SCOMM
131:24

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 9, 2004 **FURTHER REFERRALS: Resources Finance**

Date of Committee Action: FEBRUARY 25, 2004

The HOUSE SPECIAL COMMITTEE ON FISHERIES considered: **HB 444**

HOUSE BILL NO. 444 **DIRECT MARKETING FISHERIES BUSINESS**

"An Act relating to direct marketing fisheries businesses, to the fisheries business tax, and to liability for payment of taxes and assessments on the sale or transfer of fishery resources; and providing for an effective date."

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 444 (FSH)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[X] Same Title [ ] New Title**

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV		X		

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Ogg			✓	
Peggy Wilson	WILSON	Y			
	SAMUELS			/	
	GUTTENBERGER			/	
Chair: Paul K Seaton	Seaton	✓			
Chair:					

HOUSE BILL NO. 444

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BYREPRESENTATIVE WILSON

Introduced: 2/9/04
Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to direct marketing fisheries businesses, to the fisheries business tax, and to liability for payment of taxes and assessments on the sale or transfer of fishery resources; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 43.75.015(c) is amended to read:

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is **processed** [FROZEN] from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations adopted by the department.

* **Sec. 2.** AS 43.75.015 is amended by adding new subsections to read:

(d) Instead of the taxes levied under (a) or (b) of this section, a person who processes a fishery resource under a direct marketing fisheries business license is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed during the year; and

(2) three percent of the value of a commercial fish species not subject to (1) of this subsection.

(e) For purposes of determining the value of a fishery resource on which a tax is levied under this section, the department may establish a presumption of market value for a fishery resource in a region or market area based on a volume weighted average of market values for the fishery resource reported on returns filed under this chapter by fisheries businesses operating in the region or market area. A taxpayer who appeals an assessment of taxes based on a presumption of market value determined by the department under this subsection may rebut the presumption with substantial evidence of

(1) the prevailing price paid to fishermen for the fishery resource of the same kind and quality by fisheries businesses in the same region or market area where the fishery resource was taken, if the taxpayer holds a direct marketing fisheries business license under AS 43.75.020(c) and the fishery resource on which the tax is levied is processed under that license; or

(2) the true market value of the fishery resources if the taking of the fishery resource is done in a company-owned or company subsidized boat operated by employees of a fisheries business, a subsidiary of the fisheries business, or a parent company of the fisheries business.

* **Sec. 3.** AS 43.75.017 is amended to read:

Sec. 43.75.017. Exclusion from fisheries business tax. A person is not liable for the fisheries business tax under AS 43.75.015 when the fishery resource is **processed** [FROZEN] aboard a fishing vessel if

(1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;

(2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing, and glazing;

(3) the fishery resource was caught by the vessel; and

(4) the fishery resource is sold [BY THE PERSON CLAIMING AN EXCLUSION FROM THE TAX] to a fisheries business licensed under this chapter.

* **Sec. 4.** AS 43.75.020 is amended by adding a new subsection to read:

(c) Instead of a license issued under (a) of this section, the department may issue a direct marketing fisheries business license to a licensed commercial fisherman who processes fishery resources caught using a vessel that does not exceed 65 feet in overall length and is owned or leased by the commercial fisherman. The licensee may place into commerce in the state and outside of the state processed or unprocessed fishery resources caught using the vessel described in the license. Fishery resources that are caught using the vessel and owned by the licensee from the time of harvest through sale, as defined by the department by regulation, may be processed by the licensee on the vessel, at a shore-based facility, or by means of custom processing services obtained by the licensee. An application for a direct marketing fisheries business license shall be filed with the department and accompanied by an annual fee of $25. A separate direct marketing fisheries business license and annual license fee are required for each vessel on which processing is performed. The application must state the name and address of the applicant, the fishery resources for which the applicant holds a commercial fishing entry permit or interim-use permit or quota share, a description of the vessel and each shore-based facility where the applicant will process fishery resources, and other information that the department prescribes by regulation. The application must state that the applicant agrees to pay the tax imposed by AS 43.75.015(d) or 43.75.100, and that the applicant will make a return and pay the tax at the time provided by law. A person who holds a direct marketing fisheries business license may not under that license (1) purchase fishery resources for resale or processing for sale; or (2) process fishery resources for another licensed commercial fisherman or for a fisheries business licensed under this chapter. In this subsection, "licensed commercial fisherman" means a natural person who holds a commercial fishing entry permit or interim-use permit issued under AS 16.43 or a quota share

Floating Custom Processor ↓ 5%

issued under federal law.

*** Sec. 5.** AS 43.75.290(7) is amended to read:

(7) "value" means

(A) **the market value of the fishery resource as determined by the prevailing price paid to fishermen for the fishery resource of the same kind and quality by fisheries businesses in the same region or market area where the fishery resource was taken if**

(i) the taking of the fishery resource is done in a boat owned or leased by a person who holds a direct marketing fisheries business license under AS 43.75.020(c); and

(ii) the fishery resource was sold to a buyer other than a fishery business licensed under AS 43.75.020(a);

(B) for fisheries resources other than those described in (A) of this paragraph, the market value of the **fishery** [FISHERIES] resource if the taking of the **fishery** [FISHERIES] resource is done in company-owned or company-subsidized boats operated by employees of the company or in boats that are operated under lease to or from the company or other arrangement with the company and if the **fishery** [FISHERIES] resource is delivered to the company; in this subparagraph, "company" means a fisheries business, a subsidiary of a fisheries business, or a subsidiary of a parent company of a fisheries business**; "company" does not include a direct marketing fisheries business licensed under AS 43.75.020(c)**; or

