ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2987 SCOMM 131: HOUSE SPECIAL COMMITTEE ON FISHERIES, 2003-04 select one salmon net area, exclusively, in which to fish. The requirement is currently embodied in a Board of Fisheries regulation, and CFEC has adopted complementary regulations. Some fishers have suggested eliminating this requirement thereby allowing an individual who holds entry permits in more than one salmon net area to fish more than one salmon net area in the same season. Some fishers have suggested such a proposal could be limited to affect only specified salmon net areas rather than attempt a statewide repeal of the requirement. Such a limited proposal could be adjusted to regional differences.[14]

b. Potential Benefits

Some individuals will find this an attractive opportunity (particularly those who now hold permits for more than one salmon net area). This action may encourage consolidation of fishing operations, which generally may reduce overhead costs in the salmon fisheries. While the number of operators and amount of effort at the peak of the season in a given area would not likely be reduced, the number of operators fishing at other times may fall.

This proposal does not require any permanent diminution in the overall number of use-privileges to achieve some reduction in costs, although it would provide an incentive for consolidation of use privileges among fewer individuals.

c. Potential Drawbacks

Consistent with the Salmon Forum's admonition "to safeguard Alaska's resident small boat fleet wherever possible," critics of the proposal argue fishing effort would increase at the peak of a fishery, and fisheries would become more intense and less civilized than they are today. Additionally, buyers of additional permits would increase demand for entry permits. Some individual Alaskans most dependent upon their local fisheries may sell their entry permits.

---

[14] This proposal is similar to proposals in which a fishery in a single area is divided into multiple areas, permit holders are assigned to each area, and anyone who wants to fish all areas has to purchase a permit for each. As noted in an earlier footnote, the Canadians have done this in their British Columbia salmon fisheries. The Canadian arrangements are described in press releases and backgrounders in the Fisheries and Oceans Canada, Pacific Region, Communications Branch web site (#9). See especially the backgrounder, "The Pacific Salmon Revitalization Strategy" (#10).

Additionally, to the extent those pursuing the benefits of this proposal purchase unfished or only marginally fished permits, the net result could be an overall increase in effort.

We also note, exclusive area registration is one of the Board's long-standing regulatory tools that has been upheld by the Alaska Supreme Court.

d. How to Undertake

Petition Board of Fisheries for a change of regulation.

C. OPTIONS REQUIRING A CHANGE OF LAW FROM THE ALASKA LEGISLATURE[15]

1. Authorize a Single Individual to hold two or more Entry Permits in the same Fishery and Fish an Incremental amount of Additional Gear.

a. Description

Seek a change of law from the Legislature to authorize a permit holder in a given fishery to acquire a second permit in that fishery and, thereby, be further authorized to fish an incremental additional amount of gear.

b. Potential Benefits

If the additional amount of gear authorized were less than twice the unit of gear authorized by a single permit, there would be a net overall reduction in gear in the fishery. At the same time, the fishing power of the resulting operation would increase. We could anticipate

[15] A suggestion is gear groups in particular fisheries could exercise certain options by a vote. Conceivably, the Legislature might be willing to delegate some functions to gear groups. However, please note our warning about risks inherent in the legislative process in the introduction to this outline.

AGENDA CHANGE REQUEST FORM
ALASKA BOARD OF FISHERIES

The Board of Fisheries will accept an agenda change request only:

1) for a fishery conservation purpose or reason; or
2) to correct an error in regulation; or
3) to correct an effect on a fishery that was unforeseen when a regulation was adopted.

The board will not accept an agenda change request that is predominantly allocative in nature in the absence of new information found by the board to be compelling (5 AAC 39.999).

NAME: WESLEY J HUMBYRD

ADDRESS: P.O. BOX 1207 HOMER AK 99603
City State Zip

TELEPHONE: 907-235-7286 - SAME
Day Evening

EMAIL ADDRESS: ______

1) STATE IN DETAIL THE NATURE OF THE PROBLEM. Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.

COMMERCIAL SALMON FISHERMEN OUR RESTRICTED TO ONE SALMON FISHERY A YEAR. UNDER LIMITED ENTRY THERE OUR ONLY SO MANY SALMON PERMITS IN EACH AREA. FISHERMEN SHOULD BE ABLE TO OWN PERMITS IN MORE THAN ONE PLACE. AND SHOULD BE ABLE TO THEM IN THE SAME YEAR PEOPLE THAT OUR MARRIED OR HAVE CHILDREN HAVE PERMITS FOR DIFFERENT AREAS. I FEAL IM BEING DISCRIMINATED AGAINST FOR BEING SINGLE PERSON

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3) STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE. THE RESTRICTION THE BOARD OF FISH HAS PUT ON SALMON DRIFT FISHERMEN IN DIFFERENT AREAS OF ALASKA HAS FORCED OR WILL FORCE MANY OUT OFF BUSNESS IF MY PROPOSAL WAS EXCEPTED IT WOULD LET FISHERMEN BE MORE DIVERSIFIED AND COULD MOVE FROM AREA TO AREA AND MAYBE MAKE END MEET + SURVIVE

Alaska Board of Fisheries Agenda Change Request Form

4) IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. is not

5) CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.
FISHERMEN IN THE SALMON FISHERY COULD OWN MORE THAN ONE SALMON PERMIT IN DIFFERENT AREAS AND BE ABLE TO FISH ALL THE AREA IN THE SAME YEAR IF THEY CHOSE TO THERE WOULD BE LESS PRESSURE ON WEAK FORCASTED AREAS FISHERMEN MOVE WHEN FISHING DROPPED OFF.

6) STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. BECAUSE IT IS A STATE WIDE ISSUE. AS POOR AS FISH PRICE ARE AND THE WAY THE BOARD OF FISH HAS RESTRICTED FISHING TIME IN SO MANY AREAS OF THE STATE. FISHERMEN CAN'T WAIT FOR THE NEXT CYCLE TO HAVE THIS PROBLEM HEARD THEY NEED HELP NOW NOT THREE YEARS FROM NOW

7) STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.). COMMERCIAL FISHING FOR SALMON IN COOK INLET WE ONLY GET 11 12 HR PERIOD A YEAR AND ANY EXTRA TIME IS RESTRICTED IN 1.5 CORRIDOR ON THE EAST SIDE. FISHING HERE IS NOT PROFITABLE ANYMORE UNDER THIS BOARD REGULATION

8) STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. NO

DATE: 6-7-01 SIGNATURE: Wesley J Humbyrd

On July 7th 2001
I submitted by fax to Art Hughes
At [redacted] Board of Fish in Juneau
Fax#No 907-465-6094 from
the Homer Fish & Game office
so I was shure they recieved
my fax. I submitted Agenda
change request form. the
Reponse I got Back, I think
It was Art Hughes. said
that is wasnt the Board of Fish
Responsibility to change the
Law. He told me It was
Limited Entrys or the
Lesgilatures

[illegible]

Mr. Chairman

This is the Testimony as I gave it at our LIO office in Petersburg. I agree with the one gentleman that stated that house bill 415 does not go far enough. The econimics of our salmon fisherys have never been worse, and doing nothing, will not help us out of the crisis. There is a lot people working very hard to find the solutions, and for that I am gratefull. I respect Mr. Nelsons testimoney out of Dillingham, but I think that he needs to realize that it is a two way street and that for some of us, one of those roads leads out of Bristol Bay. Those of us that go up there late, and leave early, do so because we have somthing else that we can make our liveing at. I do not think that it would be in his best interest if everyone up there put in a maximum effort. Thanks for your time

My name is Kurt Kvernvik and I live in Petersburg Alaska. I have been a commercial fisherman for the last 24 years and I am in favor of house bill 415.

I would first like to point out that many fisherman whom I know are in favor of house bill 415 cannot attend. They are currently brown crabbing in Southeast or preparing to depart for long lining. This is called diversification, which is the topic that I would like to talk about today.

I am a Bristol Bay salmon gillnet permit holder. I owe far more on my permit that it is currently worth. This financially prevents me form selling it to move on to a different salmon fishery. To help supplement my salmon income I would like to diversity into the Southeast Alaska seine fishery, which is a completely different gear type, a different area, a different vessel and more crew. Currently the only way that I can do this is to find a seine permit holder to come on board each season. While I would like to upgrade to a more competitive seiner, I have found it to be difficult when I can not have the fishing rights in my name.This method carries financial risks that are unacceptable to most lending institutions, whom might otherwise find me to be a good risk if I owned the permit.

The law as it is currently written, prevents me from making further capital investments in our states salmon fishery. The law prevents me from employing more people in the state.

I think that we should be able to choose which salmon fishery might best support our families depending on the market conditions for each season. It is clear to me that just fishing one salmon fishery will not support my family.

The salmon industry is going through some very hard times; there are many hundreds of permits that are not currently being fished for economic reasons. This in effect has resulted in lost jobs, less community revenue and lost fish taxes.

I think that if the state were to allow multiple registration that there are those of us that are willing to step up to the plate and invest in the permits, the boats, the gear and the crews that have been washed out of our salmon fisheries in the last decade

If I am allowed to own multiple permits, I will be able to decide which fishery that I will participate in and when. The state limited entry system has already addressed the issue of the maximum effort for each fishery, so I do not see increased effort or the lack of it, as being an issue. If the new studies lower the permit thresholds, my argument remains the same.

This law needs to be changed; the salmon fishermen of the state should be allowed to diversify for their own benefit and for the good of the state. For these reasons, I am strongly in favor of house bill 415.

Kurt Kvernvik
PO BOX 1081
Petersburg, AK 99833

FAX COVER SHEET

Homer Legislative Information Office
345 W. Sterling Hwy, #102A
Homer, AK 99603
(907) 235-7878 FAX: (907) 235-4008

faxed
2.27.04
10:20am
arc

Date:	2.27.04
No. of pages including this one:	4

To:	Rep Seaton (H)FSH
Fax No.	465-3472

Comments: per your request during Fridays Fisheries meeting. Documents are from Wes Humbyrd

Amber

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DATE: 6-7-01 SIGNATURE: Wesley J Humbyrd

ON JULY 7th 2001
I SUBMITTED BY FAX TO ART HUGHES
AT [redacted] BOARD OF FISH IN JUNEAU
FAX#NO 907-465-6094 FROM
the HOMER FISH & GAME OFFICE
SO I WAS SHURE THEY RECIEVED
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CHANGE REQUEST FORM. the
REPONSE I GOT BACK, I think
IT WAS ART HUGHES. SAID
that IS WASN'T the BOARD OF FISH
RESPONSIBILITY to CHANGE THE
LAW. HE TOLD ME IT WAS
LIMITED ENTRYS OR THE
LESGILATURES

Subject: [Fwd: HB 415]
Date: Wed, 03 Mar 2004 20:24:29 -0900
From: Paul Seaton <Representative_Paul_Seaton@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Cameron Yourkowski <Cameron_Yourkowski@legis.state.ak.us>

Subject: HB 415
Date: Tue, 02 Mar 2004 12:44:25 -0900
From: Dave Loutrel <dave@wildsalmondirect.com>
To: Representative_Paul_Seaton@legis.state.ak.us

Representative Seaton,

I am writing to you about HB 415 relating to the use of multiple entry permits. I was unable to participate in the last round of teleconferences, so I am writing you directly.

