

HB

192

<TARGET><BILL>HB 192</BILL><SUBJECT>HB
192</SUBJECT><COMM>HFSH28</COMM></TARGET>

Alaska Legislature
Representative Charisse Millett

Session:

State Capitol Building, Room 403
Juneau, AK 99801
Phone (907) 465-3879
Fax (907) 465-2069



Interim:

Anchorage LIO
716 W 4th Ave., Room 390
Anchorage, AK 99501
Phone (907) 269-0222
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MEMORANDUM

**To: The Honorable Paul Seaton Chair,
House Special Committee on Fisheries**

From: Rep. Charisse Millett

Re: Hearing Request for House Bill 192

Date: April 1st, 2013

Chair Seaton,

I respectfully request a hearing at your earliest convenience in the House Special Committee on Fisheries for House Bill 192. My staff on this piece of legislation is Vasilios Gialopsos. His phone number is 465-4937. Attached to the memorandum should be the materials required to consider a hearing request. If and when the hearing is scheduled, I ask your indulgence to update the list of testifiers.

A handwritten signature in cursive script that reads "Charisse".

Respectfully,
Rep. Charisse Millett

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District 24

SPONSOR STATEMENT
HB 192

Currently, commercial fishermen are required to submit the resource landing tax by April 1st. The difficulty with this fixed date is that Department of Fish and Game does not always have the statewide average fish report by that time. Though the Department of Revenue does grant an automatic extension to file the landing tax return if the report has not been submitted within 30 days of the due date, there are no extensions for payment time. This results in penalties and interest to occur. For example, the 2011 list was not published until May 29, 2012. This results in the accumulation of unfair penalties and interest to commercial fishermen. Commercial fishermen are also required to make equal quarterly payments. This means that in some instances, the current statute would require payment of 50% of the landing taxes before even leaving port.

House Bill 192 makes necessary changes to the resource landing tax statutes. The first section aligns the due date for the resource landing tax with the date that the statewide average fish report is released. This is a long overdue remedy. The State of Alaska should not punish our fishing industry for the delay of information they have no control over.

The second section of House Bill 192 still maintains that 100% of the previous year's tax liability or at least 90% of the estimated amount is owed. However, the requirement to make equal quarterly payments is deleted. Instead, the commercial fisherman is allowed to pay their quarterly tax based on their production and estimated price for that specific quarter. It only makes sense that a way of life as volatile as that of our commercial fishermen should have a tax structure that reflects those realities. House Bill 192 provides a tax regime that is equitable and fair.

House Bill 192 has been referred to the Fisheries and Finance Committees. I would greatly appreciate you in joining me in supporting Alaska's commercial fishing industry.

Prepared by: Vasilios Gialopsos

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 2, 2013

SUBJECT: Sectional summary of HB 192 (Work Order No. 28-LS0725\A)

TO: Representative Charisse Millett
Attn: Vasilios Gialopsos

FROM: Alpheus Bullard *AB*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 43.77.020(b) to change the date that the Fishery Resource Landing Tax is due.

Section 2. Amends AS 43.77.020(d) to change how the Department of Revenue determines whether a taxpayer is subject to a tax penalty based on a taxpayer's quarterly payments of the Fishery Landing Tax.

TLAB:lnd
13-198.lnd

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Representative Charisse Millett**

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MEMORANDUM

**To: The Honorable Paul Seaton Chair,
House Special Committee on Fisheries**

From: Rep. Charisse Millett

Re: Preliminary List of Testifiers for HB 192

Date: April 1st, 2013

Chair Seaton,

Below are the names of two individuals who are available to testify in regard to House Bill 192:

Julianne Curry, Executive Director, United Fishermen of Alaska

Kathy Hansen, Executive Director, Southeast Alaska Fishermen's Alliance

I ask your indulgence that, if and when HB 192 is scheduled for a hearing, we may update the list of testifiers. Thank you for your consideration.

Respectfully,

Rep. Charisse Millett

Vasilios Gialopsos

From: Vasilios Gialopsos
Sent: Monday, April 01, 2013 4:17 PM
To: 'Louie.Floro@akleg.gov'
Subject: Hearing Request for HB 192
Attachments: HB 192 Signed Hearing Request.pdf; HB 192 Sponsor Statement.pdf; HB0192A.PDF; HB 192 Preliminary List of Testifiers.pdf

Louie,

Attached are all the documents. Thanks again. Glad you enjoyed skits!

Respectfully,
Vasilios Gialopsos
Office of Representative Charisse Millett
State Capitol, Office 403
Juneau, Alaska
465-4937

It was all
sent that
day to
Louie

28-LS0725\U
Bullard
4/10/13

CS FOR HOUSE BILL NO. 192()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MILLETT, Peggy Wilson, Kerttula

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the fishery resource landing tax."**

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

3 * **Section 1.** AS 43.77.020(b) is amended to read:

4 (b) The return shall be made on the basis of the calendar year. The return
5 [AND] is due on the last day of the month following the month that the
6 department posts the statewide average fish price calculated by the Department
7 of Fish and Game for [BEFORE APRIL 1 AFTER THE CLOSE OF] the calendar
8 year for which the return is made, and any unpaid tax shall be paid with the return.