(C) [(B)] for **fishery** [FISHERIES] resources other than those described in (A) **or (B)** of this paragraph, the actual price paid for the **fishery** [FISHERIES] resource by the fisheries business to the fisherman, including indirect consideration and bonus amounts paid for fuel, supplies, gear, ice, handling, tender fees, or delivery, whether paid at the time of purchase of the **fishery** [FISHERIES] resource or tendered as a deferred or delayed payment; in this subparagraph, "delivery" means

(i) transportation of the **fishery** [FISHERIES] resource from the boat or vessel on which the product was taken to a tender; or

(ii) if delivery was not to a tender, transportation of the **fishery** [FISHERIES] resource from the boat or vessel on which the product was taken to a shore-based facility in which delivery of the **fishery** [FISHERIES] resource is normally accepted.

*** Sec. 6.** AS 43.76.025(a) is amended to read:

(a) **Except as otherwise provided under (d) of this section, a** [A] buyer who acquires **fishery** [FISHERIES] resources that are subject to a salmon enhancement tax imposed by AS 43.76.010, 43.76.011, or 43.76.012 shall collect the salmon enhancement tax at the time of purchase, and shall remit the total salmon enhancement tax collected during each month to the **Department of Revenue** [DEPARTMENT] by the last day of the next month.

*** Sec. 7.** AS 43.76.025 is amended by adding a new subsection to read:

(d) A direct marketing fisheries business licensed under AS 43.75.020(c) or a commercial fisherman who transfers possession of salmon to a buyer who is not a fisheries business licensed under AS 43.75 is liable for the payment of a salmon enhancement tax imposed by AS 43.76.010, 43.76.011, or 43.76.012 if, at the time possession of the salmon is transferred to a buyer, the salmon enhancement tax payable on the salmon has not been collected. If a direct marketing fisheries business or commercial fisherman is liable for payment of the salmon enhancement tax under this subsection, the direct marketing fisheries business or commercial fisherman shall comply with the requirements of (b) of this section to maintain records and to report the liability for payment of the tax. Notwithstanding (a) of this section, a person subject to this subsection shall remit the total salmon enhancement tax payable during the calendar year to the Department of Revenue before April 1 after close of the calendar year.

*** Sec. 8.** AS 43.76.120(a) is amended to read:

(a) **Except as otherwise provided under (e) of this section, 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.

* **Sec. 9.** AS 43.76.120 is amended by adding a new subsection to read:

(e) A direct marketing fisheries business licensed under AS 43.75.020(c) or a commercial fisherman who transfers possession of salmon to a buyer who is not a fisheries business licensed under AS 43.75 is liable for the payment of a salmon marketing tax imposed by AS 43.76.110 if, at the time possession of the salmon is transferred to a buyer, the salmon marketing tax payable on the salmon has not been collected. If a direct marketing fisheries business or commercial fisherman is liable for payment of the salmon marketing tax under this subsection, the direct marketing fisheries business or commercial fisherman shall comply with the requirements under (b) of this section to maintain records and to make reports to the Department of Revenue. Notwithstanding (a) of this section, a person subject to this subsection shall remit the total salmon marketing tax payable during the calendar year to the Department of Revenue before April 1 after close of the calendar year.

* **Sec. 10.** AS 43.76.190(a) is amended to read:

(a) **Except as otherwise provided under (e) of this section, a** [A] buyer who acquires a fishery resource that is subject to a dive fishery management assessment levied under AS 43.76.150(b), (c), (d), or (e) shall collect the dive fishery management assessment at the time of purchase and shall remit the total dive fishery management assessment collected during each calendar quarter to the Department of Revenue by the last day of the month following the end of the calendar quarter. In this subsection, "calendar quarter" means each of the three-month periods ending March 31, June 30, September 30, and December 31.

* **Sec. 11.** AS 43.76.190 is amended by adding a new subsection to read:

(e) A direct marketing fisheries business licensed under AS 43.75.020(c) or a commercial fisherman who transfers possession of a fishery resource to a buyer who is not a fisheries business licensed under AS 43.75 is liable for payment of a dive fishery management assessment levied under AS 43.76.150(b), (c), (d), or (e) if, at the time possession of the fishery resource is transferred to a buyer, the dive fishery management assessment payable on the fishery resource has not been collected. If a direct marketing fisheries business or commercial fisherman is liable for payment of a dive fishery management assessment under this subsection, the direct marketing

fisheries business or commercial fisherman shall comply with the requirement to maintain records under (b) of this section. Notwithstanding (a) of this section, a person subject to this subsection shall remit the total dive fishery management assessment payable during the calendar year to the Department of Revenue before April 1 after close of the calendar year.

* **Sec. 12.** AS 43.76.260(a) is amended to read:

(a) **Except as otherwise provided under (f) of this section, a** [A] buyer who acquires salmon that is subject to a salmon fishery assessment levied under AS 43.76.220 shall collect the salmon fishery assessment at the time of purchase and shall remit the total salmon fishery assessment collected during each month to the **Department of Revenue** [DEPARTMENT] by the last day of the next month.

* **Sec. 13.** AS 43.76.260 is amended by adding a new subsection to read:

(f) A direct marketing fisheries business licensed under AS 43.75.020(c) or a commercial fisherman who transfers possession of salmon to a buyer who is not a fisheries business licensed under AS 43.75 is liable for the payment of a salmon fishery assessment levied under AS 43.76.220 if, at the time possession of the fishery resource is transferred to a buyer, the salmon fishery assessment payable on the salmon has not been collected. If a direct marketing fisheries business or commercial fisherman is liable for payment of the salmon fishery assessment under this subsection, the direct marketing fisheries business or commercial fisherman shall comply with the requirement under (b) of this section to maintain records. Notwithstanding (a) of this section, a person subject to this subsection shall remit the total salmon fishery assessment payable during the calendar year to the Department of Revenue before April 1 after close of the calendar year.