I am strongly opposed to this piece of legislation. I hold only one salmon limited entry permit -- a Kodiak Salmon Seine permit. I have fished every year for almost 15 years now as a permit owner.

I believe that this bill (HB415) if enacted could devastate an already difficult salmon fishery by virtually destroying our limited entry system.

The problem is that with permit values as low as they now are a person with a willingness to fish for low prices (the word scab comes to mind) and a few bucks in his/her pocket could purchase permits in different areas serviced by a major processor, agree to fish for pennies (since volume could make that profitable) and travel from area to area with a market displacing local fishers and driving the price paid to fishers down.

I know that currently the bill does would not allow a person to use the same vessel--but the word on the street from Thorstenson (an Icicle Seafoods stockholder) is that that will change--you will be able to use the same vessel. Even if it does not with the state of the fishing industry now, leasing a boat to use in a fishery is a small expense.

I would urge you to vote against this bill and take reasonable actions to prevent it's passage. I would suggest that former Governor Jay Hammond might have some inportant comments on this legislation as well.

Thanks for your time is considering my email.

David Loutrel
1430 Crescent Avenue
Anchorage, Alaska 99508
907-337-3131

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Thanks for your time is considering my email.

David Loutrel
1430 Crescent Avenue
Anchorage, Alaska 99508
907-337-3131

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS

REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

March 30th, 2004

Ed Dersham, Chairman
Alaska Board of Fisheries
P.O. Box 25526
Juneau, AK 99802-5526

Dear Mr. Dersham,

The House Special Committee on Fisheries held three hearings on HB 415, a bill that would repeal the Board of Fish's authority to maintain its exclusive salmon area registration regulation (5 AAC 39.115). Throughout these legislative hearings the committee heard much earnest testimony both in opposition and support of this change. However, the House Special Committee on Fisheries is unwilling to supercede the board's authority to alter this regulation. The committee believes that the board process is the appropriate forum in which to address this issue, and we encourage you to consider the issue at your earliest opportunity.

Please note the attached legal opinion from the Department of Law related to the board's authority on this matter.

Sincerely,

Paul K. Seaton

Representative Paul K. Seaton, Chair
House Special Committee on Fisheries

Cc. Representative Bill Williams

HB 415
To committee

March 10, 2004

Paul Seaton, Chairman
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

RE: House Bill 415

Dear Representative Seaton:

The undersigned wish to register their objections to House Bill 415. As we understand this bill, it would allow salmon permit holders to fish in more than one salmon registration area during a single year.

When the original nineteen salmon fisheries were brought under limited entry, the Commercial Fisheries Entry Commission (CFEC) established maximum numbers for each gear type and area. These numbers were calculated based on the highest number of participants in any of the four years preceding implementation of the limited act. Subsequent lawsuits resulted in even more permits being issued.

Once the permits had been issued, CFEC was supposed to establish optimum numbers of permits for each area and implement a buyback program. Had this second step been taken, we should have seen the number of permits reduced to a level, which would have made the salmon fisheries in each area economically viable.

For a variety of reasons that second step was never taken. We believe that there are excess permits in each salmon area. With the downturn in salmon prices, the number of permits being fished in each area has declined. This has allowed those remaining in the fishery an improved chance of making a living.

If people are allowed to fish multiple areas, they will have greater incentive to activate currently idle permits. Permit prices are relatively low now, so acquiring the opportunity to cherry pick the hottest portions of any area's runs would be tempting. We believe that non-local folks would find this incentive attractive. We do not need additional competition at this time. We believe that it would drive prices down even further and erode the earnings of local fishermen.

For these reasons, we urge you to vote against this bill.

Respectfully,

Signature	Printed Name and address
Norman E Larsen	NORMAN E LARSEN - P.O. BOX 52 SAND POINT, AK 99661
Robin Larsen	Robin LARSEN - P.O. BOX 264 - SAND POINT, AK 99661

SCOMM
131:24

[redacted] HOUSE COMMITTEE REPO[redacted]

(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
[signature]	Ogg			✓	
Peggy Wilson	WILSON	✓			
[signature]	SAMUELS			✓	
[signature]	GUTTENBERG			✓	
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 **<u>processed</u>** [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) **<u>Except as otherwise provided under (e) of this section, a</u>** [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 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.

· SECITONAL 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

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Juneau, Alaska 99801-1172
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E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

February 16, 2004

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 Keta • 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

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FEB 13 2004

United Southeast Alaska Gillnetters
GILLNETTERS
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

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 Shijvens

Meilani Schijvens
Southeast Conference Executive Director

Cc: Senator Stedman; Representative Wilson

<u>AMENDMENT</u>

HB 444
Rep. Wilson

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

The amended line 5 would read:

by the prevailing price paid to fishermen for the <u>unprocessed</u> 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

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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"

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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 Shijvens

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):
Title: Direct Marketing Fisheries Business
Sponsor: Representative Wilson
Requester: House Fisheries

Dept. Affected: Revenue
RDU: Revenue Programs & Services
Component: Tax Division
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)

FISCAL NOTE

STATE OF ALASKA **BILL NO.** HB 444
2004 LEGISLATIVE SESSION

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.

SCOMM
131:25

[redacted]OUSE COMMITTEE REPO[redacted]

(7)
Date Referred to Committee: March 24, 2004 **FURTHER REFERRALS: Resources**

Date of Committee Action: ____________________

The <u>HOUSE SPECIAL COMMITTEE ON FISHERIES</u> considered: **<u>HB 458</u>**

HOUSE BILL NO. 458 **SHORT-TERM COM FISHING CREWMEMBER LICENSE**

"An Act relating to a one-day commercial fishing crewmember license."

