

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8389 SENATE LABOR & COMMERCE**

serve public" ordinance has no enforcement in it, and this should be changed.

The minority recommends that an ordinance be adopted authorizing the Transportation Inspector to suspend a chauffeur's license after three citations for refusal to supply taxicab services. After one suspension, a further violation by the chauffeur should be grounds for revocation of his chauffeur's license. Any suspension or revocation could be appealed by the chauffeur to the Transportation Commission for a hearing, under existing ordinances.

If an individual driver or driver is refusing service and thereby giving a bad name to other people in the industry (drivers, permit owners, leaseholders and dispatch companies) who are fulfilling their duty to serve the public, it is not fair and it is not good policy to let such drivers continue to operate.

The Task Force Chairman has suggested that any problems involving refusal to provide service can be remedied by automatically increasing the number of permits, cars, and drivers. Experience suggests otherwise.

A report (Taxicab Regulation in U.S. Cities, Shaw, Gilbert, Bishop and Pruitt (University of North Carolina, 1983)) commissioned by the U.S. Department of Transportation studied the effects of "open-entry" taxicab permitting in U.S. cities which had experimented with the "free-market" approach. In a section addressing "Airport Problems", the study concluded:

A common, although not universal, open entry result has been a large increase in problems at airports. The problems are consistent from city to city: over-charging, short-haul refusals, and driver behavior. These problems have been evident at airports at which the numbers of taxicabs have greatly increased. Examples are San Diego, Seattle, Sacramento, and Phoenix.

It should be noted that each of these cities has, or is in the process of reregulating entry and reasserting control on the number of taxicab permits.

Another study of open entry reached similar conclusions. The Private Challenge to Public Transportation, Charles Lave, Editor (Ballinger Press, 1984) contains a chapter on "the Taxi in the Urban Transport System", by Sandra Rosenbloom, an acknowledged national expert in this area. Addressing the Seattle experiment with deregulation, her study found:

Controls on taxi entry were significantly relaxed, and operators were allowed to set their own fares. Over the last three years the number of cabs has increased 25%, and the number of independents has more than doubled. But demand for taxi service has apparently been dropping at an equal rate (25%), due in part to service refusal requests on the part of operators and an aging vehicle fleet (the average of Seattle's taxis increased 50% between 1979 and 1981). Most of all, the 25% increase in the number of cabs did not represent increased city wide service because most of the cabs were congregating at the airport.

Taxis were more competitive at the Sea-Tac Airport; in 1981 the airport authority felt compelled to impose a ceiling on fares at the airport, in the face of increasing complaints about exorbitant fares. There is currently some sentiment for stronger licensing at the airport and even for a reenactment of city wide entry controls. The city estimates that it is

spending more money to enforce the remaining vehicle restrictions than it did before: this is ironic since local officials supported open entry partly to reduce the administrative costs of holding frequent rate hearings and of issuing licenses.

Id., at 189. Similarly, Rosenbloom found that Atlanta's 1965 ordinance opening entry into the industry resulted in decreased taxi service in other parts of the city as operators moved to the airport and major hotels. Complaints about problems at the airport became severe, and in 1981 entry controls were reestablished. Id. at 189-90.

San Diego adopted a modified form of open entry, arbitrarily issuing a number of new permits each month (which is the recommendation of the Task Force majority in Anchorage.) Ms. Rosenbloom found that this had similarly dismal results as did complete open entry:

As in Seattle, demand apparently dropped slightly as supply was expanding. This made the airport situation even more chaotic. Drivers' waiting time at the airport increased significantly. There were more numerous incidents of drivers refusing short trips and of drivers refusing to wait in line to try and serve passengers. Price gouging was rampant through 1981. The airport authority attempted to deal with the problem by issuing limited permits for service at the airport, but this was not successful. In August, 1983, the city placed a moratorium on entry permits, and there is some local sentiment for re-regulation of the industry.

Id., at 190. Rosenbloom concluded that:

". . . Aspects of free-market competition have already proven distasteful and problematic: Tourists and locals alike are unable to deal with differential fares, service refusals, and

the legal and illegal activities of enthusiastic drivers at the airport.

Id., at 192.

Arbitrarily increasing the number of taxicab permits in Anchorage is not a cure-all solution to resolving perceived problems at the airport or service refusals generally; in fact it has only produced more problems. The better approach is to make Anchorage's existing rules work, through sensible enforcement tools.

D-1. Tabulating Complaints About Taxicab Service.

Although not specifically called for in the Assembly's Resolution, the minority has a specific recommendation regarding the City's current use (more accurately, non-use) of complaints about taxicab services by consumers or others. One might assume that the push for formation of a Task Force to address problems in the taxicab industry was supported by records demonstrating a high number of complaints, or increasing number of complaints, concerning specific problems, e.g., service refusals by drivers, long waiting time, discourteous drivers, disorganized dispatch services, artificially circuitous routes, etc. Such records are maintained, classified as to type, and kept track of in other cities, according to taxicab studies of such cities.

A member of the Task Force who attempted to obtain such information from the Transportation Inspection office learned, however, that there were no complaint file records to show that there have been any complaints regarding (1) refusal of service

or (2) excessive waiting time. The explanation given was that such records of individual complaints probably exist in individual files, but have not been transferred to the "consumer complaint file" yet.

It was further explained that complaints made to the Transportation Inspection office about refusal for service are not recorded unless people are willing to furnish the office with an actual signed complaint. While this procedure is understandable in terms of followup enforcement against the individual refusing service, the fact is that many complainers do not wish to take the trouble of filing a written complaint, and the bare fact of their complaint should be recorded and tabulated. In this manner, the Transportation Inspection office and the Transportation Commission could get a better handle on the frequency of complaints and the types of complaints being made. The Chairman of the Transportation Commission, at a meeting of the Program and Policy Committee of the Assembly attended by Task Force members, recently stated that no consumer complaints had been brought to the attention of the Transportation Commission.

If an organized complaint file showed that there were indications of a growing increase in complaints about (1) refusal of service or (2) excessive waiting time, such information could be taken into account in periodic Commission hearings to determine whether more taxicab permits should be issued. (See discussion below in Section "I").

Therefore, the minority recommends that the Transportation Inspection office immediately institute a procedure for recording all complaints in a separate complaint file; for classifying and summarizing such complaints in monthly reports available to the public and provided to the Transportation Commission; and for annual comparisons to assess whether particular types of complaints are on the increase or decrease. Analysis of complaints could be an effective tool for directing corrective action, and consumers complaining about taxicab services deserve an organized response.

The above recommendation is not intended as a substitute for continuation of the dispatch company's own internal procedures for receiving and tabulating complaints.

E. Service to Hotels and Businesses.

Substantial problems are occurring as a result of expanded usage of hotel/motel service vans, particularly because of the Transportation Inspector's view that these are currently exempt from Municipal transportation regulations. Many of the hotels and motels offer van transportation services to their customers. While these services were formerly confined to trips to and from the airport, they have increasingly expanded into services traditionally provided by City-regulated taxicabs, limousines, and vehicles for hire. For example, hotel/motel vans now frequently transport passengers to and from downtown, grocery stores, Gary King's and even nightclubs. Drivers and vehicles are not subject to any of the regulations or licensing

requirements otherwise imposed by the City on taxicabs, limousines or vehicles for hire. Transportation Inspector MacAtee says they are not subject to regulation, because they are not "for hire". The hotels and motels assert that the vans are not "for hire" because no separate charge is made to the guest for their use. While an argument could certainly be made that hotel/motel guests are "charged" for the van service because the cost of the service is built into the hotel's or motel's overhead and therefore its room charge, uncertainties about whether these vans are subject to ordinances should be cleared up by expressly including "hotel/motel courtesy vans" in the City's Title 11 ordinances.

Specifically, hotel/motel service vans should be explicitly defined as a separate type of transportation service subject to municipal regulation. Hotel/motel service vans would be required to limit their services to:

1. Service between the hotel or motel and the airport;
2. Service between the hotel or motel and the Alaska Railroad terminal;
3. Transportation of athletic teams and supporting staff between the hotel or motel and sporting event venues; and
4. Transportation of convention attendees between the hotel or motel and the convention site.

Additionally, they would be subject to the relatively minimal requirements now imposed on "vehicles for hire". As such, they would need to carry a two-way communication system by which

contact can be maintained with the business office of the van, under Ordinance 11.20.330. Curbside and immediate service would be prohibited, under 11.20.340. Insurance would be required, in the amounts prescribed by Ordinance 11.20.360. A chauffeur's license would be required for the operator under 11.30.010, subjecting hotel/motel van operators to the same limited requirements as drivers of taxicabs and limousines. A non-transferable hotel/motel courtesy van permit would be issued.

Some hotel/motel operators have objected to this, asserting that it represents an effort to regulate the hotel and motel business. This is not the case. Because the hotels and motels have gradually expanded the function of their courtesy vans to perform broader transportation functions in Anchorage, it is fair to impose the same regulations, designed for protection of the consumer, upon hotel/motel vans as is imposed upon other deliverers of such service.

The reality is that the hotel/motel courtesy vans have moved into direct competition with some of the business of the regulated Anchorage taxicab and limousine operators. By offering "free" services, the hotels and motels deprive local Anchorage industries of traditional revenues from tourists or out-of-town visitors. A high percentage of the amounts paid by such customers for taxicab or limousine service is recirculated in the Anchorage economy, while a large portion of hotel/motel revenues and profits appear to go outside. There is no reason to build in an artificial exemption from licensing, safety and insurance

requirements for hotel/motel courtesy van service when it goes beyond its traditional, limited function.

F. Vehicle Inspections, Safety and Appearance.

Because of problems with multiple vehicle inspection stations (service stations contracted by the Transportation Inspector), the minority recommends that the City experiment with utilizing only a single inspection station, which would be required to afford service every day, with hours from 8:00 a.m. to 6:00 p.m. A one-year sunset clause on this ordinance should be provided, to review its effectiveness.

With respect to citations related to vehicle inspections, this should remain limited to the criteria now set forth in Anchorage Ordinance 11.10.004. If a vehicle inspection finds a violation, the driver or vehicle owner should be allowed to appeal this finding to the Transportation Inspector, and further appeal his decision to the Anchorage Transportation Commission.

G. Drivers' Age and Insurance Needs.

Most liability insurance carriers refuse to provide coverage unless the driver is at least 25 years old. This may raise issues of age discrimination, which should be addressed by the Alaska Commissioner of Insurance or the State Human Rights Commission. However, it does not appear to be something which Municipal regulation can affect.

H. Compressed Natural Gas Taxis; Clean Air Concerns.

The Municipality and the taxicab industry should always be looking at developing technologies which might contribute to

clean air in Anchorage, including CNG vehicles and electric cars (which are mandated for phase-in during the next decade under current federal law.)

Elements of the taxicab industry, including dispatch companies, permit owners, and drivers, have indicated a willingness to explore the feasibility of operating a CNG taxi, e.g., use of a one-year test operation of a CNG vehicle to determine what drawbacks, if any, are involved in its operation as a taxicab.

#### I. Taxicab Permit System.

The Task Force majority, including the Chairman, proceeded as though modification of the taxicab permit system was the main purpose for which the Task Force was appointed; in fact, the Chairman told one of the Task Force members that this was the "only reason we're here". The minority felt that the permit system was only a part of the overall system which needed to be examined for possible correction.

The basic assumption of the Chairman, and some members of the majority, is that there are not enough taxicab permits in Anchorage. The Task Force held no formal hearing to get public input on this question, although, in an unorganized fashion, it did hear from a few drivers, who felt that more permits would jeopardize each driver's ability to earn a decent living. There is independent information to support the drivers' concern, though this information was not presented to nor examined by the Task Force. An informal survey conducted on October 1, 1992, by

an employee of The Taxicab Company produced the following estimates regarding the number of calls for taxicab service, per cab, per 24 hour period:

COMPANY	NUMBER OF CABS PER COMPANY	NUMBER OF CALLS PER DAY	NUMBER OF CALLS PER CAB PER 24 HOUR PERIOD
Yellow Cab	22	300	14
The Taxicab Company	28	500	18
Alaska Cab	59	1200	20
Checker Cab	49	1100	22

The figures for the number of calls per day were based upon estimates of year-round daily averages by dispatch company employees, who maintain daily records of calls for service. The net result, less than one call per hour per cab, represents a reduction from 1989 and 1990, when a more detailed analysis of calls per dispatch to Yellow Cab and The Taxicab Company indicated an average of slightly more than one call per hour per cab. Even when this is increased by approximately 25% for "flag" (on-the-spot) calls for service, the total of slightly more than one call per hour per cab hardly supports a recommendation for automatic annual increases in the number of taxicab permits.