* **Sec. 14.** AS 43.76.310(a) is amended to read:

(a) **Except as otherwise provided under (f) of this section, a** [A] buyer who acquires fish that are subject to a permit buy-back assessment imposed by AS 43.76.300 shall collect the permit buy-back assessment at the time of purchase and shall remit the total permit buy-back assessment collected during each month to the **Department of Revenue** [DEPARTMENT] by the last day of the next month.

* **Sec. 15.** AS 43.76.310 is amended by adding a new subsection to read:

(f) A direct marketing fisheries business licensed under AS 43.75.020(c) or a commercial fisherman who transfers possession of fish to a buyer who is not a fisheries business licensed under AS 43.75 is liable for the payment of a permit buy-back assessment imposed by AS 43.76.300 if, at the time possession of the fish is transferred to a buyer, the permit buy-back assessment payable on the fish has not been collected. If a direct marketing fisheries business or commercial fisherman is liable for payment of a permit buy-back assessment under this subsection, the direct marketing fisheries business or commercial fisherman shall comply with the requirements under (b) of this section to maintain records and report the value of fish acquired during the preceding year. Notwithstanding (a) of this section, a person subject to this subsection shall remit the total permit buy-back assessment payable during the calendar year to the Department of Revenue before April 1 after close of the calendar year.

*** Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

ADOPTION OF REGULATIONS. The Department of Revenue shall adopt regulations it considers necessary for the administration of this Act, but the regulations may not take effect until January 1, 2005.

*** Sec. 17.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).

*** Sec. 18.** Except as provided under sec. 17 of this Act, this Act takes effect January 1, 2005.

ALASKA STATE LEGISLATURE

REPRESENTATIVE PEGGY WILSON

SPONSOR STATEMENT
HB 444

"An Act relating to direct marketing fisheries businesses"

House Bill 444, recommended by the Joint Legislative Salmon Industry Task Force, will provide fairness in the taxation of small-business commercial fishermen. HB 444 is a companion to SB 286.

In today's marketplace of lower salmon prices and a demand for high-quality product, many fishermen are choosing to sell their catch directly to restaurants, grocery stores and consumers. In doing so, these entrepreneurial fishermen often freeze or otherwise process their fish, thus adding value to Alaska's fishery resources. Unfortunately, Alaska's current tax structure actually penalizes this market-driven business decision. The Fisheries Business Tax, or FBT (AS 43.75.015), requires small boat fishermen who process only their own catch to pay a 5% tax, the same tax rate as large industrial-scale floating processors that process a much higher volume of fish.

Furthermore, the current structure taxes small boat fishermen at an improperly high point of sale. Shore-based processors pay their FBT at 3% of the "grounds price" which is the price paid to fishermen for raw fish delivered to the processor. However, a small direct marketer must now pay their 5% FBT based on the price at their first point of sale which is usually much higher because it is a wholesale or retail price. In effect, this means that Alaska currently penalizes "value adding" to our fishery resources when done by small catcher/processors and direct marketers.

By creating a "Direct Marketing Fisheries Business License," HB 444 recognizes the important distinction between large and small floating processors and will end the disincentive Alaska currently places on direct marketers. The bill is unanimously supported by the Joint Legislative Salmon Industry Task Force and will provide fair tax relief to these Alaskan small businessmen.

2/10/2004

SPONSOR STATEMENT

ALASKA STATE LEGISLATURE

REPRESENTATIVE PEGGY WILSON

SECTIONAL ANALYSIS
HB 444
"An Act relating to direct marketing fisheries businesses"

Sec. 1 Extends Fisheries Business Tax Exclusion. In existing law, FBT must be paid by a person who first processes the fish. An exemption exists for fishermen who freeze fish onboard but who then sell the product to a processor. This exemption was tailored to trollers whose fishing operations often demand that they freeze at-sea even though they are not direct marketing their product. Sec. 1 of this bill extends this exemption to all vessels that process at-sea then sell to a processor. The Department of Revenue asked for this clarification of tax responsibility. Nothing in this section will affect state revenue.

Sec. 2 Reduces the Fisheries Business Tax rate for direct marketers from 5% to 3%. Also allows Department of Revenue to establish the market value of fish products for taxation of direct marketers based on average prices paid by processors in the region.

Sec. 3 Related to Sec. 1. Would allow fishermen who do some processing on board their vessel, but who then s l it to a processing company rather than direct marketing it, to be exempt from the Fisheries Business Tax. The "licensed fisheries business," meaning the processor, will pay the tax. As in Section 1, the department asked that tax liability in this production scenario be clarified and state revenue is unaffected.

Sec. 4 Provides for a new Direct Marketing Fisheries Business License to be issued by the Department of Revenue. This will allow fishermen who own or lease a vessel of 65 ft. or less to catch, process and sell both processed or unprocessed fish products in Alaska or out-of-state.

Direct Market businesses would be prohibited from buying and processing fish from other fishermen under this license. A fisherman who wishes to participate in these types of activities still has the ability to become a buyer or processor under the current regulations.

· SECTIONAL ANALYSIS ·

Identifies tax liabilities and establishes an annual application fee of $25 and reporting requirements.