Recommends it be replaced with [ ] HCS *or* [ ] CS *for* ______________________________(________)
***For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_______* [ ] 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

***PREVIOUS* FISCAL NOTES**

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

Signing <u>with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
[signature]	Gara	✓			
[signature]	Ogg	✓			
Cheryll Heinze	HEINZE	✓			
[signature]	SAMUELS	X			
Peggy Wilson	WILSON	✓			
Chair: Paul K Seaton	SEATON	✓			
Chair:					

23-LS1591\U
Utermohle
3/31/04

CS FOR HOUSE BILL NO. 458( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MOSES BY REQUEST, Wolf

A BILL

FOR AN ACT ENTITLED

"An Act relating to a one-day commercial fishing crewmember license; and providing for an effective date."

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

*** Section 1.** AS 16.05.480(g) is amended to read:

(g) **A** [FOR A CREWMEMBER FISHING LICENSE ISSUED FOR CALENDAR YEAR 2002 AND FOLLOWING YEARS, A] resident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall pay **a** [AN ANNUAL] fee of $60 **for an annual crewmember fishing license. A** [. FOR A CREWMEMBER FISHING LICENSE ISSUED FOR CALENDAR YEAR 2002 AND FOLLOWING YEARS, A] resident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual fee of $5.

*** Sec. 2.** AS 16.05.480(h) is amended to read:

(h) **A** [FOR A CREWMEMBER FISHING LICENSE ISSUED FOR

CALENDAR YEAR 2002 AND FOLLOWING YEARS, A] nonresident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall pay **a** [AN ANNUAL] base fee of $60 **for an annual crewmember fishing license,** plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law. **A** [FOR A CREWMEMBER FISHING LICENSE ISSUED FOR CALENDAR YEAR 2002 AND FOLLOWING YEARS, A] nonresident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual base fee of $5 plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law.

* **Sec. 3.** AS 16.05.480 is amended by adding a new subsection to read:

1

(j) Notwithstanding (g) and (h) of this section, a resident or nonresident engaged in commercial fishing who does not hold an entry permit or an interim-use permit may obtain a one-day crewmember fishing license for a fee of $30, or a three-day crewmember fishing license for a fee of $50.

* **Sec. 4.** AS 16.10.310(a) is amended to read:

(a) The department may

(1) make loans

(A) to individual commercial fishermen who have been state residents for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370, who have had **an annual** [A] crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for the year immediately preceding the date of application and any other two of the past five years, and who actively participated in the fishery during those periods

(i) for the purchase of entry permits; or

(ii) to upgrade existing vessels and gear for the purpose of improving the quality of Alaska seafood products;

(B) to an individual for the repair, restoration, or upgrading of existing vessels and gear, for the purchase of entry permits and gear, and for the construction and purchase of vessels, if the individual has been a state resident for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370, and either

(i) because of lack of training or lack of employment opportunities in the area of residence, does not have occupational opportunities available other than commercial fishing; or

(ii) is economically dependent on commercial fishing for a livelihood and for whom commercial fishing has been a traditional way of life in Alaska;

(C) for the purchase of quota shares for fisheries in or off the state by individual commercial fishermen who

(i) have been state residents for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370;

(ii) for any two of the past five years, possessed **an annual** [A] crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 and actively participated in a fishery for which the license or permit was issued;

(iii) qualify as transferees for quota shares under applicable law; and

(iv) are not eligible for financing from other recognized commercial lending institutions to purchase quota shares;

(D) to an individual commercial fisherman to satisfy past due federal tax obligations, if the fisherman has been a state resident for a continuous period of two years immediately preceding the date of application for the loan, has filed past and current federal tax returns with the federal government, has executed an agreement with the federal government for repayment of past due federal tax obligations, and either

(i) has had **an annual** [A] crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for the year immediately preceding the date of application and any other two of the past five years, and has actively participated in the fishery during those periods;

(ii) because of lack of training or lack of employment opportunities in the area of residence, does not have occupational opportunities available other than commercial fishing; or

(iii) is economically dependent on commercial fishing for a livelihood and for whom commercial fishing has been a traditional way of life in Alaska;

(2) designate agents and delegate its powers to them as necessary;

(3) adopt regulations necessary to carry out the provisions of AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for services provided;

(4) establish amortization plans for repayment of loans, which may include extensions for poor fishing seasons or for adverse market conditions for Alaska products;

(5) enter into agreements with private lending institutions, other state agencies, or agencies of the federal government to carry out the purposes of AS 16.10.300 - 16.10.370;

(6) enter into agreements with other agencies or organizations to create an outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of the state;

(7) allow an assumption of a loan if

(A) the applicant has been a state resident for a continuous period of two years immediately preceding the date of the request for an assumption; and

(B) approval of the assumption would be consistent with the purposes of AS 16.10.300; an applicant for a loan assumption may not be disqualified because the applicant does not meet the loan eligibility requirements of (1) of this subsection;

(8) prequalify loan applicants for a limited entry permit loan or a quota shares loan and charge a fee not to exceed $200 for prequalification;

(9) charge and collect the fees established under this subsection;

(10) refinance a debt obligation incurred by a borrower or borrowers under this section if the borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370;

(11) refinance debt obligations, not to exceed $300,000, incurred by a borrower or borrowers for the purchase of a commercial fishing vessel or gear if the borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370; the department may collect a refinancing loan origination charge as provided by regulation.