A member of the minority pointed out that an existing ordinance, AMC 11.20.030, empowers the Anchorage Transportation Commission to conduct a hearing into the public convenience and necessity to determine whether more permits are warranted in Anchorage. If the Commission finds that the public convenience and necessity requires more permits, it is required to auction off the additional permits, with the revenue going to the City.

The problem has been that, in the seven years since this ordinance was revised, the Transportation Inspector has never sought such a hearing, nor has the ATC ever made an inquiry to determine whether more permits are needed. The Transportation Inspector says that he has been "too busy." A Task Force minority member made a motion to amend the ordinance to mandate a hearing at least every three years, to determine whether more taxicab permits are needed. Included in this motion was a recommendation to make the criteria for issuance of additional permits, now spelled out in Ordinance 11.20.030, mandatory rather than optional. The majority narrowly defeated the motion for periodic hearings on the need for more taxicabs.

Instead, the majority passed a motion (by 8-7 margin, with the Chairman breaking the tie) to increase the number of taxicab permits, leaving it up to the Commission or the Assembly to determine just how this should be accomplished. Ironically, the majority's recommendation could be met by mandating periodic use of the existing ordinance, as suggested by the minority. The minority does not believe, however, in arbitrary increases in the number of permits, regardless of either potential downturns in the Anchorage economy, reductions in Anchorage population, or reduction in the demand for taxicab service. This would spell disaster to drivers, according to their own testimony.

The minority does not believe in artificially restricting the number of taxicab permits, nor does it believe in artificially expanding it. We have an Anchorage Transportation

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Commission, which has the expertise and the power to determine, on a year-by-year basis, whether more permits are needed. The only flaw in the system is that power to investigate and determine the need for more permits has not been used, and this flaw can be corrected by requiring a hearing at least every three years.

The majority has recommended a watered-down "open entry" system, based upon economic theory which ignores the quasi-utility nature of the taxi industry. Instead of coming to grips with the individual issues addressed in the amendment to Assembly resolution 92-98, the majority assumes that these concerns will all be resolved by increasing the number of permits.

Experience of other cities does not support the majority's assumption. While the economic theory of open entries may sound good when it is first considered, we can see from the reports of the effects of open entry on American cities that it has actually been counterproductive to reliable service, fair rates to the consumer, quality cabs, and effective municipal enforcement. Because of this, as shown by the 1992 City of Portland report supplied by Mr. MacAtee to the Task Force, 88% of all communities control market entry through a convenience and necessity system such as that of Anchorage. Of the remaining 12%, half of these are from very small cities having a total of 10 or fewer cabs. The Portland study ended with a recommendation against adoption of either a fixed number (medallion) system or

an open-entry system. Rather, the report recommended that the city continue with, and improve on, their "convenience and necessity" method of regulating market entry.

The convenience and necessity method of regulation, which provides for adjustments to the number of taxicabs based upon the amount of public demand, has proven itself to be the most effective way of regulating the taxicab utility. If, as some suggest, there is a need for more taxicab permits in Anchorage, the Transportation Commission should promptly schedule a hearing, listen to testimony, and decide whether and how many more permits should be issued.

The majority instead would substitute an arbitrary increase in the number of permits, reducing the value of the existing taxicab permits which were purchased with the understanding that the number of permits would be increased only after proven necessary by a showing of public convenience and necessity.

Because of the obvious legal issues this would raise regarding the rights of the permit holders, Task Force members via Mr. MacAtee, asked for a Municipal Attorney opinion to see if the permits were "property", but one has not been produced.

In the Boonstra case against the City of Chicago in 1991, taxicab permits were found to be property interests, and the court ordered the city to pay compensation to the permit holders when an ordinance was passed which affected their ability to earn income from the permits. The minority is concerned that

an arbitrary increase in the number of permits would require payment by the City for any loss of value to the permit holders. This would be doubly unfortunate for taxpayers because the benefits claimed by the economic theorists favoring open entry simply have not occurred when this theory is put to the test.

#### CONCLUSION

While the Anchorage taxicab system has some problem areas which can and should be improved, it does not feature serious and substantial problems that require a complete overhaul of the system. The basic methods of regulation are sound. Perceived problems can be addressed through modifications in the existing system to improve enforcement and to broaden coverage to include all non-bus services competing in the ground transportation industry in Anchorage.

The majority seemed bent upon scrapping the current "convenience and necessity" method for granting permits, and substituting in its place a system which arbitrarily and automatically increases the number of permits and taxicabs. The minority is not anxious to repeat the economic experiments of other cities which have arbitrarily increased the number of permits and suffered unsatisfactory results.

The Task Force was presented with none of the evidence which ordinarily would indicate that there are an insufficient number of permits and taxicabs. There is no indication of any general problem in Anchorage with refusals of service or with

long waiting times. Such evidence did exist ten years ago and, when it was presented at a hearing before the Transportation Commission, resulted in issuance of additional permits.

This is the proper approach now. The Transportation Commission should be directed to periodically conduct hearings as to the need for more taxicab permits, based upon the criteria now existing in ordinance. The Task Force is not now in a position to say whether there is a need for more permits, but fully supports mandatory hearings on this question by the Transportation Commission.

## SUMMARY OF RECOMMENDATIONS

1. Adoption by the Assembly of an ordinance requiring driver education.

2. Posting by Airport authorities of a large sign at the Airport cab stand advising customers of their rights, and indicating procedures and telephone numbers for complaints.

3. Maintenance by the Transportation Inspection office of a complete consumer complaint file, including monthly summaries and annual analysis to identify growing problem areas.

4. Adoption by the Assembly of an ordinance authorizing suspension/revocation of a chauffeur's permit for refusal to supply taxicab services.

5. Adoption by the Assembly of an ordinance including hotel/motel service vans within ordinances regulated under Title 11.

6. One-year experiment by Transportation Inspector with use of a single inspection station.

7. Adoption by the Assembly of an ordinance requiring Transportation Commission hearings on the number of permits at least once every three years, based upon mandatory criteria for determining whether additional permits should be issued.

The following members of the Task Force adopt this  
Minority Report.

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# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Drue Pearce  
Senator Judy Salo  
Senator Georgianna Lincoln



## SENATE LABOR AND COMMERCE COMMITTEE

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### MEMORANDUM

**TO:** Terry Cramer, Legal Counsel  
Legal Division  
Legislative Affairs Agency  
FAX: 465-2029

**FROM:** Josh Fink, Legislative Aide  
Senator Tim Kelly

**DATE:** March 29, 1993

**RE:** SB 174 - Taxicab Bill

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*pending case  
in Anchorage.  
Industry would or  
put an individual's  
complaint.  
also: who's filing  
complaint  
against  
[initials]*

Terry, just got off the phone with James Brennan and some other taxi cab people. The retroactivity may not be needed, though for now let's proceed as if it is. We are checking pending cases and have found that on all but one this bill would not apply. Still waiting on one response and will inform. Again, for now let's proceed as if the provision is needed.

As to the Department of Labor's position on the need for "written" contracts, we can't change that. Written contracts for the most part do exist between permit owners and drivers. However, dispatchers often do not have written contracts with the drivers. As they are alleged employers in some of the complaints filed, requiring written contracts would affect the retroactivity if we go that route.

Will advise as I receive information.

Thanks, Josh.

SOUTHEAST ALASKA CAB CO., INC.  
EIN 92-0108652  
FORM SS-8

EXHIBIT B

10b. Performing similar services for others. Some drivers drive for more than one of the taxicab companies in Ketchikan. This is usually the case when no company has a cab that can be leased to them on a regular basis. In that case, a driver may lease a cab for several days a week from one company, and lease from one of the other companies the remainder of the week.

16. Rulings by other government agencies. No other government agency has ruled on the status of the firm's workers under the attached lease. However, the Alaska Department of Labor, Employment Security Division, ruled in 1987 that cab drivers under an earlier lease, which was materially identical except that lease payments were based on a percentage of the meter, were employees for purposes of state unemployment taxes. (The lease submitted as Exhibit A provides for a daily, flat rate, lease fee.)

17. IRS examinations. The status of the drivers under the previous lease (referred to in item 16) is an issue in an administrative appeal pending in the Anchorage Appeals Office, with respect to taxable years ending in 1988, 1989, and 1990. (The leases now in use are effective only on and after January 1, 1992.) In the examination now pending in Appeals, the Collection Division proposed to assess taxes based on alleged misclassification of the drivers during the years in question. This proposal is being appealed.

The firm is not aware that this issue is being considered in connection with the audit of any driver's return.

19. List of additional drivers. The following list is submitted:

Richard Kapus  
P.O. Box 5095  
Ketchikan, AK 99901

Daniel Trail  
737 Harris  
Ketchikan, AK 99901

## Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding

**Paperwork Reduction Act Notice.**—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: recordkeeping, 34 hrs., 41 min., learning about the law or the form, 6 min. and preparing and sending the form to IRS, 40 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the Internal Revenue Service, Washington, DC 20024, Attention: IRS Reports Clearance Officer, T:FP, and the Office of Management and Budget, Paperwork Reduction Project (1545-0004), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see the instructions for information on where to file.

### Instructions

This form should be completed carefully. If the firm is completing the form, it should be completed for ONE individual who is representative of the class of workers whose status is in question.

If a written determination is desired for more than one class of workers, a separate Form SS-8 should be completed for one worker from each class whose status is typical of that class. A written determination for any worker will apply to other workers of the same class if the facts are not materially different from those of the worker whose status was ruled upon.

Please return Form SS-8 to the Internal Revenue Service office that provided the form. If the Internal Revenue Service did not ask you to complete this form but you wish a determination on whether a worker is an employee, file Form SS-8 with your District Director.

**Caution:** Form SS-8 is not a claim for refund of social security tax or Federal income tax withholding. Also, a determination that an individual is an employee does not necessarily reduce any current or prior tax liability.

Name of firm (or person) for whom the worker performed services <u>Southeast Alaska Cab Co., Inc.</u>		Name of worker <u>Barney C. Olsen</u>	
Address of firm (include street address, apt. or suite no., city, state, and ZIP code) <u>P.O. Box 7418 Ketchikan, AK 99901</u>		Address of worker (include street address, apt. or suite no., city, state, and ZIP code) <u>P.O. Box 6514 Ketchikan, AK 99901</u>	
Trade name <u>Alaska Cab</u>		Telephone number <u>(907) 225-7532</u>	Worker's social security number <u>574-48-5761</u>
Telephone number <u>(907) 225-2134</u>	Firm's taxpayer identification number <u>92-0108652</u>		

Check type of firm:  
 Individual    Partnership    Corporation    Other (specify) ▶

This form is being completed by:    FIRM    WORKER  
 If the form is being completed by the worker, do you object to disclosing your name or the information on this form to the firm? . . . . .  Yes    No

(If your answer is "Yes," we cannot furnish you a determination on the basis of this form. You may write to your District Director for further information. Do not complete the rest of the form, unless the IRS requests it.)

All items must be answered or marked "Unknown" or "Not Applicable" (NA). If you need more space, attach another sheet. This form is designed to cover many work activities, so some of the questions may not pertain to you.

Total number of workers in this class (if more than one, please see item 19) ▶ 10

This information is about services performed by the worker from ▶ 1/1/92 to Present  
(Month, day, year) (Month, day, year)

What was the first date on which the worker performed services of any kind for the firm? ▶ \_\_\_\_\_  
(Month, day, year)

Is the worker still performing services for the firm? . . . . .  Yes    No

If "No," what was the date of termination? ▶ \_\_\_\_\_  
(Month, day, year)

In which IRS district are you located? Anchorage

- 1a** Describe the firm's business Leasing of taxicabs and provision of dispatch service
- b** Describe the work done by the worker Drives taxicab to pick up and deliver passengers and packages
- 2a** If the work is done under a written agreement between the firm and the worker, attach a copy. See Exhibit A
- b** If the agreement is not in writing, describe the terms and conditions of the work arrangement \_\_\_\_\_

SOUTHEAST ALASKA CAB CO., INC.  
EIN 92-0108652  
FORM SS-8

EXHIBIT B

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Southeast Alaska Cab Co., Inc.  
Form SS-8, Exhibit B  
Page Two

Donald Sivertson  
759 Deermount Avenue  
Ketchikan, AK 99901

Peter Kennedy  
P.O. Box 3037  
Ketchikan, AK 99901

Doris Duchene  
2415 Hemlock  
Ketchikan, AK 99901

Ron Rawson  
10992 Brentwood Lane  
Ketchikan, AK 99901

Gene Mullins  
P.O. Box 3026  
Ketchikan, AK 99901

Micheal Moody  
3250 Denali, Apt. 21  
Ketchikan, AK 99901

Romay Edenshaw  
P.O. Box 6514  
Ketchikan, AK 99901

Joel K. Lall-Trail  
P.O. Box 6057  
Ketchikan, AL 99901

20. Independent contractor status. The lease arrangement under which the drivers provide services to the public is fully consistent with Rev. Rul. 71-572 (Situation 2), 1971-2 C.B. 344. Under that ruling, the drivers are to be treated as other than employees for purposes of Federal employment taxes.