Sec. 5 Defines "value" for taxation purposes as the prevailing price paid by processors for a given product in the same region or market area. This is a key section of the bill in that it means direct marketers will be taxed at the "grounds price" rather than having to base their taxes on wholesale and retail prices. Section 5 corrects the existing problem whereby direct marketers are paying higher taxes for adding value to fisheries resources.

Sec. 6-15 Provides for a more user-friendly payment system by collecting all fisheries taxes for direct marketing fisheries businesses by April 1 each year. In addition to the fisheries business tax, these may include the salmon enhancement tax, salmon marketing tax, dive fishery assessment, salmon fishery assessment, and permit buy-back assessment. Currently, monthly payments that inconvenience fishermen during the harvesting season are required for the hatchery and marketing taxes.

Sec. 16-18 Establishes effective dates for January 1, 2005.

UNITED FISHERMEN OF ALASKA

February 16, 2004

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Representative Paul Seaton
Chair, House Special Committee on Fisheries
Alaska State Legislature
State Capitol (Mail stop 3100)
Juneau, AK 99801-1182

Dear Representative Seaton,

United Fishermen of Alaska supports HB444 relating to the Direct Marketing Fishery Business Tax. Direct marketing is a progressive approach to revitalizing the seafood industry, and HB 444 provides a much needed for the clarification of the tax situation for direct marketers and parity with shore-based processors. Fishermen all over the state are discovering new and innovative ways of promoting their product directly at a higher market value, thus providing local economic growth and increased state revenue. Direct marketing also creates new marketing channels as more people are given the opportunity to sample and purchase the highest quality seafood in the world. If we are going to turn this industry around, it's vital that we pave the way for independent innovative fishermen that seek change and are willing take risks for the greater good of Alaska.

HB 444 and its companion bill SB 286 are the result of many years of effort by innovative fishermen dedicated to the opportunity to increase the value of their catch. The proposed changes required the input and coordination with the Alaska Department of Fish and Game, Department of Revenue, Department of Environmental Conservation, and consideration of the requirements of the U.S. Environmental Protection Agency. We feel that HB 444 and SB 286 represent a finely tuned balance within these agencies' requirements to best benefit fishermen and the State of Alaska.

United Fishermen of Alaska represents 33 Alaska Commercial fishing organizations and hundreds of individual fishermen and fishing related businesses, altogether representing over 10,000 Alaska fishermen. We support HB 444 and thank you for your attention to this matter.

Sincerely,

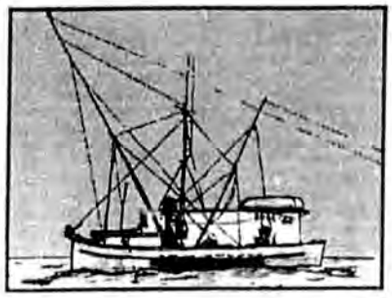
Bob Thorstenson, Jr.
President

CC: Representative Peggy Wilson

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Draggers Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Kela • At-sea Processors Association
Bristol Bay Reserve • Chignik Regional Aquaculture Association • Chignik Seiners Association • Concerned Area "M" Fishermen • Cordova District Fishermen United
Crab Rationalization and Buyback Group • Douglas Island Pink and Chum • Groundfish Forum • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
Kodiak Seiners Association • North Pacific Fisheries Association • Northern Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association
Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen

LETTERS OF SUPPORT



Alaska Trollers Association

130 Seward St., No. 211
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

February 16, 2004

Representative Paul Seaton, Chairman
House Special Committee on Fisheries
Alaska State Legislature
Juneau, AK 99801

Dear Representative Seaton:

The **Alaska Trollers Association supports HB 444**, which seeks to provide tax equity and clarity for commercial fishermen who direct market seafood products.

In these challenging price times, more commercial fishermen are choosing to market all or part of their catch directly to the consumer, as a means to add value to their businesses. Direct marketing is an increasingly important option for small boat fishermen, many of whom have lost markets in recent years. However, the current tax structure discourages efforts to add value to seafood products sold by individuals. Furthermore, the regulatory and administrative processes for direct marketing are cumbersome and do not quite fit the nature of these small operations.

By supporting cooperative efforts to correct problem areas, and adopting some relatively simple changes, the state of Alaska can take positive action to support small business; reduce agency staff time and state spending; promote market diversification of Alaskan seafood; and, bolster Alaska's economy, particularly in rural communities.

As you know, the Salmon Legislative Task Force has been working to encourage small business development and create new seafood marketing opportunities. To that end, the Salmon Task Force Marketing Committee appointed a subcommittee to develop ideas and legislation to better accommodate the specific needs and circumstances of individual permit holders who direct market seafood.

The subcommittee met via statewide teleconference and in working groups for nearly two years. Advice was sought from direct marketers, the processing sector, DOR, ADFG, and DEC. Many administrative and legislative tasks have been identified. HB 444 is a direct result of this work. If passed, it will go a long way towards resolving imbalances that exist in our tax program. For instance, a small operator who freezes salmon at sea pays 5% fisheries business tax, just like the big, offshore fish processors. The product is not only taxed at a rate 2% higher than what shorebased processors pay, but the tax is calculated on the processed value of the product. In

contrast, a shorebased processor pays 3% fisheries business tax based on the exvessel (raw fish) value of the product they purchased. ATA believes this tax inequity must be resolved.

In addition to the rate of tax paid, the bill also clarifies who pays taxes and under what circumstances. This has been a confusing matter for all involved.

