SCOMM

95:46

UNITED FISHERMEN OF ALASKA

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

February 16, 1995

The Honorable Robin Taylor, Chair
and Members of the Senate Judiciary Committee
Alaska State Senate
The Capitol Building
Juneau, Alaska 99801-1182

Dear Chairman Taylor and Committee Members:

United Fishermen of Alaska (UFA) supports Senate Bill 3 regarding Anti-Trust Exemption for Commercial fishermen.

This piece of legislation was first recommended in the 1993 Alaska Attorney General's Report on the Bristol Bay fishery.

Fishermen need to breathe new life in their industry. This is one avenue to be able to do so as it gives the fisherman the ability to make collective bargaining agreements with processors.

We might still have to deal with Federal anti-trust laws, but this bill is a step in the right direction.

I urge the Senate Judiciary Committee to pass SB 3 for the fishermen of Alaska.

Sincerely,

Jerry McCune
President

cc: Senator Jim Duncan
UFA Board of Directors

MEMBER ORGANIZATIONS

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

Ketchikan Office:
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Ketchikan, AK 99901
Phone: (907) 225-5156
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Juneau Office:
P.O. Box 23081
Juneau, AK 99802
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Fax: (907) 463-5080

March 3, 1995

Dear Senator Duncan,

After extensive discussion and review it is the opinion of our board of directors that Senate Bill 3, relating to an antitrust exemption for commercial fishermen will benefit Southeast Alaskan Seiners. We support this bill and ultimately look forward to the congressional legislation necessary to make these antitrust exemptions opporative.

Functional, antitrust exemptions will facilitate fishermen and processors to more efficiently harvest, process and market Alaska's seafoods and achieve a greater value from these seafood products to the benefit of all Alaskans.

We offer our help and support in advancing this bill through the legislative process and thank you for your consideration and understanding of the fishing industry by bringing this bill to the floor.

Sincerely,

Jim Bacon
Southeast Alaska Seiners President

c.c. Senator Robin Taylor
Representative Bill Williams
Representative Kim Elton
Representative Jerry Mackie
Representative Caren Robinson
United Fishermen of Alaska

Cordova District Fishermen United

P.O. Box 939
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

January 24, 1995

Senator Jim Duncan
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Duncan:

On behalf of Cordova District Fishermen United (CDFU), I am pleased to write in support of Senate Bill No. 3–*An Act relating to an antitrust exemption for persons engaged in the fishing industry.* CDFU supports SB3 for three primary reasons:

- **SB3 will clarify ambiguities in existing law.**
  Under current law, it is clear that fishermen may harvest, process and handle their catch or prepared product collectively but it is unclear whether they may collectively see the fruit of their labors through to the marketplace. The current law is interpreted by some to mean that, after collectively catching or processing their fish, each individual fisherman must separate his portion of the catch or product from that of other fishermen and then attempt to sell that portion individually. CDFU supports SB3 because it expressly allows fishermen to collectively sell their catch or their prepared product.

- **SB3 will remove inconsistencies between state and federal laws.**
  The federal exemption covers harvesting, processing, handling and marketing and is, thus, inconsistent with existing state law. This inconsistency creates an atmosphere wherein a group of fishermen may acquire an exemption from the state government and be in violation of federal law–and vice versa. Section 1 of SB3 rewrites existing law to make the state exemption virtually identical to its federal counterpart. CDFU believes this is an important improvement over existing state law.

- **SB3 will level the playing field for fishermen.**
  Section 2 of SB3 places fishermen in a better position to obtain the best price for their fish by allowing them to collectively agree on the price that processors will pay to fishermen for raw fish and that processors will accept for the sale of processed fish. This will have the effect of leveling the playing field. Fishermen will be in a better position to obtain the best price for their fish by allowing them to deal with processors. Fishermen and processors will be able to put up a united front against the major corporations that dominate the world markets for processed fish.

The commercial fishermen who comprise CDFU strongly support Senate Bill No. 3. If you have any questions or require additional information, please do not hesitate to contact me at the number above. Thank you for your consideration.