* **Sec. 5.** This Act takes effect ~~January 1, 2005.~~

July 1st, 2004

* Sec. 5. the department may charge an additional administrative fee of $3 per one or three-day license ~~for~~ until Dec. 31st, 2004.

uncodified-or-
AS 16.05.480

Crew member fishing

Representative Carl E. Moses, House District 37
(907) 465-4451 – Adam Berg, Staff

SPONSOR STATEMENT / SECTIONAL ANALYSIS

HB458 – One-Day Commercial Fishing Crewmember License

The economic health of certain communities and regions of Western Alaska have been jeopardized by unprecedented low salmon returns and prices. These low returns have particularly impacted commercial salmon fishermen in those regions. It is in the best interest of the State of Alaska and these communities to maximize options available to those fishermen to earn a living. One option available is to allow the purchase of one-day commercial fishing crewmember licenses. This would allow visitors an affordable way to engage in a sort of extreme tourism adventure by actually participating in the fishery as a crewmember.

Tourists can currently go out with a commercial boat but cannot have any form of active participation without buying a full year crewmember license.

BILL SECTIONS 1-2: Changes the term from a "crewmember fishing license" to an "annual crewmember fishing license". (Note: The reason for the term change applies to Bill Section 4.)

BILL SECTION 3: Allows residents and non-residents to purchase a one-day commercial fishing crewmember license for $30.

BILL SECTION 4: Assures that a one-day license holder is not considered a fisherman eligible for the Commercial Fishing Revolving Loan Fund.

BILL SECTION 5: Changes the definition of "fisherman" to assure one-day license holders do not qualify for the Fisherman's Fund

SPONSOR STATEMENT/SECTIONAL

UNITED FISHERMEN OF ALASKA

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

March 11, 2004

Representative Tom Anderson, Chair
House Committee on Labor and Commerce
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau, AK 99801-1182

Dear Chairman Anderson,

United Fishermen of Alaska supports HB 458 relating to a one-day commercial fishing crewmember license. This bill would provide the flexibility for commercial fishermen to take out a guest or client for a single day without requiring the full year crew license. Many tourists and visiting family members of fishermen are interested in seeing for themselves and taking part in the rich tradition of commercial fishing in Alaska. Allowing the option of a one day crew license would provide this excellent opportunity for them to gain an appreciation for Alaska's well-managed fisheries, while bringing an additional possible source of income for fishermen.
This would be an excellent new and innovative way to market Alaska's fish.

We also believe that the revenue from the one day crew license would likely offset the costs incurred in establishing the program. We do not expect that professional crew members would consider this as an alternative to their normal full year crew license.

United Fishermen of Alaska represents 32 Alaska Commercial fishing organizations and hundreds of individual fishermen and fishing related businesses, altogether representing over 10,000 Alaska fishermen. We support HB 458 and thank you for your consideration on this matter.

Sincerely,

Mark Vinsel
Mark Vinsel
Executive Director

CC: Representative Carl Moses

MEMBER ORGANIZATIONS
Alaska Crab Coalition • Alaska Draggers Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Keta • 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

SCOMM
131:26

[redacted]HOUSE COMMITTEE REP[redacted]

(7)
Date Referred to Committee: February 16, 2004 **FURTHER REFERRALS: Resources**

Date of Committee Action: ____________________

The HOUSE SPECIAL COMMITTEE ON FISHERIES considered: **HB 478**

HOUSE BILL NO. 478 **COMMERCIAL FISHING INTERIM USE PERMITS**

"An Act relating to the issuance of commercial fishing interim-use permits; and providing for an effective date."

Recommends it be replaced with [ ] HCS *or* [ ] CS *for* ______________________________(________)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_______ **[ ] 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

***PREVIOUS* FISCAL NOTES**

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

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
[signature]	Gara			✓	
[signature]	Ogg	✓			
Cheryll Heinze	HEINZE	✓			
Peggy Wilson	WILSON	✓			
[signature]	SAMUELS	✓			
[signature]	GUTTENBERG			✓	
Chair: Paul K. Seaton	SEATON	✓			
Chair:					

Subject: **Re: HB 478**
Date: Fri, 27 Feb 2004 17:24:44 -0900
From: "Jon Goltz" <Jon_Goltz@law.state.ak.us>
To: <Eric_Knudson@legis.state.ak.us>
CC: <bruce_twomley@cfec.state.ak.us>, <Cameron_Yourkowski@legis.state.ak.us>, <Frank_homan@po.cfec.state.ak.us>

Eric:

I have not yet completed my analysis due to other issues that required my attention today, but my research thus far appears to point to the following conclusions.

On the retroactivity issue:

(1) Applying the bill retroactively in the criminal case that is currently in the Supreme Court would raise an issue about the "ex post facto" prohibitions of the Alaska and the U.S. constitutions. Since this bill only clarifies when the CFEC shall issue a permit - not when a permit is required - it is not clear whether retroactive application would be an ex post facto law.

(2) The bill possibly could be applied retroactively in the civil cases that seek reimbursement for past fees paid, but there are some complications. AS 01.10.100 provides that the amendment of a law does not extinguish any liability accrued under that law, "unless the . . . amending act so provides expressly." Even then, there could be a potential due process issue, although in my initial judgment no due process violation would occur.

(3) Even if the law could not be applied retroactively in any of the current court cases, a retroactive date for the bill could express the legislature's view that the Court of Appeals misinterpreted the scope of the current statute. That might have some persuasive value for the Supreme Court.

I don't see a significant down side to making the bill retroactive, as long as the legislature understands that the courts might not allow it to be applied retroactively in all circumstancs.

On the issue of landing fish from international waters, I don't see any changes to this bill that could help clarify that issue. That issue mainly pertains to other statutes that require a permit. The statute that is the subject of this bill does not require a permit, it just express when the CFEC shall issue a permit.

I'll work on these issues over the weekend and be prepared to provide further testimony on Monday.