The bill establishes an annual timeframe for taxation, which will be extremely convenient for both fishermen and DOR. A primary goal of the Marketing Subcommittee is to streamline process for everyone involved, which should mean reduced cost and workload for fishermen and agency staff. Committee members have expressed an interest in continuing the project until all legislative and administrative tasks are complete.

There are many tasks ahead to develop a well-articulated direct marketing program and passage of HB 444 will be a critical component. Hopefully you agree with us and will lend your support to this bill, as well as future actions to improve the direct marketing program and the relationship between industry and the state.

If I can provide information or perspective on this and other matters of importance to the seafood industry, please don't hesitate to call.

Best regards,

Dale Kelley

Dale Kelley
Executive Director

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

FEB 13 2004

United Southeast Alaska Gillnetters
P.O. Box 23378, Ketchikan, AK 99901 Phone & Fax (907) 247 2471 Email: usa_gillnetters@ptl.net

February 13, 2004

The Honorable Paul Seaton, Chair
House Special Committee on Fisheries
Alaska State Capitol, Room 428
Juneau, AK 99801 Send Via Fax: 465-3472

Dear Representative Seaton,

The United Southeast Alaska Gillnetters Association (USAG) represents about 150 small business owners who catch salmon by drift gillnetting in Southeast Alaska and market salmon throughout the United States. Many of our members participate in other fisheries such as crab, shrimp, longline, and dive fisheries. We strongly support House Bill 444 that will create a "direct marketing fisheries business license." In this era of low salmon prices, fishermen must be permitted to increase the value of their catch by dressing, processing and marketing it to create added value to the product resulting in increased income for the fishermen. This legislation is important as it puts the direct marketing fisherman on a level field with other businesses processing and marketing salmon and seafood products. It does this by defining the basis of the "value" of their catch in section .290(7)(A). The practical result of this value definition will be that the direct marketing fisherman will be taxed on the grounds price of the fish he has caught, not on the elevated value his/her fish are sold for which includes the extra effort and risk the fisherman has undertaken in processing and marketing his product. The direct market fisherman will still pay a three percent processing tax on the value of his/her catch, as defined in section .015(d)(2) of this proposed legislation, as well as any applicable enhancement or marketing taxes.

In summation, this bill is very important for individual fishermen who market their own catch and USAG supports its passage and urges the House Special Committee on Fisheries to approve it. We also want to express our appreciation to Representative Wilson for introducing this legislation in the House.

Yours truly,

Kenneth Duckett
Executive Director

cc: Representative Wilson Via Fax: 465-3175

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801

Phone 907-586-6652 Fax 907-586-5648 E-mail: seafa@gci.net

February 18, 2004

Honorable Paul Seaton, Chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol, Mail Stop 3100
Juneau, AK 99801

RE: HB 444– Direct Marketing Fisheries Businesses

Dear Representative Seaton,

The Southeast Alaska Fishermen's (SEAFA) Alliance fully supports HB 444. The Southeast Alaska Fishermen's Alliance (SEAFA) is a non-profit fishing organization formed in 2000 to represent our members involved in the salmon, crab, shrimp and longline fisheries of Southeast Alaska. We have been actively working on direct marketing issues since SEAFA was formed and our Executive Director and many members have been working on direct marketing issues for 8+ years. We believe that this legislation will have the most direct economic benefit to fishermen that comes out of the salmon industry task force.

This legislation was worked on two years in a sub-committee of the salmon task force marketing committee with industry, agencies and any public who wished to be involved. To get legislation that was workable and made sense, compromises were made on all sides of the issues and we came out with legislation that the majority approves of. Dept of Revenue especially worked hard on this legislation to come up with a workable solution and deserves recognition for their work on this and the other administrative changes they have made that improves the business climate for direct marketers.

HB 444 clarifies tax issues and provides equity to fishermen marketing their own products. This legislation corrects a large disadvantage that direct marketers were faced with under the current tax structure. These fishermen have paid their fisheries business tax (FBT) after value was added at 5% vs. a shore side processor who paid a 3% tax on the resource on an ex-vessel (grounds price) value. The small catcher/processor or direct marketer paid 5% because they were considered a floating processor. A higher tax rate was devised for floating processors because the large floating processor would anchor off shore, pay no property taxes, or use support services by State businesses. This is not true of the direct marketer. As we are a small boat fleet predominantly Alaskan based, we purchase our fuel, groceries, fishing gear and boat work etc. from the communities that we work out of and live in and should not be considered the same as a large floating processor that is like a small self-contained community.

HB 444 identifies value as the equivalent of grounds price (ex-vessel for your gear type, region and for like product) unless you sell to a licensed fishery business (processor) and then the value is what you received for the product even if value is added such as a frozen product.

As this legislation was being worked on, industry leaders felt that as we fought for a fair tax basis that we also needed to work on being sure that all taxes are collected from fishermen. Under current tax law, salmon fishermen acting as catcher sellers (fishermen selling unprocessed fish from their vessel) did not pay the harvesters ASMI 1% marketing tax (SMT) and hatchery enhancement tax (SET) in those regions where it is collected because the buyer was responsible for the collection and remittance of these taxes and not the fisherman being ultimately responsible. This legislation will correct this loophole and make the fisherman responsible for the taxes if they are not selling salmon to a licensed fishery business and correct this issue on other possible taxes or assessments that may be implemented in sections 6 – 15 of the bill.

