§ 4 ch 162 SLA 1962)

Chapter 50. Guides and Outfitters.

[Repealed, § 4 ch 17 SLA 1973. For current law, see AS 08.54.]

Chapter 51. Alaska Seafood Marketing Institute.

Section

- 10. Alaska Seafood Marketing Institute established
- 20. Board of directors
- 30. Term of office
- 40. Removal and vacancies
- 50. Quorum
- 60. Compensation of board members
- 70. Meetings
- 80. Employment of personnel
- 90. Powers of board
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Section

- 110. Prohibited promotions
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- 130. Termination of the seafood marketing assessment
- 140. Procedures for an election to approve or terminate a seafood marketing assessment
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- 160. Collection of assessments and disposition of proceeds
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Sec. 16.51.010. Alaska Seafood Marketing Institute established. There is established the Alaska Seafood Marketing Institute. The institute is a public corporation of the state. It is an instrumentality of the state in the Department of Community and Economic Development, but has a legal existence independent of and separate from the state. Exercise by the institute of the powers conferred by this chapter is an essential governmental function of the state. (§ 3 ch 106 SLA 1981)

ASMI

Revisor's notes. — In 1999, "Department of Commerce and Economic Development" was changed to "Department of Community and Economic Development" in this section in accordance with § 88, ch. 58, SLA 1999.

Cross references. — For legislative findings in connection with the enactment of this chapter, see § 1, ch. 106, SLA 1981 in the Temporary and Special Acts.

Sec. 16.51.020. Board of directors. (a) The governing body of the institute is a board of directors. The board consists of 25 voting members appointed by the governor. In making appointments to the board, the governor shall consider, but need not appoint, nominees presented by persons engaged in fish processing, the financing of fish processing, or commercial fishing.

(b) Twelve members of the board shall be seafood processors: eight of the seafood processors must have an annual payroll in the state of more than \$2,500,000; four of the seafood processors must have an annual payroll in the state of \$50,000 — \$2,500,000. Twelve members of the board must be engaged in commercial fishing. The governor, to the extent practicable, shall appoint as commercial fishing members of the board persons engaged in commercial fishing in a fishery management region of the state in the same proportion that the region contributes, or is expected to contribute during the next year, to the total salmon marketing tax collected under AS 43.76.110 — 43.76.130. One member of the board shall be a lay person selected by the governor.

(c) The board shall annually elect a chairman and other necessary officers from among its members. (§ 3 ch 106 SLA 1981; am §§ 1, 2 ch 55 SLA 1993)

Delayed amendment of subsection (b). — Under § 3, ch. 55, SLA 1993, effective under § 12, ch. 55, SLA 1993 upon the repeal of AS 43.76.110 — 43.76.130, subsection (b) is amended by deleting the next to last sentence.

Cross references. — For transitional provisions relating to the 1993 amendments, see § 8(a) and (b), ch. 55, SLA 1993 in the Temporary and Special Acts.

Effect of amendments. — The 1993 amendment, effective September 1, 1993, in subsection (a), substituted "25 voting members" for "18 voting members"; in subsection (b), substituted "more than \$2,500,000" for "\$1,000,000 or more," "\$50,000 — \$2,500,000" for "\$50,000 — \$1,000,000," and "Twelve members" for "Five members," and added the present third sentence.

Sec. 16.51.030. Term of office. The members of the board appointed by the governor under AS 16.51.020 serve three-year terms and may be reappointed. Terms shall be staggered. An appointee to fill a vacancy shall hold office for the balance of the term for which the appointee's predecessor on the board was appointed. (§ 3 ch 106 SLA 1981)

Sec. 16.51.040. Removal and vacancies. The members of the board appointed by the governor under AS 16.51.020 serve at the governor's pleasure. A vacancy on the board occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. (§ 3 ch 106 SLA 1981)

Sec. 16.51.050. Quorum. Fourteen members of the board appointed under AS 16.51.020 constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 106 SLA 1981; am § 4 ch 55 SLA 1993)

Effect of amendments. — The 1993 amendment, effective September 1, 1993, substituted "fourteen members" for "ten members."