>>> Eric Knudson <Eric_Knudson@Legis.state.ak.us> 2/27/2004 4:23:46 PM
>>>
Assistant Attorney General Goltz,
If you could also send a copy of your assessment and opinion, which were

requested of you by the Fisheries committee today to Cameron Yourkowski
I would appreciate it. Cameron Yourkowski's email is included in this email.
Thank you for you work on this issue,
Eric

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Alaska State Legislature

Representative Peggy Wilson
House District 2
Putting Alaska's Families First

SPONSOR STATEMENT FOR HB 478

An Act relating to the issuance of commercial fishing interim-use permits.

House Bill 478 is a housekeeping measure designed to affirm and clarify that the Commercial Fisheries Entry Commission (CFEC) has the authority to issue interim-use permits in each fishery that is not subject to a maximum number (limited entry). This clarification is consistent with the intent of the original statute. The clarification is necessary, however, because the Court of Appeals recently held that the CFEC does not have the authority to issue interim-use permits to fishermen who catch halibut or sablefish beyond the three-mile limit of state waters, and then bring the halibut or sablefish into state waters for delivery and sale.

Current statutes require that fishermen in those circumstances have a state permit, AS 16.05.675. The permit requirement promotes enforcement, promotes resource data collection, and facilitates revenue collection. However, three fishermen who lacked a permit have recently prevailed in the Court of Appeals by arguing that the only permit available to them was an interim-use permit, and that the Commercial Fisheries Entry Commission lacks the authority to issue interim-use permits in fisheries that it cannot limit to a maximum number of participants. State v. Dupier, 74 P.2d 933 (Alaska App. 2003). The court of Appeals decision is currently under review by the Alaska Supreme Court. Regardless of the outcome in that case, clarification of the statute is desirable.

House Bill 478 amends the law, so that it clearly authorizes the CFEC to issue interim-use permits in fisheries that have not been the subject of a maximum number (limited entry). This clarification is consistent with the original intent and purpose of the current statute, and it will more clearly authorize the issuance of permits in all Alaska fisheries despite the recent Court of Appeals decision.

HB 478/A

SPONSOR STATEMENT

Jan-May, Juneau: State Capitol • Juneau, AK 99801-1121 • *ph:* (907) 465-3824 • *fax:* (907) 465-3175
June-Dec, Wrangell: PO Box 109 • Wrangell, AK 99929 • *ph:* (907) 874-3088 • *fax:* (907) 874-3055
Rep.Peggy.Wilson@legis.state.ak.us • http://www.akrepublicans.org/wilson/ • 1-800-686-3824

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB0478a
() Publish Date:

Revision Date/Time (Note if correction):

Title	An Act relating to the issuance of commercial fishing interim-use permits
Sponsor	Rep. Wilson
Requester	Rep. Wilson

Dept. Affected:	Fish and Game
RDU	Comm. Fish Entry Commission
Component	Commercial Fisheries Entry Commission
Component No.	471

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type–Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

Prepared by:	Shirley Penrose, Administrative Officer	Phone	907-790-6960
Division	Commercial Fisheries Entry Commission	Date/Time	2/19/04 9:43 AM
Approved by:	Mary McDowell, Commissioner	Date	2/19/2004
Agency	Commercial Fisheries Entry Commission		

(Revised 12/2003 OMB)

Alaska State Legislature

Representative Peggy Wilson
House District 2
Putting Alaska's Families First

MEMORANDUM

Date: February 17, 2004

To: Representative Paul Seaton, Chair House Fisheries Committee

From: Representative Peggy Wilson PW

Re: HB 478 "Commercial Fishing Interim Use Permits"

This is a request to have HB 478 calendared for a hearing before the Special Committee on Fisheries as soon as possible.

HB 478 is legislation recommended by the Commercial Fisheries Entry Commission.

HB 478 is a housekeeping measure that will clarify the ability of the Commercial Fisheries Entry Commission to issue interim-use permits in each fishery that is not limited to a maximum number of participants. This clarification is consistent with the intent of the clarified statute.

I have attached the sponsor statement, and a copy of the legislation. Thanks for your consideration.

Jan-May, Juneau: State Capitol • Juneau, AK 99801-1121 • *ph:* (907) 465-3824 • *fax:* (907) 465-3175
June-Dec, Wrangell: PO Box 109 • Wrangell, AK 99929 • *ph:* (907) 874-3088 • *fax:* (907) 874-3055
Rep.Peggy.Wilson@legis.state.ak.us • http://www.akrepublicans.org/wilson/ • 1-800-686-3824

HB 478:

- Interim use permits (unlimited)

  - pending the establishment.

  - Dupier [St. Supreme Court]

- 3 halibut fishermen outside 3 miles

  - Should have issued/bought landing permit.

  - Class Action: all refunds.

: John Goltz :

Friday

John Goltz

269-5100

SCOMM

131:27

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HCR 6
() Publish Date:

Revision Date/Time (Note if correction):
Title: Extending the termination date for the Joint Legislative Salmon Industry Task Force until 2005.
Sponsor: Representative Stevens, Kerttula,.....
Requester: Representative Seaton

Dept. Affected: Legislature
BRU: Legislative Council
Component: Council & Subcommittees
Component No. 783

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This resolution extends the termination date for the Salmon Industry Task Force. This resolution has zero fiscal impact on the Legislature as costs for the Task Force will be absorbed within existing budgets.

Prepared by: Karla Schofield, Deputy Director
Division: Administrative Services
Phone: 465-3852
Date/Time: 2/11/03 2:11 PM
Approved by: Pamela Varni, Executive Director
Agency: Legislative Affairs Agency
Date: 2/11/2003

ORIGINAL RESOLUTION ESTABLISHING

THE JOINT LEGISLATIVE SALMON INDUSTRY TASKFORCE

<u>22ND LEGISLATURE</u>

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION

Central Microfilm Services
Departement of Education & Early Development
State of Alaska

ORIGINAL RESOLUTION ESTABLISHING

THE JOINT LEGISLATIVE SALMON INDUSTRY TASKFORCE

22ND LEGISLATURE

Alaska State Legislature

Chair Seaton

Vice Chair Wilson

Members
Berkowitz
Guttenberg
Heinze
Kott
Samuels

State Capitol
Juneau, AK 99801
(907) 465-3306
(907) 465-3472

House Special Committee on Fisheries

AGENDA-February 19, 2003

Rm#124; 8:30-10:00 a.m.