This legislation addressed processors concerns on who would qualify for a direct marketer license by very tightly defining who would qualify for this license. A direct marketer can not buy or purchase fishery resource, can not custom process fishery resources for another fisherman, must own or lease a vessel 65 feet or less. The 65-foot vessel length matches Dept of Environmental Conservation's regulation for a direct marketer. If a commercial fisherman wishes to pursue any of the activities listed above such as buying additional product they can set themselves up by meeting the requirements currently in statute that will continue to be available for someone wishing to become a fish buyer or processor. This legislation was designed to specifically deal with the commercial fisherman and their own catch.

Another aspect of this legislation allows the direct marketer to pay all their taxes (FBT, SET, & SMT) once a year rather than trying to pay the SET & SMT taxes monthly as you are trying to fish.

We understand that this legislation can be very confusing and we would be available to meet with you at anytime to discuss the issues individually or in committee. We hope that you understand that this legislation simply deals with correcting an un-equitable tax situation.

Sincerely,

Kathy Hansen
Executive Director

Southeast Conference

P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

February 16, 2004

Representative Paul Seaton
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: Support HB 444 – Direct Marketers Legislation

Dear Representative Seaton,

Southeast Conference supports HB 444 that corrects the inequities in the current tax structure for the individual fisherman working to market their own catch. Southeast Conference is the State-designated Alaska Regional Development Organization (ARDOR), the federally-designated Economic Development District (EDD), and the federally-designated Resource Conservation and Development Council (RC&D) for Southeast Alaska. The mission of Southeast Conference is to undertake and support activities that promote strong economies, healthy communities, and a quality environment in Southeast Alaska. Our over 130 Southeast Alaska members include nearly every community in the region, every chamber of commerce, every major economic development organization, 20 transportation organizations, 10 Alaska Native organizations, and more than 50 other organizations.

Direct marketing is very important to a segment of the commercial fishing industry in Southeast Alaska. Individual fishermen direct marketing their products are producing high quality products that enhance the value of Alaska's seafood in the market. A lot of the direct market products from Southeast Alaska enter the fresh market or the frozen at sea marketplace.

This legislation will provide a fair tax basis for the direct marketer, which is strictly defined as a fisherman marketing their own catch – they cannot buy, or custom process for another fisherman and must be on a vessel 65 feet or less in length. This legislation does not prevent a fisherman from pursuing these activities under current regulations and statutes they just would not qualify as a direct marketer.

The Southeast Conference recognizes that this legislation is legislation that was worked on by a committee representing various interests and agencies and that they all support HB 444 as a good and fair piece of legislation for all involved. We encourage you to pass this legislation out of committee. Thank you for your interest and support of the commercial fishing industry.

Sincerely,

Meilani Schijvens

Meilani Schijvens
Southeast Conference Executive Director

Cc: Senator Stedman; Representative Wilson

AMENDMENT

HB 444
Rep. Wilson

P. 4, line 5: INSERT **unprocessed** between "the" and "fishery resource"

The amended line 5 would read:

by the prevailing price paid to fishermen for the unprocessed fishery resource . . .

Southeast Conference

P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

February 16, 2004

Representative Paul Seaton
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: Support HB 444 – Direct Marketers Legislation

Dear Representative Seaton,

Southeast Conference supports HB 444 that corrects the inequities in the current tax structure for the individual fisherman working to market their own catch. Southeast Conference is the State-designated Alaska Regional Development Organization (ARDOR), the federally-designated Economic Development District (EDD), and the federally-designated Resource Conservation and Development Council (RC&D) for Southeast Alaska. The mission of Southeast Conference is to undertake and support activities that promote strong economies, healthy communities, and a quality environment in Southeast Alaska. Our over 130 Southeast Alaska members include nearly every community in the region, every chamber of commerce, every major economic development organization, 20 transportation organizations, 10 Alaska Native organizations, and more than 50 other organizations.

Direct marketing is very important to a segment of the commercial fishing industry in Southeast Alaska. Individual fishermen direct marketing their products are producing high quality products that enhance the value of Alaska's seafood in the market. A lot of the direct market products from Southeast Alaska enter the fresh market or the frozen at sea marketplace.

This legislation will provide a fair tax basis for the direct marketer, which is strictly defined as a fisherman marketing their own catch – they cannot buy, or custom process for another fisherman and must be on a vessel 65 feet or less in length. This legislation does not prevent a fisherman from pursuing these activities under current regulations and statutes they just would not qualify as a direct marketer.

The Southeast Conference recognizes that this legislation is legislation that was worked on by a committee representing various interests and agencies and that they all support HB 444 as a good and fair piece of legislation for all involved. We encourage you to pass this legislation out of committee. Thank you for your interest and support of the commercial fishing industry.

Sincerely,

Meilani Schijvens

Meilani Schijvens
Southeast Conference Executive Director

Cc: Senator Stedman; Representative Wilson

ALASKA STATE LEGISLATURE

REPRESENTATIVE PEGGY WILSON

SPONSOR STATEMENT
HB 444

"An Act relating to direct marketing fisheries businesses"

House Bill 444, recommended by the Joint Legislative Salmon Industry Task Force, will provide fairness in the taxation of small-business commercial fishermen. HB 444 is a companion to SB 286.

In today's marketplace of lower salmon prices and a demand for high-quality product, many fishermen are choosing to sell their catch directly to restaurants, grocery stores and consumers. In doing so, these entrepreneurial fishermen often freeze or otherwise process their fish, thus adding value to Alaska's fishery resources. Unfortunately, Alaska's current tax structure actually penalizes this market-driven business decision. The Fisheries Business Tax, or FBT (AS 43.75.015), requires small boat fishermen who process only their own catch to pay a 5% tax, the same tax rate as large industrial-scale floating processors that process a much higher volume of fish.