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The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: recordkeeping, 34 hrs., 41 min., learning about the law or the form, 6 min. and preparing and sending the form to IRS, 40 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the Internal Revenue Service, Washington, DC 20024, Attention: IRS Reports Clearance Officer, T:FP, and the Office of Management and Budget, Paperwork Reduction Project (1545-0004), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see the instructions for information on where to file.

### Instructions

This form should be completed carefully. If the firm is completing the form, it should be completed for **ONE** individual who is representative of the class of workers whose status is in question.

If a written determination is desired for more than one class of workers, a separate Form SS-8 should be completed for one worker from each class whose status is typical of that class. A written determination for any worker will apply to other workers of the same class if the facts are not materially different from those of the worker whose status was ruled upon.

Please return Form SS-8 to the Internal Revenue Service office that provided the form. If the Internal Revenue Service did not ask you to complete this form but you wish a determination on whether a worker is an employee, file Form SS-8 with your District Director.

**Caution:** Form SS-8 is not a claim for refund of social security tax or Federal income tax withholding. Also, a determination that an individual is an employee does not necessarily reduce any current or prior tax liability.

Name of firm (or person) for whom the worker performed services <b>Southeast Alaska Cab Co., Inc.</b>		Name of worker <b>Barney C. Olsen</b>	
Address of firm (include street address, apt. or suite no., city, state, and ZIP code) <b>P.O. Box 7418 Ketchikan, AK 99901</b>		Address of worker (include street address, apt. or suite no., city, state, and ZIP code) <b>P.O. Box 6514 Ketchikan, AK 99901</b>	
Trade name <b>Alaska Cab</b>		Telephone number <b>(907) 225-7532</b>	Worker's social security number <b>574-48-5761</b>
Telephone number <b>(907) 225-2134</b>	Firm's taxpayer identification number <b>92-0108652</b>		

**Check type of firm:**

Individual    Partnership    Corporation    Other (specify) ▶

This form is being completed by:    FIRM    WORKER

If the form is being completed by the worker, do you object to disclosing your name or the information on this form to the firm? . . . . .  Yes    No

(If your answer is "Yes," we cannot furnish you a determination on the basis of this form. You may write to your District Director for further information. Do not complete the rest of the form, unless the IRS requests it.)

All items must be answered or marked "Unknown" or "Not Applicable" (NA). If you need more space, attach another sheet. This form is designed to cover many work activities, so some of the questions may not pertain to you.

Total number of workers in this class (if more than one, please see item 19) ▶ 10

This information is about services performed by the worker from ▶ 1/1/92 to Present  
(Month, day, year) (Month, day, year)

What was the first date on which the worker performed services of any kind for the firm? ▶ \_\_\_\_\_  
(Month, day, year)

Is the worker still performing services for the firm? . . . . .  Yes    No

If "No," what was the date of termination? ▶ \_\_\_\_\_  
(Month, day, year)

In which IRS district are you located? Anchorage

**1a** Describe the firm's business Leasing of taxicabs and provision of dispatch service

**b** Describe the work done by the worker Drives taxicab to pick up and deliver passengers and packages

**2a** If the work is done under a written agreement between the firm and the worker, attach a copy. See Exhibit A

**b** If the agreement is not in writing, describe the terms and conditions of the work arrangement \_\_\_\_\_

- c If the actual working arrangement differs in any way from the agreement, explain the differences and why they occur .....  
..... N/A .....
- 3a Is the worker given training by the firm? .....  Yes  No  
If "Yes":  
What kind? Proper operation of vehicle, radio, etc. .....  
How often? Once, when first leasing a cab. .....
- b Is the worker given instructions in the way the work is to be done? .....  Yes  No  
If "Yes," give specific examples. ....
- c Attach samples of any written instructions or procedures. ....
- d Does the firm have the right to change the methods used by the worker or direct that person on how to do the work?  Yes  No  
Explain your answer Lease, #12 and 13 .....
- e Does the operation of the firm's business require that the worker be supervised or controlled in the performance of the service? .....  Yes  No  
Explain your answer: Driver is subject to passenger's control over how the services are performed. .....
- 4a The firm engages the worker:  
 To perform and complete a particular job only  
 To work at a job for an indefinite period of time  
 Other (explain) .....
- b Is the worker required to follow a routine or a schedule established by the firm? .....  Yes  No  
If "Yes," what is the routine or schedule? .....
- c Does the worker report to the firm or its representative? .....  Yes  No  
If "Yes":  
How often? Daily .....  
For what purpose? Pay lease fees; turn in cab, trip sheets and sales taxes;  
In what manner (in person, in writing, by telephone, etc.)? In person / collect charge vouchers  
Attach copies of report forms used in reporting to the firm. ....
- d Does the worker furnish a time record to the firm? .....  Yes  No  
If "Yes," attach copies of time records. ....
- 5a State the kind and value of tools and equipment furnished by:  
The firm Vehicle is provided by firm, but paid for by worker .....  
The worker Vehicle--Lease value--\$20,000/year (including radio) .....
- b State the kind and value of supplies and materials furnished by:  
The firm Maintenance and oil .....  
The worker Gas, maps, etc. .....
- c What expenses are incurred by the worker in the performance of services for the firm?  
Lease fees, gas, tickets .....
- d Does the firm reimburse the worker for any expenses? .....  Yes  No  
If "Yes," specify the reimbursed expenses .....
- 6a Will the worker perform the services personally? .....  Yes  No
- b Does the worker have helpers? .....  Yes  No  
If "Yes": Are the helpers hired by:  Firm  Worker  
If hired by the worker, is the firm's approval necessary? .....  Yes  No  
Who pays the helpers?  Firm  Worker  
Are social security taxes and Federal income tax withheld from the helpers' wages? .....  Yes  No  
If "Yes": Who reports and pays these taxes?  Firm  Worker  
Who reports the helpers' incomes to the Internal Revenue Service?  Firm  Worker  
If the worker pays the helpers, does the firm repay the worker? .....  Yes  No  
What services do the helpers perform? .....

7 At what location are the services performed?  Firm's  Worker's  Other (specify) Per. passenger instruc.

8a Type of pay worker receives:

Salary  Commission  Hourly wage  Piecework  Lump sum  Other (specify) .....

b Does the firm guarantee a minimum amount of pay to the worker?  Yes  No

c Does the firm allow the worker a drawing account or advances against pay?  Yes  No  
If "Yes": Is the worker paid such advances on a regular basis?  Yes  No

d How does the worker repay such advances? .....

9a Is the worker eligible for a pension, bonuses, paid vacations, sick pay, etc.?  Yes  No

If "Yes," specify .....

b Does the firm carry workmen's compensation insurance on the worker?  Yes  No

c Does the firm deduct social security tax from amounts paid the worker?  Yes  No

d Does the firm deduct Federal income taxes from amounts paid the worker?  Yes  No

e How does the firm report the worker's income to the Internal Revenue Service?

Form W-2  Form 1099  Does not report  Other (specify) .....

f Does the firm bond the worker?  Yes  No

10a Approximately how many hours a day does the worker perform services for the firm? 10-12

b Does the worker perform similar services for others?  Yes  No  Unknown

If "Yes": Are these services performed on a daily basis for other firms?  Yes  No  Unknown

Percentage of time spent in performing these services for:

This firm .....% Other firms.....%  Unknown

Does the firm have priority on the worker's time?  Yes  No

If "No," explain. Worker is free to do as he pleases, provided he pays the lease fee.

c Is the worker prohibited from competing with the firm either while performing services or during any later period?  Yes  No

11a Can the firm discharge the worker at any time without incurring a liability?  Yes  No

If "No," explain. Must allow worker to complete jobs accepted

b Can the worker terminate the services at any time without incurring a liability?  Yes  No

If "No," explain. Must complete all jobs accepted

12a Does the worker perform services for the firm under:

The firm's business name  The worker's own business name  Other (specify) .....

b Does the worker advertise or maintain a business listing in the telephone directory, a trade journal, etc.?  Yes  No  Unknown

If "Yes," specify .....

c Does the worker represent himself or herself to the public as being in business to perform the same or similar services?  Yes  No  Unknown

If "Yes," how? Cruising for fares

d Does the worker have his or her own shop or office?  Yes  No  Unknown

If "Yes," where? .....

e Does the firm represent the worker as an employee of the firm to its customers?  Yes  No

If "No," how is the worker represented? As a "driver"

f How did the firm learn of the worker's services? Driver walked in and asked for work

13 Is a license necessary for the work?  Yes  No  Unknown

If "Yes," what kind of license is required? Driver's lic., taxi driver permit, state business

By whom is it issued? Alaska or City of Ketchikan /license

By whom is the license fee paid? Driver

14 Does the worker have a financial investment in a business related to the services performed?  Yes  No  Unknown

If "Yes," specify and give amounts of the investment Annual/daily lease fee

15 Can the worker incur a loss in the performance of the service for the firm?  Yes  No

If "Yes," how? Lease fee and gas exceeds fares and tips

16a Has any other government agency ruled on the status of the firm's workers?  Yes  No

If "Yes," attach a copy of the ruling. See Exhibit B

b Is the same issue being considered by any IRS office in connection with the audit of the worker's tax return or the firm's tax return, or has it recently been considered?  Yes  No

If "Yes," for which year(s)? See Exhibit B

17 Does the worker assemble or process a product at home or away from the firm's place of business?  Yes  No

If "Yes":

Who furnishes materials or goods used by the worker?  Firm  Worker

Is the worker furnished a pattern or given instructions to follow in making the product?  Yes  No

Is the worker required to return the finished product to the firm or to someone designated by the firm?  Yes  No

Answer Items 18a through n if the worker is a salesperson or provides a service directly to customers.

- 18a Are leads to prospective customers furnished by the firm?  Yes  No  Does not apply
- b Is the worker required to pursue or report on leads?  Yes  No  Does not apply
- c Is the worker required to adhere to prices, terms, and conditions of sale established by the firm?  Yes  No
- d Are orders submitted to and subject to approval by the firm?  Yes  No
- e Is the worker expected to attend sales meetings?  Yes  No  
If "Yes": Is the worker subject to any kind of penalty for failing to attend?  Yes  No
- f Does the firm assign a specific territory to the worker?  Yes  No  Does not apply
- g Who does the customer pay?  Firm  Worker  
If worker, does the worker remit the total amount to the firm?  Yes  No
- h Does the worker sell a consumer product in a home or establishment other than a permanent retail establishment?  Yes  No
- i List the products and/or services distributed by the worker, such as meat, vegetables, fruit, bakery products, beverages (other than milk), or laundry or dry cleaning services. If more than one type of product and/or service is distributed, specify the principal one. Passenger transportation
- j Did the firm or another person assign the route or territory and a list of customers to the worker?  Yes  No  
If "Yes," please identify the person who made the assignment. \_\_\_\_\_
- k Did the worker pay the firm or person for the privilege of serving customers on the route or in the territory?  Yes  No  
If "Yes," how much did the worker pay (not including any amount paid for a truck or racks, etc.)? \$ Lease fees  
What factors were considered in determining the value of the route or territory? Anticipated gross revenue & exp.
- l How are new customers obtained by the worker? Explain fully, showing whether the new customers called the firm for service, were solicited by the worker, or both. Dispatch calls, personal calls, and street
- m Does the worker sell life insurance?  Yes  No  
If "Yes":  
Is the selling of life insurance or annuity contracts for the firm the worker's entire business activity?  Yes  No  
If "No," state the extent of the worker's other business activities \_\_\_\_\_  
Does the worker sell other types of insurance for the firm?  Yes  No  
If "Yes," state the percentage of the worker's total working time spent in selling such other types of insurance \_\_\_\_\_ %  
At the time the contract was entered into between the firm and the worker, was it their intention that the worker sell life insurance for the firm:  on a full-time basis  on a part-time basis  
State the manner in which such intention was expressed. \_\_\_\_\_
- n Is the worker a traveling salesperson or city salesperson?  Yes  No  
If "Yes":  
Specify from whom the worker principally solicits orders on behalf of the firm. \_\_\_\_\_  
If the worker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments, specify the percentage of the worker's time spent in such solicitation. \_\_\_\_\_ %  
Is the merchandise purchased by the customers for resale, or is it purchased for use in their business operations? If used by the customers in their business operations, describe the merchandise and state whether it is equipment installed on their premises or a consumable supply. \_\_\_\_\_

- 19 Attach the names and addresses of the total number of workers in this class from page 1, or the names and addresses of 10 such workers if there are more than 10. See Exhibit B
- 20 Attach a detailed explanation for any other reason why you believe the worker is an independent contractor or is an employee of the firm.