1) +*HCR 6 Extension of the Joint Legislative Salmon Industry Task Force.

2) Overview of the Alaska Department of Fish and Game **Subsistence Division**, Director Mary C. Pete presenting.

   Questions and Answers.

Thank you. If you have any questions you can contact my committee staff person, Cameron Yourkowski, at 465-3306

Moving of bills from Committee

I move __HB/SB or whatever resolution____________ from Committee with individual recommendations and attached fiscal notes.

(note: when making this motion one should include the version of the bill. For example: I move House Committee Substitute for Senate Bill 33-Fisheries w/... A person may substitute the language with HCS for SB 33 Fish)

If there is an objection, then the members of the committee will procede with a roll call vote. If there is no objection then the bill passes from committee with recommendations made on the yellow bill-action sheet passed around by the committee aide.

A majority of the quorum present is sufficient to pass a bill from committee.

23-LS0516\H
Utermohle
2/12/03

CS FOR HOUSE CONCURRENT RESOLUTION NO. 6(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:
Referred:

Sponsor(s): REPRESENTATIVES STEVENS, Kerttula, Morgan

A RESOLUTION

Relating to the continuation of the Joint Legislative Salmon Industry Task Force until 2004.

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

That the termination date of the Joint Legislative Salmon Industry Task Force established by Legislative Resolve 53, Twenty-Second Alaska State Legislature, is extended until the adjournment sine die of the Second Regular Session of the Twenty-Third Alaska State Legislature; and

That the original legislative members of the Joint Legislative Salmon Industry Task Force shall continue to serve on the task force unless the member no longer serves in the legislature, resigns from the task force, or is jointly removed from the task force by the president of the senate and speaker of the house of representatives; and

That the original public members of the Joint Legislative Salmon Industry Task Force shall continue to serve on the task force unless the member resigns from the task force or is jointly removed from the task force by the president of the senate, the speaker of the house of representatives, and the legislative members of the task force; and

That a vacancy arising in the legislative or public membership of the Joint Legislative Salmon Industry Task Force shall be filled in the same manner as the original appointment to the vacant position; and

That the Joint Legislative Salmon Industry Task Force shall submit a final report of its findings and proposed industry and legislative changes to the legislature by January 31, 2004, and may make any interim reports it considers advisable; and

That the Legislative Council may, upon request of the chair of the Joint Legislative Salmon Industry Task Force, enter into contracts for research necessary for the functioning of the task force.

Sectional Analysis

Task Force

"Extending the termination date of the Joint Legislative Salmon Industry Task Force until 2005." *23-LS0318\A*

Intent

To continue the work of the Joint Legislative Salmon Industry Task Force to March 2005.

Sectional Analysis

- Extends the Joint Legislative Salmon Industry Task Force to March 2005.
- Original legislative members continue to serve unless the member no longer serves in the legislature, resigns, or is jointly removed by the president of the senate and speaker of the house of representatives.
- Original public members continue to serve unless the member resigns or is jointly removed by the president of the senate, the speaker of the house of representatives, and the legislative members of the task force.
- Vacancies shall be filled in the same manner as the original appointment.
- The Joint Legislative Salmon Industry Task Force submits a final report to the legislature by January 31, 2005.

SECTIONAL

Joint Legislative Salmon Industry Task Force

Legislative Members
Senator Ben Stevens, Chair
-esentative Gary Stevens, Vice-Chair
tor Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
Representative Drew Scalzi, Alternate

Public Members
Sue Aspelund
Sam Cotten
Duncan Fields
Don Giles
John Lowrance
Robin Samuelson
Gary Slaven
Stephanie Madsen, Alternate
Chris Moss, Alternate

January 31, 2003

Honorable Gene Therriault, President
Alaska State Senate
State Capitol
Juneau, Alaska 99801

Honorable Pete Kott, Speaker
Alaska State House
State Capitol
Juneau, Alaska 99801

Dear President Therriault and Speaker Kott,

Please consider this letter, the accompanying report and draft legislation as satisfaction of the requirements in Legislative Resolve No. 53 (22^{nd} Alaska State Legislature).

The accompanying Joint Legislative Salmon Industry Task Force Report includes a short introduction, explanation of the task force process, draft legislation, other recommendations, and future issues.

This volume of work represents the efforts of Alaskans from all regions of the state and segments of the commercial salmon industry. Over sixty-five people participated in the Task Force and Task Force subcommittee process. In addition, the Task Force received over 279 proposals and comments from the public.

While the Task Force adopted a number of proposed changes to state statutes and addressed numerous issues surrounding the commercial salmon industry, it was impossible in the short time frame available to address many of the complex issues that affect the industry. Therefore, the Task Force seeks to continue its work in order to address many outstanding issues.

In closing, the Task Force would like to express its sincere gratitude to the multitude of Alaskans who participated in the process, to state agency personnel, and to the legislature for recognizing the importance of a viable sustainable commercial wild salmon industry.