Sec. 16.51.060. Compensation of board members. Board members receive no salary, but are entitled to per diem and travel expenses authorized by law for other state boards and commissions under AS 39.20.180. (§ 3 ch 106 SLA 1981)

Sec. 16.51.070. Meetings. The board shall meet at least once a year. A meeting of the board shall occur at the call of the chairman, or upon the written request of two members of the board. (§ 3 ch 106 SLA 1981)

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Sec. 16.51.080. Employment of personnel. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25. (§ 3 ch 106 SLA 1981)

Sec. 16.51.090. Powers of board. In carrying out the powers of the institute, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the institute;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) cooperate with a public or private board, organization, or agency engaged in work or activities similar to the work or activities of the institute, including entering into contracts for joint programs of consumer education, sales promotion, quality control, advertising, and research in the production, processing, or distribution of seafood;
- (6) conduct, or contract for, scientific research to develop and discover health, dietetic, or other uses of seafood harvested and processed in the state;
- (7) receive contributions of money from persons;
- (8) establish offices in the state and otherwise incur expenses incidental to the performance of its duties;
- (9) appear on behalf of the institute before boards, commissions, departments, or other agencies of municipal, state, or federal government;
- (10) acquire, hold, lease, sell, or otherwise dispose of property, but such property is limited to that which is necessary to the administrative functioning of the office of the institute;
- (11) establish and maintain one or more bank accounts for the transaction of the institute's business;
- (12) prepare market research and product development plans for the promotion of any species of seafood and their by-products that may be harvested in the state and processed for sale;
- (13) establish committees related to the marketing of salmon and salmon products; the board shall, to the extent practicable, appoint equal numbers of seafood processors and persons engaged in commercial fishing to the committees. (§ 3 ch 106 SLA 1981; am § 5 ch 55 SLA 1993)

Effect of amendments. — The 1993 amendment, effective September 1, 1993, added paragraph (13).

Sec. 16.51.095. Executive Budget Act. The operating budget of the institute shall be prepared and submitted in accordance with AS 37.07 (Executive Budget Act). (§ 3 ch 106 SLA 1981)

Sec. 16.51.100. Duties of board. The board shall

- (1) conduct programs of education, research, advertising, or sales promotion designed to accomplish the purposes of this chapter;
- (2) promote all species of seafood and their by-products that are harvested in the state and processed for sale;
- (3) develop market-oriented quality specifications for Alaska seafoods to be used in developing a high quality image for Alaska seafood in domestic and world markets, and adopt and distribute recommendations regarding the handling of seafood from the moment of capture to final distribution;
- (4) prepare market research and product development plans for the promotion of all species of seafood and their by-products that are harvested in the state and processed for sale;

(5) submit an annual report to the governor describing the activities of the institute and notify the legislature that the report is available;

(6) develop marketing programs based on the "inspection" and "premium quality" seals designed under AS 17.20.066 and use the seals in advertising and promotion efforts of the institute;

(7) collect, organize, distribute, and make available to the public information on prices paid and market conditions for raw salmon and salmon products and provide this information on a regular and timely basis to all salmon fishermen who hold permits under AS 16.43 and to all nonprofit salmon enhancement organizations that hold a permit under AS 16.10.400;

(8) cooperate with commercial salmon fishermen, fishermen's organizations, seafood processors, the Alaska Fisheries Development Foundation, the Fisheries Industrial Technology Center, state and federal agencies, and other relevant persons and entities to investigate market reception to new salmon product forms and develop commodity standards and future markets for salmon products;

(9) establish a salmon marketing committee to assist and advise the board in administering the domestic salmon marketing program that is funded through the tax collected under AS 43.76.110 — 43.76.130; the committee shall consist of seven persons selected by the board, as follows:

(A) four persons shall be engaged in commercial salmon fishing and hold salmon permits under AS 16.43, of whom

(i) one person shall be a member of the board of directors of the institute; and

(ii) three persons shall be Alaska residents from different salmon administrative areas established by the Alaska Commercial Fisheries Entry Commission; and

(B) three persons shall be engaged in processing of salmon, of whom

(i) one person shall be a member of the board of directors of the institute;

(ii) one person shall be a salmon processor who is not on the board of directors of the institute and who has an annual payroll in the state of more than \$2,500,000; and

(iii) one person shall be a salmon processor who is not on the board of directors of the institute and who has an annual payroll in the state of \$50,000 — \$2,500,000. (§ 3 ch 106 SLA 1981; am § 5 ch 57 SLA 1982; am § 6 ch 55 SLA 1993; am § 24 ch 21 SLA 1995; am § 8 ch 72 SLA 1998)

Delayed repeal of paragraphs (7)-(9). — Under § 10, ch. 55, SLA 1993, as amended by § 2, ch. 111, SLA 1998, effective June 30, 2004, paragraphs (7)-(9) are repealed.