IMPORTANT INFORMATION NEEDED TO PROCESS YOUR REQUEST

Under section 6110 of the Internal Revenue Code, the text and related background file documents of any ruling, determination letter, or technical advice memorandum will be open to public inspection. This section provides that before the text and background file documents are made public, identifying and certain other information must be deleted.

Are the names, addresses, and taxpayer identifying numbers the only items you want deleted?  Yes  No  
If you checked "No," and believe additional deletions should be made, we cannot process your request unless you submit a copy of this form and copies of all supporting documents indicating, in brackets, those parts you believe should be deleted in accordance with section 6110(c) of the Code. Attach a separate statement indicating which specific exemption provided by section 6110(c) applies to each bracketed part.

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented are true, correct, and complete.

Signature X Marshall Title President Date 7-2-92

If this form is used by the firm in requesting a written determination, the form should be signed by an officer or member of the firm.  
If this form is used by the worker in requesting a written determination, the form should be signed by the worker. If the worker wants a written determination with respect to services performed for two or more firms, a separate form should be furnished for each firm.  
Additional copies of this form may be obtained from any Internal Revenue Service office.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO : SB 174

Revision Date: \_\_\_\_\_  
 Title: Exempting Cab Drivers from  
Employment Law  
 Sponsor: Senators Kelly, Taylor  
 Requestor: Senate Labor & Commerce

Department Affected: Labor  
 BRU: Empl Sec. Work Comp, Labor Stnd & Saf  
 Component: Unemployment Insurance,  
Workers' Compensation, Wage & Hour  
 COMPONENT SERIAL NO. 329, 344, 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUNDS SOURCE:						
--------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

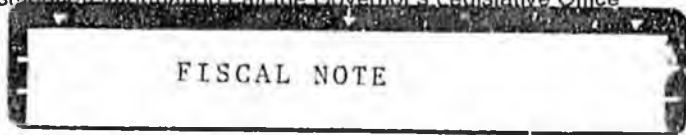
Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Arbe Williams, Special Assistant Phone: 465-2700  
 Division: Commissioner's Office Date: 3/25/93

Approved by Commissioner: Charles W. Mahlen Date: 3/26/93  
 Agency: Department of Labor

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**BILL NO:** SENATE BILL NO. 174

**DATE:** March 26, 1993

**TITLE:** Exempting Cab Drivers From  
Employment Law

**CONTACT:** Arbe Williams  
465-2700

Senate Bill No. 174 proposes to exempt certain taxicab drivers from state laws providing for the payment of minimum wages and from unemployment insurance and workers' compensation insurance coverage. The bill proposes to define the conditions under which certain taxicab drivers would, in effect, be operating as independent contractors.

Section 1 amends the exemption to the Alaska Wage and Hour Act to include taxicab drivers who are paid for their services only by customers. In addition, it appears that the intent is to limit the exclusion of taxicab drivers to those who have entered into a flat rate contractual arrangement with the owners of taxicab vehicles, taxicab permits or radio dispatch services. A contractual requirement could indicate that the driver has knowledge of his/her independent contractor status and would also indicate that the driver has knowledge of expected expenses and would have an opportunity for profit or loss based on an ability to serve customers.

Because the department is required to respond to complaints concerning minimum wage violations or for non payment of unemployment insurance or workers' compensation coverage, to clarify which taxicab drivers are exempted from the laws the department would recommend that Section 1 be amended as follows:

insert written after "whose" and before "contractual" on line 7; and  
delete the phrase [ ,IF ANY, ] before "with owners" on line 8.

Section 2 amends the exemption to the Alaska Employment Security Act and section 3 amends the exemption to the Alaska Workers' Compensation Act to include taxicab drivers as described in Section 1. Section 4 repeals the exemption to the payment for overtime.

Section 5 applied the provisions of sections 1 through 4 retroactively to an undetermined date. The department's counsel has advised us that section 5 presents a legal problem because it makes the statute retrospective in effect against pending cases or matters not yet filed. Retrospective laws that take away or impair substantive rights that have been acquired under existing laws violate the U. S. and the Alaska constitutional prohibition against ex post facto laws.

**POSITION PAPER/Department of Labor**

POSITION PAPER FROM DOL

Position Paper Senate Bill No. 174 - Continued  
March 26, 1993  
Page 2

The Department of Labor does not oppose Senate Bill No. 174 with an amendment to provide clear direction as to who is exempted from the employment laws and with the deletion of Section 5.

APPROVED:

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Charles W. Mahlen, Commissioner

DATE: 3/26/93

8-LS0932AK  
Cramer  
3/31/93

CS FOR SENATE BILL NO. 174(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS KELLY, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting certain taxicab operators from coverage under the Alaska  
2 Wage and Hour Act, the Alaska Employment Security Act, and the Alaska  
3 Workers' Compensation Act; and providing for an effective date."

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

5 \* Section 1. PURPOSE. The purpose of this Act is to clarify existing law regarding the  
6 application of the Alaska Wage and Hour Act, the Alaska Employment Security Act, and the  
7 Alaska Workers' Compensation Act to taxicab drivers who receive compensation only from  
8 customers and whose relationship with permit owners, operators, and dispatch companies is  
9 based solely on a contractual flat fee payment by the driver.

10 \* Sec. 2. AS 23.10.055 is amended by adding a new paragraph to read:

11 (13) an individual who drives a taxicab, is compensated for taxicab  
12 services exclusively by customers of the service, and whose written contractual  
13 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch  
14 services are based upon flat contractual rates and not based on a percentage share of

1 the individual's receipts from customers.

2 \* Sec. 3. AS 23.20.526(a) is amended by adding a new paragraph to read:

3 (21) service performed by an individual who drives a taxicab whose  
4 compensation and written contractual arrangements are as described in  
5 AS 23.10.055(13).

6 \* Sec. 4. AS 23.30.230(a) is amended to read:

7 (c) The following persons are not covered by this chapter:

8 (1) part-time baby-sitters;

9 (2) cleaning persons;

10 (3) harvest help and similar part-time or transient help;

11 (4) persons employed as entertainers on a contractual basis; [AND]

12 (5) commercial fishermen, as defined in AS 16.05.940; and

13 (6) individuals who drive taxicabs whose compensation and written

14 contractual arrangements are as described in AS 23.10.055(13).

15 \* Sec. 5. AS 23.10.060(d)(7) is repealed.

16 \* Sec. 6. The provisions of sec. 3 of this Act apply to determinations under AS 23.20 as  
17 to the employment status of taxicab drivers for service before the effective date of this Act  
18 if the employment status has not been the subject of a notice of determination under  
19 AS 23.20.315.

20 \* Sec. 7. SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the  
21 application of a provision of this Act to any person or circumstance is held invalid, the  
22 remainder of this Act and the application to other persons or circumstances shall not be  
23 affected.

24 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

ALASKA DEPARTMENT OF LABOR  
ALASKA EMPLOYMENT SECURITY DIVISION  
P.O. BOX 107023  
ANCHORAGE, ALASKA 99510-7023

APPEAL TRIBUNAL DECISION

Docket No. 9216446

SSA No. 574-20-4821

Hearing Date: June 3, 1992  
June 4, 1992  
June 8, 1992

CLAIMANT:

JAMES G CAMPBELL  
1150 WOODLAND AVE  
KETCHIKAN AK 99901

INTERESTED EMPLOYER:

SOURDOUGH INGERSOLL INC  
PO BOX 6662  
KETCHIKAN AK 99901

CLAIMANT APPEARANCES:

James G. Campbell  
Joyce P. Godkin  
Woodrow Anderson, Jr.  
Richard Hamlin

EMPLOYER APPEARANCES:

John T. Flora  
Fred Starbard  
Howard Jaeger

ESD APPEARANCES:

None

CASE HISTORY

Mr. Campbell timely appealed two April 22, 1992, determinations. One determination denied benefits under AS 23.20.379 holding he voluntarily left suitable work without good cause. The determination disqualified him beginning January 13, 1991. The disqualification ended February 23, 1991, or when he returned to work and earned eight times his weekly benefit amount (whichever came first). The determination reduced his maximum benefits by three weeks. The determination also warned he would not be eligible for an extension of benefits unless he worked and earned eight times his weekly benefit amount during the disqualification period. The other determination denied emergency unemployment compensation as a result of the voluntary leaving determination.

CAMPBELL, James  
9216446  
Page 2

At the request of Mr. Campbell and Mr. Flora, the Tribunal incorporates the entire record of hearing 9214058 into the record of hearing 9216446.

#### FINDINGS OF FACT

Sourdough Ingersoll, Inc. operates a taxi cab service (Sourdough Cab) in Ketchikan, Alaska. Mr. Flora is the corporation's president. Mr. Flora previously operated another cab company in Ketchikan. Mr. Campbell worked for Mr. Flora as a cab driver at both companies. Mr. Campbell has worked as a cab driver in Ketchikan since at least June 1983. Hearing 9214058 established Mr. Campbell customarily takes weeks off work every winter because he gets tired of working and wants a break.

Mr. Campbell established an unemployment insurance benefit year beginning date effective March 8, 1991. On his initial application to establish that claim, he certified under penalty of law that he last worked as a taxi driver for Sourdough Cab on February 15, 1991, and he was still working "On Call." (Exhibit 16D of hearing record 9214058.)

Mr. Campbell's actual last day of work before March 8, 1991, occurred on January 18, 1991. His cab driving for Sourdough Cab ended then, because Mr. Flora granted him the indefinite winter leave he requested. Mr. Campbell knew why his work ended January 18, 1991, when he completed Exhibit 16D and falsely certified (1) that he last worked on February 15, 1991, and (2) he was working on-call.

During hearing 9216446, Mr. Campbell argued he began his break from work in January 1991 not because he was tired of working as usual in the winter, but because Sourdough Cab did not have radial tires on the company vehicles, and that made the cabs difficult to handle on Ketchikan's bad winter roads. He complains the tires on the cabs and the area's weather stressed him. He offers no evidence that a doctor advised him to stop work due to excessive fatigue.

Sourdough Cab typically operates their cabs with recapped radial tires. Mr. Campbell has not shown any of the tires failed during his use. He has not shown any of the tires failed and caused an accident with any other Sourdough Cab driver. Mr. Campbell fails to offer evidence sufficient to establish that the cab he drove in January 1991 did not have recapped radial tires.

The testimonies of Mr. Campbell and his witnesses establish snowy winter driving conditions started in Ketchikan in December 1990. Mr. Campbell did not immediately begin his winter leave when conditions became bad, because other drivers were on leave and it would have been inconvenient for the company if he left. After

CAMPBELL, James  
9216446  
Page 3

mid-February 1991, the snow conditions in Ketchikan became light and no longer constituted bad winter driving conditions.

Before Mr. Campbell stopped work in January 1991, he usually worked the Monday through Friday day shift from 6:00 a.m. to 6:00 p.m. Ms. Godkin usually worked the night shift from 6:00 p.m. to 6:00 a.m. driving the same cab Mr. Campbell drove on the day shift. She continued to drive the cab until February or March 1991. Her work ended due to problems between herself and other workers.

On February 11, 1991, Ms. Godkin was involved in an accident while driving her cab. The accident resulted from glare ice covering the road. The cab's tires did not cause the accident. The ice on the road was so usually slick that a policeman walking across the ice to investigate the accident was unable to stand up.