Sincerely,

Ben Stevens, Chair
Joint Legislative Salmon Industry Task Force

JOINT LEGISLATIVE SALMON INDUSTRY TASK FORCE

MEMBERS

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-chair
Senator Alan Austerman
Representative Bill Williams
Senator Kim Elton
Representative Drew Scalzi
Sue Aspelund
Sam Cotten
Duncan Fields
Don Giles
John Lowrance
Stephanie Madsen
Chris Moss
Gary Slaven

TASK FORCE STAFF

Phelan Straube
Cheryl Sutton

Introduction

The Joint Legislative Salmon Industry Task Force, created by concurrent resolution in the twenty-second legislature, was formed with a clear public mission. Commercial salmon industry professionals representing a cross-section of the industry and the state looked to the legislature for assistance to reclaim lost market share and foster an environment that encourages expansion into new markets. The legislature's recognition of the importance of the commercial salmon industry to the state was proven in their dedication in forming the task force. World seafood markets are recasting and change is inevitable for Alaska. The industry remains optimistic that through reclamation and change the commercial salmon industry in Alaska will improve.

The Alaska commercial salmon industry faces multiple challenges as it moves through this century. Alaska contains more than 34,000 miles of coastline – more than the rest of the United States combined. This provided a daunting challenge for all involved. However, all the task force participants showed the indomitable spirit of Alaskans.

The further challenge to lawmakers on the task force was to appoint a diverse group of industry professionals who would view the trial facing the salmon industry as a single community. This meant setting aside regional and other biases, resolving to view the varying components of the commercial salmon industry as essential to the whole, and coming to the table not only to contribute but also to learn. The work produced by the task force proves Alaskans once again met the challenge.

The revenues resulting from the industry, directly and indirectly, serve as the economic backbone for a large part of Alaska. In many coastal regions of Alaska, the seafood industry generates nearly all of the economic activity. The industry is not a monolith. Diverse species, product forms, markets, harvest methods, individuals, and areas comprise to make the whole. In spite of this seemingly overwhelming obstacle, enormous progress was made.

It is essential to understand the industry did not look to the legislature to create a panacea. They looked for assistance through developing communication, exchanging information, and working in a partnership with the legislature. The task force recommendations attest to the success of achieving these objectives.

The report will show the effort and results. In many ways, the work has just begun and the members of the task force have identified continuing issues and desire to press forward. A recommendation to extend the life of the task force is included.

A public member of the task force recently stated the essence of the task force: "I see the task force as being the communication bridge between the industry and the legislature regarding issues of concern." Dynamic, concerted action is urgently needed and the momentum gained should not be lost but continued.

Process

The Joint Legislative Salmon Industry Task Force, chaired by Senator Ben Stevens, gaveled in on July 22, 2002, in Anchorage. The first order of business was to develop a clear mission statement. Its mission statement states:

"The goal of the Legislative Salmon Industry Task Force is to evaluate the State of Alaska's statutory framework for Alaska's wild salmon industry as well as current industry practices and to make recommendations for statutory, regulatory and structural changes that will improve the industry while recognizing Alaska's coastal economy."

Five subcommittees were formed consisting of task force and public members. The subcommittees are Finance, Governance, Marketing, Production, and Quality. Once the subcommittees were formed, they too had to develop a focused mission to ensure success.

The subcommittees met independent of the task force to begin their work. The subcommittees met over 43 times in a very public process. The task force met 7 times as a whole to consider the work of the subcommittees, receive public input, and to act upon proposed recommendations.

Public hearings were held in Ketchikan, Petersburg, Sitka, Sand Point, Soldotna, Homer, Cordova, Anchorage, Dillingham, Kodiak, Seattle, and on KDLG's Talk of Alaska. The members of the task force split the responsibility and at least 3 members attended in each area. Members attempted to go to areas where they were less informed on the issues in an attempt to broaden their understanding of the needs of each area. The meetings were well attended and the testimony received was incorporated into the task force deliberations.

The United Fishermen of Alaska created a web site where all the task force activity was posted and available. Additionally, they created a format for receiving proposals from the public. They received, posted, and made available to the task force over 279 proposals. The subcommittees reviewed each proposal and incorporated them into their discussions, deliberations, and recommendations to the task force.

The task force wanted to ensure a comprehensive public process and every effort was made in this regard. The dedication and commitment of each subcommittee member, the subcommittee assets, and the task force members is apparent in the recommendations being forwarded.

Recommended Legislation

Salmon Task Force

1. "Extending the termination date of the Joint Legislative Salmon Industry Task Force until 2005." *23-LS0318\A*

Finance

2. "An Act relating to the emergency order authority of the commissioner of fish and game and to meetings of the Board of Fisheries." *23-LS0166\A*

3. "An Act relating to payment of the fisheries business tax and to security for collection of the fisheries business tax." *23-LS0170\A*

4. "An Act relating to loans to satisfy past due federal tax obligations of commercial fishermen and to the commercial fishing loan program." *23-LS0165\I*

5. "An Act relating to a salmon product development tax credit under the Alaska fisheries business tax and the Alaska fisheries resource landing tax; and providing for an effective date." *23-LS0169\D*

6. "An Act relating to the transportation and sale of commercially caught fish by an agent of a commercial fishing permit holder and to the sale of fish; and providing for an effective date." *23-LS0167\A*

Production

7. "An Act relating to commercial fishing privileges of persons who hold multiple entry permits for a salmon fishery." *23-LS0323\A*

8. "An Act relating to a buy-back surcharge on the renewal of entry permits and administration of an entry permit buy-back program." *23-LS0322\D*

Quality

9. "An Act relating to standards for chilling and delivery of commercially caught salmon; and providing for an effective date." *23-LS0321\I*

Governance

10. Task Force Resolution to the Alaska Board of Fisheries.

11. "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date." *23-LS0313\A*

12. "An Act establishing the Alaska Commercial Seafood Commission; and providing for an effective date." *23-LS0314\A*

13. "An Act relating to the wages of people working in the fisheries business." *23-LS0315\D*

Marketing

14. "Relating to additional state funding for seafood marketing programs of the Alaska Seafood Marketing Institute." *23-LS0168\D*