9 * **Sec. 2.** AS 43.77.020(d) is amended to read:

10 (d) A person subject to the tax under this chapter shall make quarterly
11 payments of the tax estimated to be due for the year, as required under (e) of this
12 section [REGULATIONS ADOPTED BY THE DEPARTMENT]. A taxpayer will be
13 subject to an estimated tax penalty, determined by applying the interest rate specified
14 in AS 43.05.225 to the underpayment for each quarter, unless the taxpayer makes
15 estimated tax payments as required under (e) of this section [IN EQUAL

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INSTALLMENTS THAT TOTAL EITHER

(1) AT LEAST 90 PERCENT OF THE TAXPAYER'S TAX LIABILITY UNDER THIS CHAPTER FOR THE TAX YEAR; OR

(2) AT LEAST 100 PERCENT OF THE TAXPAYER'S TAX LIABILITY UNDER THIS CHAPTER FOR THE PRIOR TAX YEAR].

* **Sec. 3.** AS 43.77.020 is amended by adding new subsections to read:

(e) A person subject to tax under this chapter shall make estimated quarterly tax payments on or before March 31, June 30, September 30, and December 31 of each year in the following amounts:

(1) four equal installments the sum of which is at least equal to the taxpayer's tax liability under this chapter for the immediately preceding calendar year;

(2) four equal installments the sum of which equals at least 90 percent of the taxpayer's tax liability under this chapter for the current calendar year; or

(3) four installments, calculated in each quarter, equal to 90 percent of the sum of the number of pounds of unprocessed fish of each species landed in the state during the quarter that are subject to tax under this chapter, multiplied by the respective statewide average price for each species posted by the department in the immediately preceding calendar year, multiplied by the applicable tax rate under this chapter.

(f) By March 31 of each year, a taxpayer shall notify the department of the estimated payment method under (e) of this section that the taxpayer will use during that calendar year. Once a method is selected, the taxpayer may not change the estimated payment method until the following calendar year. If a taxpayer fails to make a payment by March 31, the department shall calculate the taxpayer's estimated liability under (e)(1) and (2) of this section, and apply the estimated payment method that results in the lowest tax liability to determine the taxpayer's underpayment and estimated tax penalty.

Alaska Legislature

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HOUSE BILL 192

EXPLANATION OF CHANGES

Changes in Section 1

In the original bill, "the return is due **within 30 days** after the department posts the statewide average fish price calculated." Depending on the date the department posts this information, the due date for the return could be a different part of the month every year.

The Committee Substitute (CS) changes this to "**the last day of the month following the month**" the department posts the statewide average fish price. The return will always be due at the end of a month.

Changes in Section 2

The new language in Section 2 gives fishermen three different methods to make their estimated quarterly payments:

(e) (1) pay 100% of the prior year's tax,

(e) (2) pay 90% of the current year's estimated tax, or

(e) (3) pay 90% of the estimated tax (based on last year's prices) due for the actual fish landed each quarter.

(e)(1) and (e)(2) allows those fishermen who catch most of their fish at the beginning of the year to spread their tax payment throughout the year.

(e)(3) could be used by those who do not start fishing until later in the year.

A new section (f) requires the taxpayer to notify the department by March 31st of each year which payment method under (e) is being used. If the taxpayer fails to select a payment method, the department will apply the payment method under section (e)(1) or (e)(2), whichever is less.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 192
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB192SS-DOR-TAX-04-10-13
Title: PAYMENT OF FISHERY RESOURCE LANDING
TAX
Sponsor: MILLETT
Requester: (H) FSH

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Treasury Division
OMB Component Number: 121

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues		***	***	***	***	***	***	***
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/13

Why this fiscal note differs from previous version:

Initial version, with sponsor substitute reflected.

Prepared By:	John Bernasconi, Chief of Operations & Tim Cottongim, RAS	Phone:	(907)465-4773
Division	Tax Division	Date:	04/10/2013 04:00 PM
Approved By:	Alicia Egan, Legislative Liaison	Date:	04/10/13
	Department of Revenue		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SSHB 192

Analysis

Bill Language:

This bill will change the return and payment due date of Fishery Resource Landing Tax returns to the end of the month following the month after the department publishes the statewide average price list. Currently, taxpayers must file their returns and make payment by April 1st of each year. The Fishery Resource Landing Tax is calculated using the statewide average price which historically is not published until sometime in May of each year. If a taxpayer fails to pay the full amount of tax owed, the taxpayer is charged interest on the unpaid tax from the date the tax was due until the tax is ultimately paid. It is virtually impossible for taxpayers to know the exact amount of tax they owe on April 1st since the information they need to calculate the tax isn't available until May. This bill also allows a taxpayer to avoid penalties on estimated payments if the taxpayer pays at least 90% of the amount of tax owed each quarter based on the statewide average price of the same species posted in the previous year times the number of pounds of fishery resource landed during the quarter.