Sincerely,
CORDOVA DISTRICT FISHERMEN UNITED

Dorne Hawxhurst, Executive Director

cc: Senator Georgianna Lincoln
Represenative Gene Kubina

BSFA **Bering Sea Fishermen's Association**

725 Christensen Drive
Anchorage, Alaska 99501
(800) 770-6519 (Within Alaska)
(907) 279-6519
FAX (907) 258-6688

Serving western Alaska small boat fisheries since 1980

January 24, 1995

The Honorable Jim Duncan
Alaska State Senate
State Capitol
Juneau, Alaska 99801

Dear Senator Duncan:

The Bering Sea Fishermen's Association supports Senate Bill No. 3, "An Act relating to an antitrust exemption for persons engaged in the fishing industry", as positive legislation that will benefit commercial fishermen in western Alaska and statewide.

Western Alaska small boat fishermen, which BSFA represents, are engaged continually in a process of trying to develop and market fish products from their region. Their efforts involve species such as salmon, herring, and halibut.

By clarifying present law, SB 3 makes clear that commercial fishermen may join together to produce and market their catches, as well as bargain collectively with processors for better prices. In a region where there are few alternate sources of income, these activities are vital to the ability of western Alaska fishermen to strengthen their markets and achieve the best possible return from their seasonal fisheries.

Thank you for introducing SB 3. Please do not hesitate to contact our office if we can provide you with further information.

Yours truly,

Karl Ohls

Karl Ohls
Fisheries Development Specialist

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF ECONOMIC DEVELOPMENT

P.O. BOX 110804
JUNEAU, ALASKA 99811-0804
PHONE: (907) 465-2017

The Honorable Senator Jim Duncan
State Capitol
Juneau, Ak. 99811

DCED comments on SB 3

DCED supports passage of SB 3; "An Act relating to an anti-trust exemption for persons engaged in the fishing industry."

Currently, Alaska fishermen and processors cannot discuss price issues without violating anti-trust laws. This proposed legislation would help bring stability to the Alaska fishing industry and the communities dependent on this resource by allowing fishermen and processors to negotiate long-term price agreements.

Three years ago former Governor Hickel assigned DCED to head a Salmon Strategy Task Force to investigate the cause of salmon price declines. It was determined that increased world production of salmon had caused prices to decrease in recent years. Specifically, Alaska salmon has lost market share to increased farmed salmon production which is able to deliver to the marketplace a product that offers consistent supply, quality and price. A strategy to help recover market share was developed which included; expanded marketing efforts, improved consistency of quality, reduced costs of production and increased product options to consumers. While all these issues can not be addressed in a single piece of legislation, SB 3 is an important first step that offers the hope of stable pricing and supply necessary for food manufacturers to commit to new product development.

As part of its efforts to develop a price recovery strategy for salmon, DCED conducted a comparison study of Alaska and Canadian salmon prices. It was learned that a similar anti-trust exemption exists in Canada where long-term price contracts have helped keep Canadian pink salmon prices 113% higher and sockeye prices 60% higher than ex-vessel prices paid in Alaska.

While a federal anti-trust exemption may be necessary to fully remove liability, this is an important first step in a direction that will help the Alaska salmon industry to recover lost market share.

BILL NO: Senate Bill No. 3

DATE: February 23, 1995

TITLE: Antitrust Exemption for Fishermen

CONTACT: Dwight Perkins
465-2700

Senate Bill No. 3 would allow fishers to form associations to negotiate fish prices. AS 16.10.280 provides that the Department of Labor serve as mediator of disputes between fishers and fish processors on the price to be paid for salmon. The department's experience has revealed that the inability of fishers to form associations to negotiate with processors has been a primary factor in such disputes as the 1991 Bristol Bay strike.

This legislation would provide a mechanism to stabilize raw fish prices, thereby protecting Alaskan fishers and processors from the debilitating and extreme fluctuations in fish prices. A stable fishing industry will have a direct and positive effect on the Alaskan economy. It is only reasonable that Alaskan fishers and processors have the legal ability to protect themselves and this important resource from price setting by outside interests..

The Department of Labor supports Senate Bill No. 3.