Sourdough Cab made chains available to its drivers for bad road conditions. Even so, if Mr. Campbell did not want to drive due to road conditions or the conditions of his cab, he could have taken the day off without penalty from Sourdough Cab.

During hearing 9216446, Mr. Campbell also complained Sourdough Cab lacked general liability insurance coverage on cab drivers, and this contributed to his decision to stop driving in January 1991. Mr. Campbell offers nothing more than speculation to support his complaint that the company lacked general liability insurance.

Howard Jaeger is an insurance broker with Shattuck & Grummett, Inc. of Juneau. Mr. Jaeger's testimony overcomes Mr. Campbell's mere speculation and establishes Sourdough Cab and its drivers were covered by general liability insurance secured through Shattuck & Grummett, Inc. for 1990 and 1991.

By March 1991, Mr. Flora could not secure sufficient cab drivers for his needs, so he began to ask Mr. Campbell to return to work. Mr. Campbell refused to return to work, because he was still tired and he did not feel business would be busy enough to provide him with satisfactory commissions.

Mr. Campbell consented to work on-call for Mr. Flora on several days in early April 1991. However, Mr. Flora stopped calling Mr. Campbell by the end of April 1991, because Mr. Campbell frequently would not work when called.

Mr. Campbell fails to establish he stopped work as of January 18, 1991, for any reason other than his customary winter break.

#### PROVISIONS OF LAW

AS 23.20.379 provides, in part:

- (a) An insured worker is disqualified for waiting-week credit or benefits for the first week in which the insured worker is unemployed and for the next five weeks of unemployment following that week if the insured worker
  - (1) left the insured worker's last suitable work voluntarily without good cause...
- (c) The department shall reduce the maximum potential benefits to which an insured worker disqualified under this section would have been entitled by three times the insured worker's weekly benefit amount, excluding the allowance for dependents, or by the amount of unpaid benefits to which the insured worker is entitled, whichever is less.
- (d) The disqualification required in (a) and (b) of this section is terminated if the insured worker returns to employment and earns at least eight times the insured worker's weekly benefit amount.

8 AAC 85.095 provides, in part:

- (c) Good cause for voluntarily leaving work under AS 23.20.379(a)(1) includes
  - (1) leaving work for reasons that would compel a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, to leave work; the reasons must be of such gravity that the individual has no reasonable alternative but to leave work....

AS 23.20.406 provides, in part:

- (h) An individual is not eligible to receive extended benefits for any week of unemployment in the individual's eligibility period if the individual has been disqualified for benefits because the individual voluntarily left work, was discharged for misconduct, or refused an offer of suitable work, unless the disqualification imposed for those reasons has been terminated in accordance with AS 23.20.379(d).

The Emergency Unemployment Compensation Act of 1991, P.L. 102-164, Section 101, provides, in part:

- (d) WEEKLY BENEFIT AMOUNT.--For purposes of any agreement under this Act...
  - (2) the terms and conditions of the State law which apply to claims for extended compensation and to

CAMPBELL, James  
9216446  
Page 5

the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where inconsistent with the provisions of this Act or with the regulations or operating instructions of the Secretary promulgated to carry out this Act....

#### CONCLUSION

Mr. Campbell's untrue certification that he was working on-call when he established his March 8, 1991, unemployment insurance benefit year beginning date undermines his credibility. 1A

Mr. Campbell's willingness to continue working under winter conditions from December 1990 to mid-January 1991 undermines a holding that the conditions of the company's tires or the area's roads left him no reasonable alternative but to stop work when he did. Ms. Godkin's continued driving after January 18, 1991, undermines a holding the work conditions left Mr. Campbell no reasonable alternative but to leave work at the time he left in January 1991. The company's willingness to let Mr. Campbell park his cab on days when he was dissatisfied with the condition of the equipment or the roads further undermines a holding that he had no reasonable alternative but to stop work when he did. Mr. Campbell fails to show Sourdough Cab did not carry liability insurance on him. Mr. Campbell has not established he left work effective January 18, 1991, for good cause as the term is defined for unemployment insurance purposes.

Because Mr. Campbell did not work between January 18, 1991, and April 1991, he could not have worked and earned eight times his unemployment insurance weekly benefit amount within six weeks of January 18, 1991. He could not have requalified for emergency unemployment compensation.

#### DECISION

The April 22, 1992, determination that denies Mr. Campbell benefits for leaving work effective January 18, 1991, is **AFFIRMED**. Mr. Campbell remains disqualified beginning January 13, 1991. The disqualification ends February 23, 1991. Mr. Campbell's maximum benefit amount remains reduced by three times his weekly benefit amount.

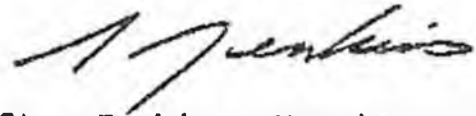
The April 22, 1992, emergency unemployment compensation determination is **AFFIRMED**. Emergency unemployment compensation remains denied as shown on the determination.

CAMPBELL, James  
9216446  
Page 6

APPEAL RIGHTS

This decision is final unless an appeal is filed to the Commissioner of Labor within 15 days after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed by circumstances beyond the party's control. A statement of appeal rights and procedures is enclosed.

Dated and Mailed in Anchorage, Alaska, on July 22, 1992.



Stan Jenkins, Hearing Officer

MICHEAL MOODY  
3250 DENALI  
KETCHIKAN, ALASKA 99901  
907-225-9198

MARCH 27, 1993

DEAR SIRs:

I WOULD LIKE TO RESPOND TO JIM CAMPBELL'S LETTER OF 3/27/93. I AM AN INDEPENDANT CAB DRIVER BY CHOICE, AND SUPPORT HOUSE BILL 233/SENATE BILL 174.

I CAN UNDERSTAND WHY MR. CAMPBELL MAY CONSIDER THE LABOR DEPT TO BE "MISGUIDED" CONSIDERING THAT IN THEIR DETERMINATION OF HIS CLAIMS (DOCKET #9216446) OF 6/22/92 THE CONCLUSION STATES "MR. CAMPBELL'S UNTRUE CERTIFACATION THAT HE WAS WORKING ON-CALL WHEN HE ESTABLISHED HIS MARCH 8/91 UNEMPLOYMENT INSURANCE BENEFIT YEAR BEGINNING DATE UNDERMINES HIS CREDIBILITY."

I FOUND HIS QUOTE OF BUCKLEY("THE BEST DEFENSE AGAINST USURPATORY GOVERNMENT IS AN ASSERTIVE CITIZENRY") TO BE HILARIOUS CONSIDERING THAT I UNDERSTAND IT TO MEAN THE UNWELCOME INTRUSION OF GOVERNMENT INTO THE FREE ENTERPRISE SYSTEM. THAT IS THE WHOLE POINT OF THIS LEGISLATION. WE WHO ARE WORKING INDEPENDANT CAB DRIVER'S ARE BUILDING OUR OWN BUSINESSES AND ENJOYING OUR FREEDOM TO DO JUST THAT UNLIKE MR. CAMPBELL WHO I CONSIDER TO BE A CHRONIC MALCONTENT WHO BLEW HIS OWN OPPORTUNITIES AND NOW WANTS THE REST OF US TO SUFFER WITH HIM.

SINCERELY:



MICHEAL MOODY

cc:EDITOR KETCHIKAN DAILY NEWS  
SENATOR ROBIN TAYLOR  
SENATOR TIM KELLY  
REPRESENTATIVE BILL WILLIAMS  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE AL VEZEY

**SB**

**177**

to vote to do that. Currently, in statute  
fishermen can vote to establish a fixed tax,  
not adjust.

1991 - \$1.013 million at 3%  
1990 - \$1.152 million at 2% (higher  
per acre price)

S. E. has a greater tax burden

Comm. has authority to be flexible or  
restructure aquaculture loans

Kelly: what if given 1% credit against  
enhancement tax would you support?

Kathryn: Yes

---

Dean Paddock - Bristol Bay Driftnetters Assn.

**WESTERN ALASKA  
COOPERATIVE MARKETING ASSOCIATION**

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1

BOX 213 . . . DILLINGHAM, ALASKA

March 15, 1993


Memorandum

L & C

TO: SENATE ~~FINANCE~~ COMMITTEE RE: SB 177

FROM: Dave Jackson

RE: Comments on the proposed marketing tax

  
I have already forwarded Bill Hudson our organizations concerns associated with his proposed legislation. But, I would also like you to review those, so, therefore, for your information:

The Bristol Bay fishery really does not have a market problem. We have a price problem, directly affected by excess salmon, farmed salmon and now Russian imports. Our market is almost totally dominated by Japanese ownership or control.

Why is the Aquaculture Associations continuing to add more pinks into both the resources and finally the market.

We would like to see the State of Alaska create a research and development option so that the Aquaculture Associations can move into other species. We would like to see the State put a moratorium on the existing hatchery loans etc to allow the associations flexibility to develop other species (marketable fish).

There has to be some consideration to exactly what the Bristol Bay commercial fishermen already pay out in local direct harvester taxes already.

Finally we feel that Bristol Bay will end up paying the lions share to assist in marketing pink salmon under some generic marketing plan.

I know that those markets we have supplied really don't want to see any pink or chum in their operation at all

Hopefully you can see our position on this not that we are negative, but we certainly would like something that will equitable to all fishermen statewide. Also, like to see a market plan that does not spell out Alaska Salmon, but does inform the market place of the variety of Alaska Salmon by species. ASMI did that in Japan.....Why can't they do that in the US, that is the market place that they are aiming at now.

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

DATE: 3/29/93

FURTHER: FINANCE

Date of 5-Day Notice: 4/1/93  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4/14/93

L&C Committee considered SB 177

Relating to salmon marketing, a salmon marketing tax, and the Alaska Seafood marketing Institute; efd.

and recommends:

replace with \_\_\_\_\_ CS SB 177 (L&C)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**FISCAL NOTE INFORMATION**

	Department	Date	Zero	Fiscal
CS	DOIR	4/5		5,750.00

	Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

**DO PASS:**

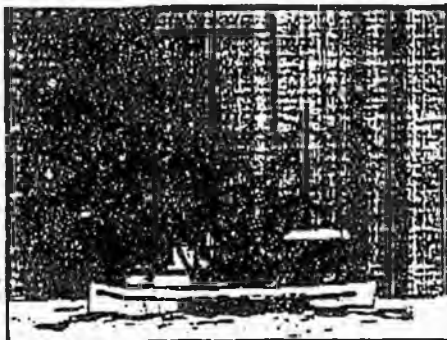
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OTHER RECOMMENDATIONS:**

Ben May - No Rec  
Steve Klein - No Rec  
Dr. E. Salo (No Rec)  
George ... Amend

Tom Kelly - No Rec

Chair: Signature and Recommendation



## Alaska Trollers Association

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

April 13, 1993

Senator Tim Kelly, Chairman  
Senate Labor and Commerce Committee  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Senator Kelly:

The Alaska Trollers Association (ATA) would like to comment on SB 177, which relates to salmon marketing and enhancement taxes. ATA does not support this bill, or any other, that seeks to impose an additional tax on our fleet for the purposes of marketing. Further, ATA does not want to see the Alaska Seafood Marketing Institute (ASMI) general fund budget dollars replaced by a marketing assessment on the fleets' landings.

Troll caught fish enjoy a specialty market niche and the marketing of our fish is somewhat different than that of other commercially caught salmon. ATA is sympathetic to the marketing dilemma confronting the net fisheries; however, we firmly believe that any move to assess trollers additional monies for marketing would be unnecessarily burdensome given our fleets' unique situation.

Considerable effort already goes into the marketing of troll caught fish through the Alaska Troll Processors Association, Seafood Producers Cooperative, and independent trollers who supply fresh or frozen product. In recent years, the trollers primary marketing problem has been direct competition for traditional markets with fish farmers who are flooding the market year-round with cheap fish -- not a lack of interest in our product. There is a ready market for troll fish, so long as the price is right.

Finally, our concern for ASMI stems from what we perceive to be an improvement in services to the salmon fleets in recent years. We note that ASMI put \$800,000 into domestic marketing last year, and has seemed decidedly more focused on salmon under the last two administrators. ATA has been directly involved with ASMI's foreign marketing push on troll product, which we believe helped to increase French sales last season. ASMI has provided ATA the opportunity to participate in promoting seafood in Washington, D.C. by facilitating shipments of troll caught salmon to several events, including President Clinton's inaugural luncheon. ASMI has involved other salmon fishermen as well. ASMI has even helped to

SB 177  
April 13, 1993  
Page 2

get some badly needed press for our industry -- from articles on Glacier Bay and winter trolling to joint promotions of "seafood" with other businesses such as Weight Watchers. Any programs that seek to add funds to ASMI for increased marketing of specific species should be in addition to existing levels of funding, or else, what's the point?