Furthermore, the current structure taxes small boat fishermen at an improperly high point of sale. Shore-based processors pay their FBT at 3% of the "grounds price" which is the price paid to fishermen for raw fish delivered to the processor. However, a small direct marketer must now pay their 5% FBT based on the price at their first point of sale which is usually much higher because it is a wholesale or retail price. In effect, this means that Alaska currently penalizes "value adding" to our fishery resources when done by small catcher/processors and direct marketers.

By creating a "Direct Marketing Fisheries Business License," HB 444 recognizes the important distinction between large and small floating processors and will end the disincentive Alaska currently places on direct marketers. The bill is unanimously supported by the Joint Legislative Salmon Industry Task Force and will provide fair tax relief to these Alaskan small businessmen.

2/10/2004

SPONSOR STATEMENT

ALASKA STATE LEGISLATURE

REPRESENTATIVE PEGGY WILSON

SECTIONAL ANALYSIS
HB 444
"An Act relating to direct marketing fisheries businesses"

Sec. 1 Extends Fisheries Business Tax Exclusion. In existing law, FBT must be paid by a person who first processes the fish. An exemption exists for fishermen who freeze fish onboard but who then sell the product to a processor. This exemption was tailored to trollers whose fishing operations often demand that they freeze at-sea even though they are not direct marketing their product. Sec. 1 of this bill extends this exemption to all vessels that process at-sea then sell to a processor. The Department of Revenue asked for this clarification of tax responsibility. Nothing in this section will affect state revenue.

Sec. 2 Reduces the Fisheries Business Tax rate for direct marketers from 5% to 3%. Also allows Department of Revenue to establish the market value of fish products for taxation of direct marketers based on average prices paid by processors in the region.

Sec. 3 Related to Sec. 1. Would allow fishermen who do some processing on board their vessel, but who then sell it to a processing company rather than direct marketing it, to be exempt from the Fisheries Business Tax. The "licensed fisheries business," meaning the processor, will pay the tax. As in Section 1, the department asked that tax liability in this production scenario be clarified and state revenue is unaffected.

Sec. 4 Provides for a new Direct Marketing Fisheries Business License to be issued by the Department of Revenue. This will allow fishermen who own or lease a vessel of 65 ft. or less to catch, process and sell both processed or unprocessed fish products in Alaska or out-of-state.

Direct Market businesses would be prohibited from buying and processing fish from other fishermen under this license. A fisherman who wishes to participate in these types of activities still has the ability to become a buyer or processor under the current regulations.

· SECTIONAL ANALYSIS ·

Identifies tax liabilities and establishes an annual application fee of $25 and reporting requirements.

Sec. 5 Defines "value" for taxation purposes as the prevailing price paid by processors for a given product in the same region or market area. This is a key section of the bill in that it means direct marketers will be taxed at the "grounds price" rather than having to base their taxes on wholesale and retail prices. Section 5 corrects the existing problem whereby direct marketers are paying higher taxes for adding value to fisheries resources.

Sec. 6-15 Provides for a more user-friendly payment system by collecting all fisheries taxes for direct marketing fisheries businesses by April 1 each year. In addition to the fisheries business tax, these may include the salmon enhancement tax, salmon marketing tax, dive fishery assessment, salmon fishery assessment, and permit buy-back assessment. Currently, monthly payments that inconvenience fishermen during the harvesting season are required for the hatchery and marketing taxes.

Sec. 16-18 Establishes effective dates for January 1, 2005.

Southeast Conference

P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

February 16, 2004

Representative Paul Seaton
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: Support HB 444 – Direct Marketers Legislation

Dear Representative Seaton,

Southeast Conference supports HB 444 that corrects the inequities in the current tax structure for the individual fisherman working to market their own catch. Southeast Conference is the State-designated Alaska Regional Development Organization (ARDOR), the federally-designated Economic Development District (EDD), and the federally-designated Resource Conservation and Development Council (RC&D) for Southeast Alaska. The mission of Southeast Conference is to undertake and support activities that promote strong economies, healthy communities, and a quality environment in Southeast Alaska. Our over 130 Southeast Alaska members include nearly every community in the region, every chamber of commerce, every major economic development organization, 20 transportation organizations, 10 Alaska Native organizations, and more than 50 other organizations.

Direct marketing is very important to a segment of the commercial fishing industry in Southeast Alaska. Individual fishermen direct marketing their products are producing high quality products that enhance the value of Alaska's seafood in the market. A lot of the direct market products from Southeast Alaska enter the fresh market or the frozen at sea marketplace.

This legislation will provide a fair tax basis for the direct marketer, which is strictly defined as a fisherman marketing their own catch – they cannot buy, or custom process for another fisherman and must be on a vessel 65 feet or less in length. This legislation does not prevent a fisherman from pursuing these activities under current regulations and statutes they just would not qualify as a direct marketer.

The Southeast Conference recognizes that this legislation is legislation that was worked on by a committee representing various interests and agencies and that they all support HB 444 as a good and fair piece of legislation for all involved. We encourage you to pass this legislation out of committee. Thank you for your interest and support of the commercial fishing industry.