Revenues:

We expect to see a small decline in interest revenue received on late payments as a result of this legislation. However, we are unable to project the exact amount as there are several variables used in the calculation of interest. Additionally, we expect that the amount of penalty imposed on estimated tax payments will also decrease. However, the amount of penalty for the past two fiscal years was \$9,088 for FY2012 and \$5,216 for FY2011. Therefore, we estimate that the decrease in penalty for failure to underpay estimated tax payments would not exceed \$9,088 (the highest of the past two fiscal years).

Expenditures:

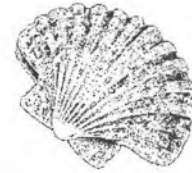
We anticipate the provisions within this bill can be implemented in the Tax Division using existing staff and resources.

Regulations:

This bill will require a change to 15 AAC 77.025 to address the "pay-as-you-fish" provision allowed for estimated tax payments provided in this bill. Additionally, current regulation 15 AAC 77.015 should be repealed as there will no longer be a requirement for an automatic extension of the time to file a return. We anticipate regulations can be adopted by December 31, 2013.

Alaska Scallop Association

PO Box 8989
Kodiak, AK 99615
907-512-7018



March 14, 2013

Representative Paul Seaton, Chairman
House Special Committee on Fisheries
Alaska State Legislature
State Capitol, 120 Fourth Street
Juneau, AK 99801-1182

RE: HB 192, "An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

Dear Representative Seaton, Chairman and Fisheries Committee Members,

Alaska Scallop Association (ASA) is a trade organization representing the Alaska Weathervane Scallop catcher/freezer boats.

ASA is in support of SB 71, "An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

As operators of fishing vessels shucking scallops and selling our own product we are required to pay Landing Taxes. Under current statutes our landing taxes must be paid in 4 equal payments at the end of each quarter with final payment due by March 31 of the following year. While this might be fine for entities operating year round, there are certainly problems with "Seasonal" operations, particular ones that only operate on the second half of the calendar year.

Problem #1; The Scallop Season begins July 1, our first product normally lands in Kodiak, mid-July with payment from our customers for this product beginning to trickle in by mid-August. Current statutes require we pay landing tax at the end of each quarter, March 31, June 30, Sept 30 & December 31. With our season timing the current statute requires us to pay 50% of our landing taxes before we have even left the dock to go fishing. This can place a difficult financial burden on our fishing boats as they prepare for the upcoming season.

Problem #2; Landing taxes are calculated using a Statewide Average Price put out by the Department of Revenue. This Statewide Average Price list is normally released to us in May. Our final Landing tax payment is due March 31, four to six weeks before the price list is released. While we can estimate fairly closely we can never get the exact correct price that ADOR publishes. It just seems logical to have the final payment due 30 days after the Statewide Average Price list is released, rather than a date before we know what price to use.

Regards, Jim Stone, ASA Vice President

A handwritten signature in black ink, appearing to read "Jim Stone".

Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

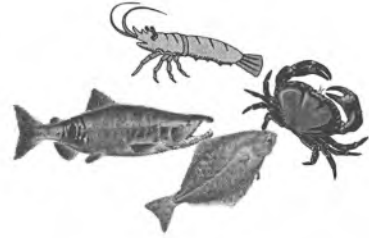
Juneau, AK 99801

Phone: 907-586-6652

Fax: 907-523-1168

Email: seafa@gci.net

Website: <http://www.seafa.org>



April 2, 2013

Senate Resources
Alaska State Legislature
State Capitol, Room 205
Juneau, AK 99801-1182

RE: Support HB 192

Dear Representative Paul Seaton, Chair and Fish Committee members,

Southeast Alaska Fishermen's Alliance (SEAFA) is a multi-gear/multi-species, membership based association. SEAFA supports HB 192 which addresses an issue that affects several of our members.

HB 192 will prevent the imposition of tax penalties and interest for a situation that is completely out of the tax payer's control. SB 192 aligns the date the tax is due to correspond with the date the report is due. Currently the report is due March 31st or the last day of the month following the month the State publishes the statewide prices that must be used on the return which generally is in May but the tax is due on April 1st. How do you pay a tax when you don't know what you owe.

HB 192 deletes the requirement to make equal quarterly payments and allows the commercial fisherman to pay each quarter based on their production and estimated price for that quarter. A commercial fisherman has no idea of how their season is going to go until they are done fishing - asking to pay before they fish is difficult as you don't know how much to pay nor do you have income from the fishing to pay for the taxes.

In FY 2012, 78 Resource landing tax reports were filed by 67 tax payers.

This legislation does not take away the right of the State to assess penalties or interest if a tax payer does not pay an appropriate quarterly payment based on their production.

SEAFAs support HB 192 that provides a tax regime that is equitable and fair.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Hansen" followed by a long horizontal line.

Kathy Hansen
Executive Director