The "user pay" argument is lost on ATA, because we already know that fishermen DO PAY THEIR WAY. On average, Alaska's commercial fisheries return 3:1 on every dollar that the state invests in the ADF&G commercial fisheries budget. We fail to understand why the return to the state from our fisheries is not considered enough to provide ample funding for both marketing and the ADF&G budget.

Thank you for the opportunity to comment on SB 177. If I can be of assistance on this or other related issues, please do not hesitate to call.

Sincerely,

*Dale A. Kelley*  
Dale A. Kelley  
Executive Director

#1

come back to  
address on

AK residents

(9) establish a salmon marketing committee to administer the domestic salmon marketing program that is funded through the salmon marketing tax collected under AS 43.76.110 - 43.76.130; the committee shall consist of seven members and shall include four members who commercially fish salmon; one shall currently serve on the Alaska Seafood Marketing Institute board and the other three shall be selected from other fishery regions in the state and shall hold permits under AS 16.43; the other three members shall consist of one salmon processor currently serving on the Alaska Seafood Marketing Institute board and two salmon processors from outside the board: one shall be designated as having an annual payroll in the state of \$2,500,000 or more and the other having an annual payroll in the state of \$50,000 - \$2,500,000.

Sen. Kelly - what about requiring they  
be AK residents

Lincoln: we should put in AK resident  
requirement

7 - members

4 - fishermen

3 - processors

**Memorandum Via FAX**

**To:** Ken Erickson  
**From:** Rick Lauber, PSPA  
**Date:** April 8, 1993  
**Subject:** CS SB 177 (4/7/93 draft)

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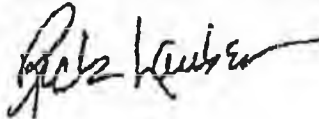
I have a couple of changes that I would suggest and if they are included I think the bill would be agreeable to the processing sector.

Page 4, line 2, after AS 16.43 add: "salmon buyers and processors"

Page 4, line 8: I am concerned that the term, "develop commodity standards" may be construed to mean grades and classification. I know the original intent of UFA is to look into a commodity futures system, like soybeans or pork bellies but that doesn't seem clear. I would suggest that portion read, "...product forms and explore the development of a commodity and futures market for salmon products".

With those changes I think many of the concerns of the fishermen are addressed. I would hope to see early passage.

URLI



# Alaska State Legislature

*During Interim:*  
3111 C Street, Suite 150  
Anchorage, AK 99503-3925  
(907) 561-2038  
Fax (907) 561-4194



*During Session:*  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Senator Drue Pearce**  
District F

## CSSB-177

This committee substitute establishes a 1% tax on the value of salmon and it is levied against fishermen. The proceeds of this tax will be deposited into the general fund and the legislature may appropriate these funds to the Alaska Seafood Marketing Institute to support the salmon marketing program described below.

This CS increases the number of board members on the Alaska Seafood Marketing Institute's Board to 24. The board's composition will consist of 12 commercial fishermen and 12 seafood processors. The quorum is increased to 14 to reflect the larger board.

This bill permissively allows the ASMI Board to appoint an executive board and sub-committees to efficiently handle matters addressed in the bill. The marketing sub-committees would have an equal number of seafood processors and fishermen appointed to them whenever practical.

This bill mandates that the ASMI board shall:

- 1) distribute market information to salmon fishermen for raw salmon and salmon products.
- 2) cooperate with fishermen and their organizations, seafood processors and their organizations, and several other relevant entities to develop commodity standards and future markets for salmon products.
- 3) establish a salmon marketing advisory committee to assist and advise the board in fulfilling its responsibilities under this bill.

This committee substitute permissively allows the legislature to appropriate the funds collected from the salmon tax, but mandates the split among ASMI's programs. It mandates that up to 10% of the salmon tax may be spent on the fisherman market information program, the commodity standards program, and the salmon advisory committee. The remaining 90% would be used by ASMI for domestic salmon marketing promotions.

This CS has an effective date of July 1, 1993.

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. CSSB 177**

8-LS0946\E

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Salmon Marketing and Enhancement Taxes BRU: Revenue Operations  
 Component: Income and Excise Audit  
 Sponsor: Senate Finance  
 Requestor: Senate Finance COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	76.7	76.7	76.7	76.7	76.7	76.7
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	10.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>109.7</b>	<b>99.7</b>	<b>99.7</b>	<b>99.7</b>	<b>99.7</b>	<b>99.7</b>
<b>CAPITAL</b>						

REVENUE FUND SOURCE: General Fund	5,750.0	5,750.0	5,750.0	5,750.0	5,750.0	5,750.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	109.7	99.7	99.7	99.7	99.7	99.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>109.7</b>	<b>99.7</b>	<b>99.7</b>	<b>99.7</b>	<b>99.7</b>	<b>99.7</b>

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Larry E. Meyers, Director Phone: 465-2320  
 Division: Income and Excise Audit Division Date: April 5, 1993  
 Approved by Commissioner: Darrel J. Rexwinkel Date: April 5, 1993  
 Agency: Commissioner

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**Analysis**

This bill affects the Department of Revenue by adding a new chapter to AS 43.76 which provides for a salmon marketing tax. The salmon marketing tax would be imposed on limited entry or interim-use holders at a rate of 1% of the value of the salmon and would be collected by buyers in the state. The buyers would remit the taxes to the Department on a monthly basis. This tax would take effect July 1, 1993 and be automatically repealed after 6 years under section 9 of the bill.

According to the Department of Fish and Game, the total estimated value of salmon harvested in 1992 was \$575 million. Applying the salmon marketing tax to this value, the Department would expect to receive \$5.75 million (\$575 million times 1%).

**Operating Costs**

The Department expects to receive an average of 6 returns to be filed from 500 buyers (based on the number of licensed fisheries business processors in 1992). As a result, the salmon marketing tax program will generate approximately 3000 additional returns for the Department to data capture and process. Additionally, the Department will conduct audits of buyers' records to insure compliance.

		<u>FY 94*</u>	<u>FY 95-99</u>
<b>Personal Services</b>			
Tax Examiner - Juneau (Range 12A)	\$40.7		
Accounting Clerk II - Juneau (Range 9A)	<u>36.0</u>		
<b>Total Personal Services</b>		\$76.7	76.7
<b>Travel</b>			
10 Audit Trips	10.0		
5 Compliance Trips	<u>5.0</u>		
<b>Total Travel</b>		15.0	15.0
<b>Contractual</b>			
Phone/Utilities	3.0		
Printing	2.0		
Mailing	<u>1.0</u>		
<b>Total Contractual</b>		6.0	6.0
<b>Supplies</b>		2.0	2.0
<b>Equipment (FY 94 Only)</b>			
Computer and Modular Furniture		<u>10.0</u>	<u>0.0</u>
<b>Total Operating Costs</b>		<u>\$109.7</u>	<u>\$99.7</u>

# MEMORANDUM

TO: Sen. Drue Pearce

FROM: Kim Elton, ASMI Executive Director

RE: CS for SB177 (4/7/93 version)

DATE: April 8, 1993

## SUMMARY

The committee substitute addresses problems identified by some affected fishing groups, DCED and the Alaska Seafood Marketing Institute. This version of the bill eliminates points of contention and better addresses the purposes of the salmon marketing tax and the structural changes needed in the executive branch to accomplish the goals of this bill.

*Section 1* expands the ASMI board to 24 members from 18 members.

*Section 2* provides that the expanded board will have equal representation (12 and 12) between processors and fishermen. The original SB177 expanded the board to 20 (10 and 10), removed two processors and added five fishermen. The CS is the preferable approach. Having 12 fishermen allows greater diversity of species and regions and having 12 processors allows the same expansion of diversity without necessitating removal of processors.

This section also redefines large and small processors to better reflect the 1990s rather than the early 1980s. The old definition of a large processor (a processor with an annual in-state payroll of more than \$1 million) was established in 1981 and the new threshold for a large processor of \$2.5 million is more reasonable.

*Section 3* mandates a quorum of 14 to reflect the expansion of the board in Section 2.

Alaska Seafood Marketing Institute  
1111 West 8th Street, Room 100  
Juneau, Alaska 99801-1895  
Tel: (907) 465-5560  
In Alaska: 1-800-478-2903  
Fax: (907) 465-5572



*Section 4* establishes that the board may establish an executive committee and provides for parity between processors and fishermen on ASMI advisory committees.

*Section 5* adds language clarifying the importance of domestic markets, establishes an ASMI mandate that salmon market data be collected and distributed to fishermen, provides that a salmon commodity marketing study occurs, and creates a salmon marketing advisory committee.

ASMI recommends that this section be amended to provide that the market data be distributed to the public. As a public agency that is appropriate. ASMI will make the information available to permit holders.

We also note that the salmon marketing advisory committee created in this section seems to be a drafting holdover from an earlier version of the bill that is not appropriate to the latest version and does not reflect the intent of the United Fishermen of Alaska's request for a salmon committee within ASMI that advises the marketing committee and ASMI board on domestic salmon marketing programs.

*Section 6* provides for the salmon marketing tax, the methods of collection and the methods of disbursement.

*Section 7* provides for the transition from an 18-member board to a 24-member board. Six fishermen are appointed immediately and the seventh fisherman replaces the public member when that term expires.

*Section 8* sunsets the salmon marketing tax June 30, 1999.

*Section 9* sunsets the marketing information component, the commodity future component and the DCED fishermen advisory committee on June 30, 2000.

*Section 10* provides for an effective date of July 1, 1993.



# UNITED FISHERMEN OF ALASKA

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

April 6, 1993

The Honorable Tim Kelly, Chair  
and Members of the Senate Labor  
and Commerce Committee  
Alaska State Senate  
The Capitol Building  
Juneau, Alaska 99801-1182

Dear Senator Kelly:

United Fishermen of Alaska supports an expanded and improved salmon marketing effort; and, specifically, to the domestic market. The conceptual plan we developed differs from what is before you in Senate Bill '77.

The UFA Marketing Committee designed a conceptual model for legislation that would make modifications to the Alaska Seafood Marketing Institute, provide an assessment mechanism for salmon harvesters, and create a Marketing Information Service accountable to fishermen.

UFA supports expanding the ASMI board to 24 members with twelve processors and twelve fishermen. The processor seats would be defined by 8 large (having an annual payroll in the state of \$2,500,000 and above); and 4 small processors (having an annual payroll in the state of \$50,000 - \$2,500,000). Appointments would remain with the governor.

Under the newly expanded ASMI board a new salmon committee would be created. It would be comprised of 7 members. Four would be salmon fishermen, 3 would be salmon processors. This committee would administer the expanded domestic salmon marketing effort and would have the funds assessed from salmon limited entry and interim-use permit holders available for this effort as well as any other available general fund money. The committee would not have powers separate from ASMI, but would be working in concert with some expanded authorities.

The Marketing Information Service would be funded by a portion of the salmon harvester's assessment and its chief responsibilities would be to gather, compile and disseminate market price information on raw salmon and salmon products to all salmon limited entry and interim-use permit holders, nonprofit salmon enhancement organizations and processors.

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fisherman'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 • Seafood Producers Cooperative  
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

The Honorable Tim Kelly, Chair  
and Members of the Senate Labor  
and Commerce Committee  
April 6, 1993  
Page Two

The funding mechanism would be an assessment on salmon limited entry and interim-use permit holders. The cleanest and most effective way for this to occur would be like the mechanism used for the salmon enhancement tax. The amount equal to the collected assessment is deposited in the general fund, then appropriated from the general fund to the Department of Commerce to provide financing for domestic salmon marketing through the Alaska Seafood Marketing Institute and for the funding of the Marketing Information Service.

Following are our suggestions for changes, deletions and additions:

#### CHANGES AND DELETIONS

Section 1. Eliminate

Section 2. Line 20, pg. 2; [20] change to 24

Section 3. Line 25, pg. 2; [ten] change to 12  
Line 27, pg. 2; [three] change to four  
Line 28, pg. 2; [ten] change to twelve

Section 4. Line 1, pg. 3; [twelve] change to fourteen

Section 5. Lines 1-4, pg. 4; Eliminate

Section 6. Lines 28-29, pg. 4; Eliminate: [the board may not override an action of the committee except by a vote of a three-quarters of the board.]