APPROVED:

Ed Flanagan
for Tom Cashen, Commissioner

DATE: 2/23/95

POSITION PAPER/Department of Labor

SENATOR JIM DUNCAN

ALASKA STATE LEGISLATURE

Alaska State Senate

State Capitol • Room 119 • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax 465-4748

January 1995

SPONSOR STATEMENT, SB 3:

ANTITRUST EXEMPTION FOR COMMERCIAL FISHERMEN

Senator Jim Duncan

Senate Bill 3 will allow fishermen to form associations to collectively negotiate raw or processed fish prices with processors. It does not authorize processors to agree among themselves on the prices they will pay fishermen; it only covers collective bargaining between fishermen and a processor, or group of processors.

A state antitrust exemption is a first step to stabilizing Alaska's fishing industry. While this exemption applies only to state antitrust laws, it is necessary to gaining Congressional approval for a federal exemption, so that fishermen and processors could negotiate prices. Once the legislature has approved SB 3, the state, fishermen and processors would be in a position to request the federal exemption. The attitude toward a federal exemption may be favorable now that Alaska's congressional delegation is in the majority.

In order to permit collective bargaining, fishermen must be allowed to market and sell their fish as a group. Current state antitrust law does not mention whether fishermen could collectively sell their raw catch or fish products, although it permits them to form associations to catch and prepare their fish for market. SB 3 clarifies this ambiguity, making state law consistent with federal law, which expressly permits fishermen to collectively engage in more activities, including marketing their fish. The incongruities between current state and federal law make it possible for some fishermen's organizations to be in compliance with federal antitrust law, yet breaking state law, or be in compliance with state antitrust law and violating federal law.

State legislation such as this, and pursuit of a corresponding federal exemption were recommended in the 1993 Alaska attorney general's report on the Bristol Bay sockeye salmon industry. The fishing industry is Alaska's largest private employer, and affects every segment of our economy, from small coastal villages to the state's general fund. Collective bargaining between fishermen and processors will help stabilize commercial fishing prices, bolstering local and state economies. Stable raw fish prices will promote stable consumer prices for processed seafood products, which means greater sales of Alaska seafood.

-30-

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 3

Revision Date:
Title: **Antitrust Exemption for Fishermen**
Sponsor: **Senator Duncan**
Requestor: **Senator Duncan**

Department Affected: **Labor**
BRU: **Commissioner's Office**
Component: **Commissioner's Office**

COMPONENT SERIAL NO. 340

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE FUND SOURCE #						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: $ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Arbe Williams, Director — Phone: 465-5981
Division: Administrative Services — Date: 1/23/95

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor — Date: 1/23/95

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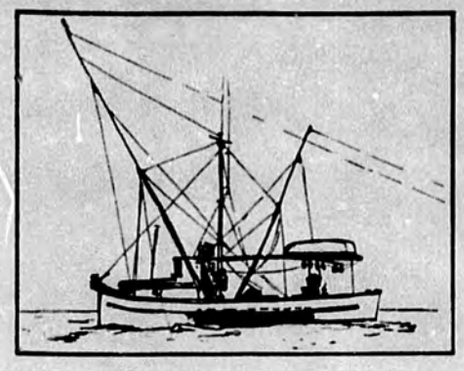

Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

March 16, 1995

Senator Jim Duncan
Alaska State Legislature
Juneau, AK 99811

Dear Senator Duncan:

The Alaska Trollers Association strongly supports SB 3, which would provide anti-trust exemptions for commercial fishermen.

Allowing fishermen to collectively negotiate fish prices and take a more active role in marketing strategies should enhance the value of our seafood products. At this time of decreased stability and increased competition in the marketplace, this is precisely the type of option fishermen need to maintain a competitive edge.

ATA encourages legislative support for this bill and any subsequent changes necessary under federal law to secure anti-trust exemptions for commercial fishermen.

ATA appreciates the time you and your staff have dedicated to this issue.

Sincerely,

Dale A. Kelley

Dale A. Kelley
Executive Director

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM January 20, 1995

SUBJECT: SB 3 Summary (Work Order No. 9-LS0043\A)

TO: Senator Jim Duncan

FROM: George Utermohle
Legislative Counsel

This memorandum summarizes SB 3, An Act relating to an antitrust exemption for persons engaged in the fishing industry.