Effect of amendments. — The 1993 amendment, effective September 1, 1993, inserted in paragraph (3) "domestic and" and added present paragraphs (7)-(9).

The 1995 amendment, effective August 8, 1995, in paragraph (5), deleted "and the legislature" following "to the governor" and added "and notify the legislature that the report is available" at the end.

The 1998 amendment, effective July 1, 1998, made a section reference substitution in paragraph (6).

Sec. 16.51.110. Prohibited promotions. The board may not promote or make a contract that promotes seafood by

(1) geographic origin other than from the state generally;

(2) geographic region of the state; or

(3) specific brand name. (§ 3 ch 106 SLA 1981)

Sec. 16.51.120. Seafood marketing assessment. (a) A seafood marketing assessment shall be levied on the value of seafood products produced in Alaska as provided in (b), (c), (d), or (e) of this section if an election is held under AS 16.51.140 at which the assessment is approved by eligible processors who together produce at least 51 percent of the value of seafood products produced in Alaska in the calendar year.

(b) Each processor shall pay a seafood marketing assessment of .1 percent of the value of seafood products produced in Alaska by the processor.

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(c) Each processor shall pay a seafood marketing assessment of .2 percent of the value of seafood products produced in Alaska by the processor.

(d) Each processor shall pay a seafood marketing assessment of .3 percent of the value of seafood products produced in Alaska by the processor.

(e) Each processor shall pay a seafood marketing assessment of .4 percent of the value of seafood products produced in Alaska by the processor.

(f) An election under (a) of this section shall be held if the proposed election for the levying of an assessment under (b), (c), (d), or (e) of this section is approved by a majority of the whole membership of the board at a regularly scheduled meeting.

(g) Notwithstanding (a) — (e) of this section and AS 16.51.150(c), a processor is not subject to, or liable for payment of, an assessment under this section on the value of the seafood products produced in Alaska if the value of seafood products produced in Alaska by the processor is less than \$50,000 in a calendar year. This subsection does not exempt a processor from liability for payment of taxes imposed under AS 43.75 or AS 43.77. (§ 3 ch 106 SLA 1981; am §§ 2 — 7 ch 81 SLA 1996)

Cross references. — For legislative findings, intent, and purpose relating to the 1996 amendments to subsections (a)-(e) and to the enactment of subsection (g) by ch. 81, SLA 1996, see § 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1996 amendment, effective June 21, 1996, rewrote subsection (a); in subsections (b)-(e), deleted "who purchases at least

\$50,000 or more of seafood products in Alaska" following "Each processor" and substituted "value of seafood products produced in Alaska" for "value paid"; and added subsection (g).

Editor's notes. — Section 29, ch. 81, SLA 1996 makes the 1996 amendments to subsections (a)-(e) and the 1996 enactment of subsection (g) retroactive to January 1, 1994.

Sec. 16.51.130. Termination of the seafood marketing assessment. (a) A seafood marketing assessment levied under AS 16.51.120(b), (c), (d), or (e) shall be terminated by the commissioner of revenue if

(1) an election is held under AS 16.51.140 in which the termination is approved by eligible processors who together produce at least 51 percent of the total value of seafood products produced in Alaska during the calendar year; or

(2) the board, at a regularly scheduled meeting, adopts a resolution approved by two-thirds of the voting membership of the board requesting the commissioner of revenue to terminate the assessment.

(b) An election under (a)(1) of this section shall be held if

(1) the proposed election for the termination of the assessment is approved by a majority of the whole membership of the board at a regularly scheduled meeting; or

(2) a petition is presented to the director of elections requesting termination of the assessment by eligible processors who together produce at least 25 percent of the total value of seafood products produced in Alaska during the calendar year.

(c) The institute shall provide notice of an election in accordance with AS 16.51.140 within 60 days after receiving notice from the director of elections that a valid petition under (b)(2) of this section has been received.