Section 11. Line 1, pg. 7; change the effective date to July 1, 1993.

#### ADD

1. Language to provide for salmon harvester's assessment to be collected under AS 43.76.110-130 and deposited in the general fund under the appropriate statute and then appropriated from general fund to the Department of Commerce and Economic Development for payment to provide financing for domestic salmon marketing and for the Marketing Information Service through the appropriate statute.

2. Add language to divide the harvester's assessment for a split of 90% to go to the domestic salmon marketing committee and up to 10% to go for the Marketing Information Service.

The Honorable Tim Kelly, Chair  
and Members of the Senate Labor  
and Commerce Committee  
April 6, 1993  
Page Three

3. Add language to create a new committee under the ASMI board to provide the market price information. It could be called the Market Information Service and its responsibilities should include gathering, compiling and distributing timely market price information to all salmon limited entry and interim-use permit holders, nonprofit enhancement salmon enhancement organizations and to processors.

Thank you for the opportunity to work with the Senate Labor and Commerce Committee.

Sincerely,



Cheryl Sutton  
Marketing Committee Chair  
United Fishermen of Alaska

[ ] Ketchikan Office  
P.O. Box 9579  
Ketchikan, AK. 99901  
phone: (907) 225-5156  
fax: (907) 225-5258



[X] Juneau Office  
9226 Long Run Dr.  
Juneau, AK. 99801  
phone: (907) 789-5117  
fax: (907) 789-5117

April 5, 1993

Senator Tim Kelly, Chair  
Labor and Commerce Committee  
Alaska State Legislature  
Juneau, Alaska 99801-1182

Dear Senator Kelly;

On behalf of Southeast Alaska Seiners (SEAS), who represents approximately 350 commercial fishermen, I am submitting these comments in opposition to SB 177. This marketing proposal differs dramatically with the domestic marketing proposal developed at United Fishermen's of Alaska (UFA)'s recent Board meeting. While SEAS agreed with the substantive elements of UFA's marketing proposal, SEAS could not support the financial obligation of a 1% marketing assessment. But SEAS must oppose this legislation on substantive and financial grounds.

SB 177 proposes that the state provide fishermen with professional services for price information and contractual agreements. In other commodity industries this service, sometime called a "marketing mutual", is provided by industry. In order for salmon fishermen to accept and use a marketing mutual it must be run by fishermen for fishermen. In order for a marketing mutual to have standing with the processors it must be a credible, *independent* source of information and expertise. The State of Alaska can not and should not come between the fishermen and the processors in determining salmon prices. The "mutual" part of the salmon marketing solution needs to come from industry, not from government. The only appropriate role for government is to provide an effecient mechanism to pass on tax revenues similar to the enhancement programs. SEAS strongly encourages you to amend SB 177 Sec. 16.10.570 - 16.10.590 to reflect UFA's marketing proposal.

On the financial aspects of this bill, SEAS does not support an additional 1% assessment for a domestic marketing proposal. However, SEAS does support transferring 1% of our current 3% enhancement tax to marketing. We have taken this position because:

- 1) The financial situation of the fleet is on the edge - in 1992 the average skipper took home (after a \$25,000 boat payment) \$11,072. And this follows 1991, which was an even grimmer year. 1% on the gross receipts may not sound like much, but a 1% tax on the average gross value would translate to a 3-4% tax on the average net back to the skipper, before he makes a boat payment. If you figure in a boat payment, the 1% gross tax could translate into a 10% tax on a skipper's net. This amounts to a substantial "hit" on a fisherman who is financially pinched.
- 2) The desire to redirect fishermen's financing from production to marketing is borne out by the general findings of the economic analysis in the Legislative Review of the Alaska Salmon Enhancement Program which indicate that marketing and not more production would generate higher net benefits and return on investments.

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To Ken	From Kate Troll	
Co.	Co. Southeast Seiners	
Dept.	Phone # 789-5117	
Fax # 465-3872	Fax # 789-5117	

3) A simple run of the numbers shows that if marketing works, the hatchery programs will recoup their immediate loss in revenues. For example, in 1991, the total revenue from a 3% tax on all Southeast salmon generated \$1,013,539. If the 1990 pink price is substituted (\$.30 instead of \$.13) a 2% tax on the same salmon yields \$1,152,459. This simple test of taking 2% of something versus 3% of very little suggests that enhancement programs will not be adversely affected once marketing kicks in, in fact it's likely that they will gain revenues as the value of their cost recovery fish rises.

4) Questionnaire results indicate that the fleet who pays up to 70% of the enhancement tax in Southeast Alaska supports this position.

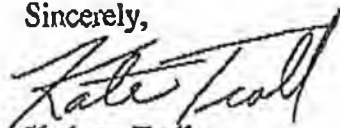
Southeast Alaska is the only region in the state that has a total 3% salmon enhancement tax. At a minimum, SEAS would like the opportunity for all permit holders in Southeast Alaska to vote on the option of reducing enhancement tax by 1% to enable a 1% assessment for marketing. We feel that fishermen should be given some means of deciding how best to spend their monies for the sake of their industry. To this end, I propose the following addition to SB 177:

For those regions of the State where salmon permit holders currently pay a 3% salmon enhancement tax, salmon fishermen may directly petition the Commissioner of Commerce and Economic Development to hold an election of all salmon permit holders within that region to reduce their salmon enhancement tax by 1%. Provided that 200 permit holders sign the petition and that the debt load to be collateralized at 2% presents no greater risk than the enhancement loans currently collateralized at 2% or less, then the Commissioner shall hold an election within 90 days of receiving such a petition. No reduction in the enhancement tax will occur until a 1% marketing tax is implemented.

*if carrying debt service can't put a reduction out to a vote.*

Should you desire more information or have questions, please call me at 789-5117.

Sincerely,

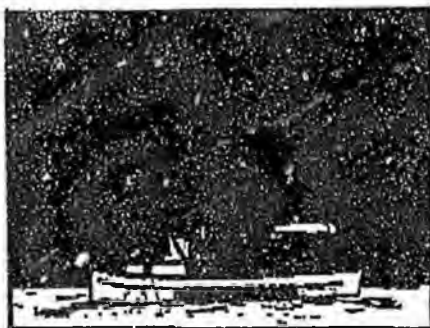


Kathryn Troll  
Executive Director

c.c. Senate Labor and Commerce Committee

To: GEORGE  
X 2029

From: JOSH FINN  
X 3819



## Alaska Trollers Association

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

April 6, 1993

Senator Drue Pearce  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Senator Pearce:

I appreciated the call from a member of your staff yesterday regarding your bill SB 177, which relates to salmon marketing and enhancement taxes. The Alaska Trollers Association (ATA) does not support this bill, or any other, that seeks to impose an additional tax on our fleet for the purposes of marketing. Further, ATA does not want to see the Alaska Seafood Marketing Institute (ASMI) general fund budget dollars replaced by a marketing assessment on the fleets' landings.

Troll caught fish enjoy a specialty market niche and the marketing of our fish is somewhat different than that of other commercially caught salmon. ATA is sympathetic to the marketing dilemma confronting the net fisheries; however, we firmly believe that any move to assess trollers additional monies for marketing would be unnecessarily burdensome given our fleets' unique situation.

Considerable effort already goes into the marketing of troll caught fish through the Alaska Troll Processors Association, Seafood Producers Cooperative, and independent trollers who supply fresh or frozen product. In recent years, the trollers primary marketing problem has been direct competition for traditional markets with fish farmers who are flooding the market year-round with cheap fish -- not a lack of interest in our product. There is a ready market for troll fish, so long as the price is right.

Finally, our concern for ASMI stems from what we perceive to be an improvement in services to the salmon fleets in recent years. We note that ASMI put \$800,000 into domestic marketing last year, and has seemed decidedly more focused on salmon under the last two administrators. ATA has been directly involved with ASMI's foreign marketing push on troll product, which we believe helped to increase French sales last season. ASMI has provided ATA the opportunity to participate in promoting seafood in Washington, D.C. by facilitating shipments of troll caught salmon to several events, including President Clinton's inaugural luncheon. ASMI has involved other salmon fishermen as well. ASMI has even helped to

SB 177  
April 6, 1993  
Page 2

get some badly needed press for our industry -- from articles on Glacier Bay and winter trolling to joint promotions of "seafood" with other businesses such as Weight Watchers. Any programs that seek to add funds to ASMI for increased marketing of specific species should be in addition to existing levels of funding, or else, what's the point?

The "user pay" argument is lost on ATA, because we already know that fishermen DO PAY THEIR WAY. On average, Alaska's commercial fisheries return three dollars to every one that the state invests in the ADF&G commercial fisheries budget. We fail to understand why the return on our fisheries is not considered enough to provide ample funding for both marketing and the ADF&G budget.

Thank you for the opportunity to comment on SB 177. If I can be of assistance on this or other related issues, please do not hesitate to call.

Sincerely,

*Dale A. Kelley*  
Dale A. Kelley  
Executive Director

# FAX MEMO

TO: ASMI Board  
FROM: Kim Elton, executive director  
RE: Review of SB177  
DATE: March 26, 1993

## ANALYSIS FOR A BILL ENTITLED:

*"An Act relating to salmon marketing, a salmon marketing tax, and the Alaska Seafood Marketing Institute, and providing for an effective date."*

## SUMMARY

This Senate bill establishes a 1 percent tax on the ex-vessel value of salmon, levied against fishermen.

The proceeds of the tax will be appropriated to the Department of Commerce and Economic Development (DCED) for several purposes, including:

- 1) a salmon price and market information unit;
  - 2) professional services to salmon fishermen to develop "annual and long-term contracts with seafood processors";
  - 3) development of commodity standards for salmon products";
- and
- 4) creation of a salmon advisory council in DCED.

The remainder of the salmon fishermen tax funds (supposedly 90 percent of the annual tax, but that is not guaranteed) would be transferred to ASMI from DCED for domestic salmon promotions.

The bill expands ASMI's board to 20 members. One large processor loses a seat to a fisherman, one small processor loses a seat to a fisherman and the public member is replaced by a fisherman. The two new seats also go to fishermen. The result would be a board with ten processors (seven large and three small) and ten fishermen.

ANALYSIS

DCED Commissioner Fuhs and legislative sources say the bill is "fast-tracked" for passage this session. The senate reportedly wants to pass the bill and then cut the \$983,200 in general funds slated for domestic marketing in the proposed ASMI budget for FY94. The logic being that the tax generates revenues of \$3 million to \$5 million, much of which would go to ASMI for domestic salmon marketing.

However, the way the bill is drafted, the effective date for the new tax is July 1, 1994. Since no tax will be collected this fishing season, each general fund dollar cut will come off the top of ASMI's domestic marketing effort next year. General funds for ASMI's domestic marketing program already have been cut 42 percent in the last two years, from \$1.7 million in FY92 to the proposed \$983,200 for FY94.

### Sectional Analysis

Section 1 of the bill creates several new roles for DCED. The roles include gathering salmon price and market data, giving professional help to salmon fishermen negotiating annual and long-term contracts with processors (!), and creating salmon commodity standards. This section also creates a salmon advisory committee of salmon fishermen to advise DCED on the department's new roles.

#### *Comments:*

- providing professional assistance to one side in price negotiations should be illegal if it is not now illegal;
- the university has three groups now doing salmon price and market research (ISER, ACIB, and marine advisory);
- there is no formula for quality standards DCED is privy to that hasn't been tried by industry or other government entities; and
- what is the authority of the nebulous salmon advisory committee?

Sections 2 and 3 expand the size of the ASMI board to 20. It also gives one of the existing eight large processing seats to a fisherman, one of four existing small processing seats to a fisherman and the public member seat to a fisherman. In addition, the two new seats go to fishermen. The result is a board with ten fishermen, ten processors and no public member.

*Comments:* balance can be attained by subtraction or addition. This is an odd combination of both. The least disruptive method is to add

fishermen until there is balance and forget about cutting board members out.

Section 4 stipulates the quorum of a 20-member board is 12.

*Comment:* this is a housekeeping section to reflect the difference between an 18-member board and a 20-member board.

Section 5 says ASMI may create a seven-member executive board with at least three fishermen.

*Comment:* this committee is not mandatory.

Section 6 creates an ASMI salmon marketing committee with seven members--four fishermen and three processors. This committee allocates the new salmon tax dollars for domestic salmon marketing programs. Any decision made by this committee stands unless a super majority of the board (15 members) votes to overturn the committee's decision.