Sincerely,

Meilani Schijvens

Meilani Schijvens
Southeast Conference Executive Director

Cc: Senator Stedman; Representative Wilson

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 444
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Revenue

Title	Direct Marketing Fisheries	RDU	Revenue Programs & Services
	Business	Component	Tax Division
Sponsor	Representative Wilson		
Requester	House Fisheries	Component No.	2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services		24.6	49.2	49.2	49.2	49.2
Travel						
Contractual						
Supplies		0.5	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING		**25.1**	**50.2**	**50.2**	**50.2**	**50.2**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	**	**	**	**	**	**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		25.1	50.2	50.2	50.2	50.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL		**25.1**	**50.2**	**50.2**	**50.2**	**50.2**

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time		1	1	1	1	1
Part-time						
Temporary						

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

** See page 2

Prepared by: Chuck Harlamert — Phone 465-2320
Division: Tax Division — Date/Time 2/17/04 8:48 AM
Approved by: Steve Porter, Deputy Commissioner — Date 2/17/2004
Agency: Department of Revenue

(Revised 12/2003 OMB)

ANALYSIS CONTINUATION

Revenue Analysis

Fisheries Business Tax

We estimate that during the calendar year 2002 there were 120 fisheries business taxpayers who would have operated under the direct marketing fisheries business license authorized by the bill. Together this group reported taxable value of just over $2.4 million with a combined tax liability of just over $120,000 at current rates. Existing rates for floating processors are 5% for established species and 3% for developing species. Based on their 2002 activity, the tax liability of this group would be approximately $70,000 at the 3% and 1% rates established by this bill. The impact of the lower tax rates, standing alone, would have been to decrease revenue to the state and local governments by approximately $50,000. Nevertheless we expect the overall revenue impact of the bill to be neutral or positive.

We believe that the impact of the rate reductions will be offset by the effect of other provisions within the bill. The "exclusion" under AS 43.75.017 is not in fact an exclusion from taxation. The "exclusion" merely transfers the responsibility for the tax to the licensed fisheries business who purchase processed fish from the fisherman. By making the exclusion mandatory the bill will reduce confusion over who is the taxpayer under the law. We expect that the definition of taxable value will be perceived by the affected taxpayers as more fair than existing law. The bill also simplifies enforcement of the complex issue of taxable value. These factors strongly influence tax compliance, accordingly we expect revenue from improved compliance to offset the reduced fisheries business tax rates.

Salmon Enhancement & Marketing Taxes

Current law places the burden for collection of salmon enhancement and marketing taxes solely on the buyer. Buyers in casual sales are often unaware of the requirement which is impractical to enforce. The bill addresses this issue by requiring fishermen who sell salmon to unlicensed buyers to pay their salmon enhancement and marketing taxes directly on a single annual return. We expect between 300 and 400 new taxpayers as a result of this change but are unable to estimate associated revenues.

Cost Analysis

For 2003 we issued 310 fisheries business licenses to fishermen who we believe will qualify for the direct marketing fisheries business license under this bill. Many of these fishermen did not engage is taxable activity, but obtained the license in the event that an opportunity or need to process or export their catch arose during the year. Of these 310 licensees, 194 provided security for estimated tax totaling just over $129,000. This data implies that direct marketing activity in 2003 was higher than in 2002. We expect that the bill will further increase the number of fishermen who participate in processing and direct marketing activity. The number of license applications and fisheries business tax returns will increase proportionately.

The bill authorizes direct marketers to report taxable value at the prevailing price in the region or market area instead of their actual receipts for the finished product. The prevailing price is used to prevent the taxation of value added by the direct marketer and thus to measure their tax base consistent with the rest of the industry. The bill provides the department with authority to restate their value consistent with market transactions in the area if the reported value is inconsistent with those arms length transactions.

The overall number of fishermen who are responsible for filing salmon enhancement and marketing tax returns will increase by three to four hundred based on 2003 Catcher Seller permits issues by ADF&G. Existing direct marketers will file fewer salmon enhancement and marketing tax returns. We estimate that the net increase in salmon enhancement and marketing tax returns will be between 150 to 250 annually based on current activity.

We request funding of a Tax Technician II position beginning the second half of FY06 representing the combined efforts for licensing, compliance, and return processing under the bill.

SHORT DEFINITIONS OF TERMS

SB 286 / HB 444

Direct Marketer - In the fishing industry, direct marketers are fishermen who catch and sell their own products. The products may be frozen, filleted or processed in other ways, or may simply be fresh seafood. Direct marketing entails selling to the public, to distributors, restaurants or grocery stores.

Catcher/Seller – This is a type of direct marketing operation. Catcher/sellers get a license at no cost from ADF&G that allows them to sell unprocessed product directly off their vessel at the dock to the general public. SB 286 / HB 444 will close a loophole in existing law that allows catcher/sellers to avoid taxation.

Catcher/Processor – There are many kinds of catcher/processors in the Alaska commercial fishing industry. A simple definition is a vessel that is capable of both catching fish and processing on board. This bill will affect catcher/processors of 65 feet and less such as some trollers and shrimpers who freeze product on board.

Floating processor – Also known as "floaters," these are large ships, essentially mobile fish plants, with on board processing lines. While the sponsor in no ways means to disparage this type of business, the intent of SB 286/HB 444 is to reform state taxation to recognize the differences between floaters and small direct marketing vessels. There is no distinction in current tax law.

Exporter - A direct marketer who exports unprocessed fishery resources from Alaska. An example might be a Dungeness crab fisherman who ships his crab live by airfreight to markets on the west coast. Such an exporter is currently already paying 3% fisheries business tax but will benefit from SB 286/HB 444 through the clarification of the value he pays that 3% on.

Fisheries Business Tax (FBT) – The oldest tax in the state, imposed in 1913, when the Territorial Legislature decided to tax salmon canneries. Currently, the tax rate is 3% on shore-side processors and 5% on "floating fisheries businesses," including small direct marketers. This bill will clarify the FBT tax picture for direct marketers.