(d) The seafood marketing assessment is terminated on the effective date stated on the ballot. (§ 3 ch 106 SLA 1981; am §§ 8, 9 ch 81 SLA 1996)

Cross references. — For legislative findings, intent, and purpose relating to the 1996 amendments to subsections (a) and (b) of this section by ch. 81, SLA 1996, see § 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1996 amendment, effective June 21, 1996, in paragraph (a)(1), substi-

tuted "under" for "in accordance with" and, in paragraphs (a)(1) and (b)(2), substituted "produce" for "purchase" and "produced" for "purchased."

Editor's notes. — Section 29, ch. 81, SLA 1996 makes the 1996 amendments to subsections (a) and (b) of this section retroactive to January 1, 1994.

Sec. 16.51.140. Procedures for an election to approve or terminate a seafood marketing assessment. (a) The institute may conduct an election under this section after the director of elections approves

- (1) the notice to be published by the institute;
- (2) the ballot to be used in the election; and
- (3) the registration and voting procedures for the approval or termination of the seafood marketing assessment.

(b) In conducting the election under this section, the institute shall adopt the following procedures:

(1) the proposed levy or termination of the assessment shall be adopted at a regularly scheduled meeting of the board held not less than 60 days before the date on which the ballots must be postmarked to be counted unless the election is for termination of the assessment and has been initiated by a petition under AS 16.51.130(b)(2);

(2) the institute shall hold at least one meeting, not less than 30 days before the date on which ballots must be postmarked to be counted, to explain the reason for the proposed seafood marketing assessment or termination of the assessment and to explain the voting procedure to be used in the election; the institute shall provide notice of the meeting by

(A) mailing the notice to each eligible processor; and

(B) publishing the notice in at least one newspaper of general circulation in each region of the state at least two weeks before the meeting;

(3) the institute shall mail ballots to each eligible processor not more than 45 days before the date specified as the date ballots must be postmarked;

(4) the ballot must

(A) indicate whether the assessment is to be levied under AS 16.51.120(b), (c), (d), or (e) and must state the percentage of the assessment;

(B) indicate the effective date of the levy of the assessment or termination of the assessment;

(C) ask whether the assessment shall be levied or, if the election is to terminate the assessment, whether the assessment shall be terminated;

(5) the ballots shall be returned by mail and shall be counted by the director of elections or a representative.

(c) The director of elections shall certify the results of an election under this section if the director determines that the requirements of (a) and (b) of this section have been satisfied.

(d) For the purposes of this section a ballot submitted by a corporation is presumed valid if the ballot is signed by an individual who is indicated to be an officer of the corporation and the ballot is imprinted with the corporate seal. (§ 3 ch 106 SLA 1981)

Sec. 16.51.150. Determination of value. (a) Upon request from the director of elections, the commissioner of revenue shall determine

(1) the total value of seafood products produced in Alaska during any calendar year;

(2) whether the eligible processors approving the levy or termination of a seafood marketing assessment together produced at least 51 percent of the total value of seafood products produced in Alaska during the calendar year; or

(3) whether the eligible processors petitioning for an election under AS 16.51.130(b)(2) together produced at least 25 percent of the total value of seafood products produced in Alaska during the calendar year.

(b) The total value of seafood products produced in Alaska in a calendar year is the sum of the

(1) total value of the fisheries resource on which the tax imposed under AS 43.75.015 and 43.75.100 is levied in that calendar year; and

(2) total value of the fisheries resource on which the tax imposed under AS 43.77 is levied in that calendar year.

(c) The value of seafood products produced in Alaska by a processor during a calendar year is the sum of the

(1) total value of the fisheries resource on which the processor must pay the tax imposed under AS 43.75.015 and 43.75.100 in that calendar year; and

(b) If the owner of salmon is liable for payment of the salmon enhancement tax under (a) of this section, the owner shall comply with the requirement of AS 43.76.025(b) to report the owner's liability for payment of the tax. (§ 18 ch 117 SLA 1981; am § 7 ch 33 SLA 1989)

Effect of amendments. — The 1989 amendment inserted the reference to "43.76.012" and made stylistic changes in subsection (a).

Sec. 43.76.030. Accounting of financing received as a result of the salmon enhancement tax. [Repealed, § 19 ch 6 SLA 1998.]

Sec. 43.76.035. Exemption. AS 43.76.010 — 43.76.040 do not apply to salmon harvested under a special harvest area entry permit issued under AS 16.43.400. (§ 2 ch 152 SLA 1988; am § 8 ch 33 SLA 1989)

Effect of amendments. — The 1989 amendment deleted "to a regional association established under AS 16.10.380" at the end of the section.