SB 3 proposes two significant changes to the state antitrust law.

First, SB 3 eliminates an ambiguity in state law as to whether commercial fishermen can collectively market their fish and fish products and makes the state antitrust exemption for fishermen compatible with the analogous federal exemption. See, section 1, SB 3.

When the state antitrust law was enacted in the mid-1970's, the legislature created an exemption from the law so that fishermen could agree among themselves to collectively engage in the harvesting and processing of fish. AS 45.50.572(c). Unfortunately the law does not mention whether fishermen could collectively market their fish and fish products. By expressly allowing fishermen to engage in collective harvesting and processing activities and not mentioning marketing activities, it must be presumed that the law precludes collective marketing activities by fishermen. SB 3 amends the state antitrust exemption for fishermen so that fishermen are clearly allowed to collectively engage in the marketing of their fish and fish products.

The federal antitrust law already contains an exemption that permits fishermen to collectively engage in catching, processing, and marketing their fish and fish products. 15 U.S.C. 521. But the federal law also places specific restrictions on the legal structure of the cooperatives that fishermen may form. SB 3 rewrites the state exemption so that it directly parallels the provisions of the federal law.

Thus SB 3 expands the kinds of activities that fishermen may engage in without violating the state antitrust law and substantially eases the burden on fishermen to simultaneously comply with the state antitrust law and the federal antitrust law.

Second, SB 3 creates a new exemption from the state antitrust law to allow fishermen and processors to collectively agree on the price that fishermen would receive for their fish and on the price that processors would accept for processed fish. See, section 2, SB 3. The exemption would allow fishermen to enter into price agreements with a processor or a group of processors. SB 3 does not allow groups of processors to agree among themselves on the price that they would pay fishermen for fish or they would charge for their product. Groups of processors may agree on prices, only if fishermen participate in the agreement and are a party to the agreement.

Once SB 3 is enacted and the state antitrust law provides an exemption for collective agreements between fishermen and processors, the state, fishermen, and processors can approach the Congress for a comparable exemption from the federal antitrust laws. The state exemption can serve as a model for the federal exemption. In the mean time, it would be very risky for fishermen and processors to rely solely upon the state antitrust exemption as authority to engage in collective price setting. Because the Alaska fishing and fish processing industries significantly affect interstate and international commerce, the federal antitrust laws are certain to apply to, and thus prohibit, any price agreements between fishermen and processors. Fishermen and processors should wait for the Congress to enact the appropriate exemption from the federal antitrust law before attempting any such agreements.

If I may be of further assistance, please advise.

GU:glc
95-076.glc

2550 Denali Street, Suite 1201
Anchorage, Alaska 99503
(907) 276-2007

January 27, 1995

Edward E. Crane
President

Senator Jim Duncan
Alaska State Senate
State Capitol, Room 119
Juneau, Alaska 99801-1182

Dear Senator Duncan,

I have noted and read Senate Bill 3. In my view, SB3 serves a relevant and highly significant purpose.

I have been directly or indirectly involved with individual producers of food and fiber, and with both formal and informal associations of such producers, for nearly 30 years. That includes almost continuous and intense involvement with producers and marketers of agricultural commodities of all kinds from 1965 through 1981.

As contrasted with manufacturers, an individual producer of food and fiber commodities is greatly disadvantaged by his or her isolated status within what may be a huge conformation of economic forces. The producer is further made vulnerable by the limited-life nature of most commodities and by the pressure to capture whatever value may exist on a timely basis.

There has probably been no more positive statutory force affecting commodities producers than the limited antitrust exemptions in Federal, and most state, statutes. While a superficial glance may suggest they are merely the extension of privilege to a few, such exemptions are in actuality the cornerstones of the stability which is critical to any food production and distribution system and which provides immeasurable benefits to each of us as consumers.

Senate Bill 3 estabishes and clarifies this important exemption for harvesters, producers, and marketers of Alaska's seafood resources. While it will solve no problems by itself, its enactment will provide significant opportunities for the creation of stabilizing forces which will benefit all of Alaska as well as seafood industry participants.

I would be most interested in knowing of any opportunities to express support for Senate Bill 3.

Very truly yours,

Edward E. Crane

EEC:dmv