Sec. 43.76.040. Definition. In AS 43.76.010 — 43.76.040, unless the context otherwise requires, "buyer" means a person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding a transfer to a person engaged solely in interstate transportation of goods for hire. (§ 19 ch 117 SLA 1981)

Article 2. Salmon Marketing Tax.

- Section
- 110. Salmon marketing tax
- 120. Collection of tax
- 130. Definition

Effective date of article. — Section 11, ch. 55, SLA 1993, as amended by § 1, ch. 111, SLA 1998 repeals this article effective July 1, 1993. SLA 1993 makes this article effective July 1, 1993. SLA 1998 repeals this article effective June 30, 2003.
Delayed repeal of article. — Section 9, ch. 55,

Sec. 43.76.110. Salmon marketing tax. A person holding a limited entry permit or interim-use permit under AS 16.43 shall pay a salmon marketing tax at the rate of one percent of the value, as defined in AS 43.75.290, of salmon that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon marketing tax at the time the salmon is acquired by the buyer. (§ 7 ch 55 SLA 1993)

Sec. 43.76.120. Collection of tax. (a) A buyer who acquires salmon that is subject to a salmon marketing tax imposed by AS 43.76.110 shall collect the salmon marketing tax at the time of purchase and shall remit the total salmon marketing tax collected during each month to the Department of Revenue by the last day of the next month.

(b) A buyer who collects the salmon marketing tax shall
(1) maintain records of the value of salmon purchased in the state;
(2) report to the Department of Revenue by March 1 of each year the total value, as defined in AS 43.75.290, of the salmon that the buyer has acquired during the preceding year.

(c) The owner of salmon removed from the state is liable for payment of a salmon marketing tax imposed by AS 43.76.110 if, at the time the salmon is removed from the state, the tax payable on the salmon has not been collected by a buyer. If the owner of the

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salmon is liable for payment of the salmon marketing tax under this subsection, the owner shall comply with the requirements under (a) and (b) of this section to remit the tax to the Department of Revenue, to maintain records, and to report to the Department of Revenue.

(d) The salmon marketing tax collected under this section shall be deposited in the general fund. The legislature may appropriate revenue generated by the salmon marketing tax to the Alaska Seafood Marketing Institute for the purpose of supporting the institute's salmon marketing program under AS 16.51.100(7) — (9) and the institute's domestic salmon marketing program. Except as otherwise provided in an appropriation by the legislature, the amount of the allocation made to the institute's salmon marketing program under AS 16.51.100(7) and (8) should not exceed 10 percent of the total amount of salmon marketing tax revenue appropriated for the institute. (§ 7 ch 55 SLA 1993)

Sec. 43.76.130. Definit. n. In AS 43.76.110 — 43.76.130, "buyer" means a person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon, but does not include a person engaged solely in interstate transportation of goods for hire. (§ 7 ch 55 SLA 1993)

Article 3. Dive Fishery Management Assessment.

Section	Section
150. Dive fishery management assessment	190. Collection of assessment
160. Election to approve, amend, or terminate dive fishery management assessment	200. Funding for qualified regional dive fishery development associations
170. Amendment of dive fishery management assessment	210. Definitions
180. Termination of dive fishery management assessment	

Effective dates. — Section 3, ch. 90, SLA 1997 makes this article effective June 21, 1997, in accordance with AS 01.10.070(c).

Sec. 43.76.150. Dive fishery management assessment. (a) A dive fishery management assessment on fishery resources taken by dive gear shall be levied on the value of the fishery resource taken in a dive gear fishery. The species of fishery resources subject to the assessment and the rate of the assessment, as determined under (b) — (e) of this section, shall be determined by an election under AS 43.76.160.

(b) A person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43 shall pay a dive fishery management assessment of one percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.160, that is taken by dive gear, and that the person removes from the state or transfers to a buyer in the state.

(c) A person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43 shall pay a dive fishery management assessment of three percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.160, that is taken by dive gear, and that the person removes from the state or transfers to a buyer in the state.

(d) A person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43 shall pay a dive fishery management assessment of five percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.160, that is taken by dive gear, and that the person removes from the state or transfers to a buyer in the state.