*Comment:* marketing efforts are schizophrenic when defined in terms of 'processor' money or 'fishermen' money--this is a cumbersome and unnecessary new layer, especially when board seats are held evenly by fishermen and processors.

Section 7 authorizes the 1 percent tax on salmon fishermen. It is collected by the buyer and remitted to the state in much the same way as the processor assessment. The difference is the processor assessment is appropriated to ASMI directly but the salmon tax on fishermen is laundered through DCED where some undefined amount 'sticks' to the department to accomplish functions outlined in Section 1. Whatever is left over is shifted by DCED to ASMI.

*Comments:* Commissioner Fuhs says about 10 percent would be used for the 'informational data gathering' DCED function and 90 percent would come to ASMI. There is nothing, however, that binds the commissioner, future commissioners or the legislature to give anything to ASMI. Under the commissioner's scenario, 10 percent generates between \$300,000 and \$500,000 annually for data gathering and other duties. That is a hell of an information program--it provides full employment for several new bureaucrats.

Section 8 describes how the transition from an 18-member ASMI board (with 12 processors, five fishermen and a public member) to a 20-member board (with 10 processors and 10 fishermen) will work.

*Comment:* fishermen would replace a large processor, small processor and the public member as seats become available through term expiration or resignations.

Sections 9 and 10 sunset the tax in five years and the DCED functions outlined in Section 1 in six years.

*Comment:* the new functions should not be implemented at all but, if they are, they should disappear when the tax does.

Section 11 establishes an effective date for the tax of Jan. 1, 1994.

*Comments:* this means no tax receipts (except for a minuscule amount from the winter king fishery) will be available for ASMI domestic market programs until FY95. This is especially dangerous if legislators cut FY94 general fund dollars for domestic marketing. The governor has already cut more than \$300,000 from ASMI's domestic market program for FY94.

### Suggestions

1. Eliminate the new bureaucratic layers established in Section 1, especially the potentially illegal provision that provides help to one side in price negotiations. The data gathering and distribution duties outlined for DCED duplicates other work now being done by university researchers and economists. ASMI, DCED and ADF&G have often contracted with the university for the data pooling existing budgets.
2. Expand the board to 25, keeping the large and small processor seats, the public seat and add seven fisherman. Adding that many fishermen will allow a good distribution of species harvesters, gear types and fishing regions.
3. Eliminate the new ASMI committee that will distribute fishermen tax dollars. There is no need to create separate program tracks for harvester and processor money when the board is balanced with processors and fishermen. In fact, this new committee is debilitating to a coordinated promotional campaign.

# Alaska State Legislature

During Interim:  
3111 C Street, Suite 150  
Anchorage, AK 99503-3925  
(907) 561-2038  
Fax (907) 561-4194



During Session:  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Senator Drue Pearce**  
District F

## Sponsor Statement for Senate Bill 177

This bill establishes a 1 percent tax on the value of salmon and is levied against the fisherman. The proceeds of this tax will be appropriated to the Department of Commerce and Economic Development for several purposes. Approximately 10% of the tax will be used by the Department of Commerce:

- 1) to distribute to salmon fishermen market information for raw salmon and salmon products.
- 2) by the department to provide professional services to assist commercial salmon fishermen in developing contracts with seafood processors for the purchase of salmon.
- 3) for the development of commodity standards for salmon products.
- 4) for the creation of a salmon advisory committee within the Commerce Department.

The remainder of the tax, approximately 90%, would be transferred to the Alaska Seafood Marketing Institute for domestic salmon promotions.

The bill also expands ASMI's board to 20 members and changes the board composition. The result would be a board with 10 processors and 10 fishermen.

# Alaska State Legislature

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3111 C Street, Suite 150  
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During Session:  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Senator Drue Pearce**  
District F

## Differences between CSSB-177 and SB-177

This committee substitute removes the Department of Commerce mandate to provide professional services to assist commercial fishermen in developing annual and long-term contracts with seafood processors.

It increases the number of people sitting on the Alaska Seafood Marketing Institute's Board to 24. The board composition will be 12 commercial fishermen and 12 seafood processors. The quorum is increased to 14 to reflect the larger board.

It permissively allows the ASMI Board to appoint salmon marketing committees in contrast to the mandated salmon marketing committee in SB-177. These marketing committees would have an equal number of seafood processors and fishermen appointed to them whenever practicable.

The committee substitute mandates that only 10% of the salmon tax can be spent on those programs run by the Department of Commerce; the fisherman market information program, the commodity standards program, and the salmon advisory committee. The remaining 90% would go to ASMI for domestic salmon marketing promotions.

This CS has an effective date of July 1, 1993.

EXPLANATION OF DIFFERENCES  
BETWEEN ORIGINAL BILL & CS

8-LS09460  
Utermohle  
4/13/93

CS FOR SENATE BILL NO. 177(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Seafood Marketing Institute and a salmon  
2 marketing tax; and providing for an effective date."

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

4 \* Section 1. AS 16.51.020(a) is amended to read:

5 (a) The governing body of the institute is a board of directors. The board  
6 consists of 25 [18] voting members appointed by the governor. [IN MAKING  
7 APPOINTMENTS TO THE BOARD THE GOVERNOR SHALL CONSIDER, BUT  
8 NEED NOT APPOINT, NOMINEES PRESENTED BY PERSONS ENGAGED IN  
9 FISH PROCESSING, THE FINANCING OF FISH PROCESSING, OR  
10 COMMERCIAL FISHING.]

11 \* Sec. 2. AS 16.51.020(b) is amended to read:

12 (b) Twelve members of the board shall be seafood processors: eight of the  
13 seafood processors must have an annual payroll in the state of more than \$2,500,000  
14 [\$1,000,000 OR MORE]; four of the seafood processors must have an annual payroll

1 in the state of \$50,000 - \$2,500,000. Twelve [\$1,000,000. FIVE] members of the  
2 board must be engaged in commercial fishing. One member of the board shall be a  
3 person selected by the governor.

4 \* Sec. 3. AS 16.51.050 is amended to read:

5 Sec. 16.51.050. QUORUM. Fourteen [TEN] members of the board appointed  
6 under AS 16.51.020 constitute a quorum for the transaction of business and the  
7 exercise of the powers and duties of the board.

8 \* Sec. 4. AS 16.51.090 is amended to read:

9 Sec. 16.51.090. POWERS OF BOARD. In carrying out the powers of the  
10 institute, the board may

11 (1) adopt, alter, and use a corporate seal;

12 (2) prescribe, adopt, amend, and repeal bylaws;

13 (3) sue and be sued in the name of the institute;

14 (4) enter into any agreements necessary to the exercise of its powers  
15 and functions;

16 (5) cooperate with a public or private board, organization, or agency  
17 engaged in work or activities similar to the work or activities of the institute, including  
18 entering into contracts for joint programs of consumer education, sales promotion,  
19 quality control, advertising, and research in the production, processing, or distribution  
20 of seafood;

21 (6) conduct, or contract for, scientific research to develop and discover  
22 health, dietetic, or other uses of seafood harvested and processed in the state;

23 (7) receive contributions of money from persons;

24 (8) establish offices in the state and otherwise incur expenses incidental  
25 to the performance of its duties;

26 (9) appear on behalf of the institute before boards, commissions,  
27 departments, or other agencies of municipal, state, or federal government;

28 (10) acquire, hold, lease, sell, or otherwise dispose of property, but such  
29 property is limited to that which is necessary to the administrative functioning of the  
30 office of the institute;

31 (11) establish and maintain one or more bank accounts for the

1 transaction of the institute's business;

2 (12) prepare market research and product development plans for the  
3 promotion of any species of seafood and their by-products that may be harvested in  
4 the state and processed for sale;

5 (13) establish committees related to the marketing of salmon and  
6 salmon products: the board shall, to the extent practicable, appoint equal  
7 numbers of seafood processors and persons engaged in commercial fishing to the  
8 committees.

9 \* Sec. 5. AS 16.51.100 is amended to read:

10 Sec. 16.51.100. DUTIES OF BOARD. The board shall

11 (1) conduct programs of education, research, advertising, or sales  
12 promotion designed to accomplish the purposes of this chapter;

13 (2) promote all species of seafood and their by-products that are  
14 harvested in the state and processed for sale;

15 (3) develop market-oriented quality specifications for Alaska seafoods  
16 to be used in developing a high quality image for Alaska seafood in domestic and  
17 world markets, and adopt and distribute recommendations regarding the handling of  
18 seafood from the moment of capture to final distribution;

19 (4) prepare market research and product development plans for the  
20 promotion of all species of seafood and their by-products that are harvested in the state  
21 and processed for sale;

22 (5) submit an annual report to the governor and the legislature  
23 describing the activities of the institute; [AND]

24 (6) develop marketing programs based on the "inspection" and  
25 "premium quality" seals designed under AS 03.05.026 [,] and use the seals in  
26 advertising and promotion efforts of the institute;

27 (7) collect, organize, and distribute information on prices paid and  
28 market conditions for raw salmon and salmon products and provide this  
29 information on a regular and timely basis to all salmon fishermen who hold  
30 permits under AS 16.43, to licensed fish processors and fish buyers, and to all  
31 nonprofit salmon enhancement organizations that hold a permit under

1 AS 16.10.400: the board shall also provide information collected under this  
2 paragraph to the public upon request:

3 (8) cooperate with commercial salmon fishermen, fishermen's  
4 organizations, seafood processors, the Alaska Fisheries Development Foundation,  
5 the Fisheries Industrial Technology Center, state and federal agencies, and other  
6 relevant persons and entities to investigate market reception to new salmon  
7 product forms and to explore the development of commodity standards and future  
8 markets for salmon products: and

9 (9) establish a salmon marketing committee to assist and advise the  
10 board in administering the domestic salmon marketing program that is funded  
11 through the tax collected under AS 43.76: the committee shall consist of seven  
12 persons selected by the board, as follows

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

15 (i) one person shall be a member of the board of  
16 directors of the institute: and

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

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

22 (i) one person shall be a member of the board of  
23 directors of the institute:

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

27 (iii) one person shall be a salmon processor who is  
28 not on the board of directors of the institute and who has an annual  
29 pavroll in the state of \$50,000 - \$2,500,000.

30 \* Sec. 6. AS 43.76 is amended by adding new sections to read:

31 ARTICLE 2. SALMON MARKETING TAX.

1           Sec. 43.76.110. SALMON MARKETING TAX. A person holding a limited  
2 entry permit or interim-use permit under AS 16.43 shall pay a salmon marketing tax  
3 at the rate of one percent of the value, as defined in AS 43.75.290, of salmon that the  
4 person removes from the state or transfers to a buyer in the state. The buyer shall  
5 collect the salmon marketing tax at the time the salmon is acquired by the buyer.

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

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

12                   (1) maintain records of the value of salmon purchased in the state;

13                   (2) report to the Department of Revenue by March 1 of each year the  
14 total value, as defined in AS 43.75.290, of the salmon that the buyer has acquired  
15 during the preceding year.

16           (c) The owner of salmon removed from the state is liable for payment of  
17 a salmon marketing tax imposed by AS 43.76.110 if, at the time the salmon is  
18 removed from the state, the tax payable on the salmon has not been collected by a  
19 buyer. If the owner of the salmon is liable for payment of the salmon marketing tax  
20 under this subsection, the owner shall comply with the requirements under (a) and (b)  
21 of this section to remit the tax to the Department of Revenue, to maintain records, and  
22 to report to the Department of Revenue.

23           (d) The salmon marketing tax collected under this section shall be deposited  
24 in the general fund. The legislature may appropriate revenue generated by the salmon  
25 marketing tax to the Alaska Seafood Marketing Institute for the purpose of supporting  
26 the institute's salmon marketing program under AS 16.51.100(7) - (9) and the  
27 institute's domestic salmon marketing program. Except as otherwise provided in an  
28 appropriation by the legislature, the amount of the allocation made to the institute's  
29 salmon marketing program under AS 16.51.100(7) - (9) should not exceed 10 percent  
30 of the total amount of salmon marketing tax revenue appropriated for the institute.

31           Sec. 43.76.130. DEFINITION. In AS 43.76.110 - 43.76.130, "buyer" means

1 a person who acquires possession of salmon from the person who caught the salmon  
2 regardless of whether there is an actual sale of the salmon, but does not include a  
3 person engaged solely in interstate transportation of goods for hire.

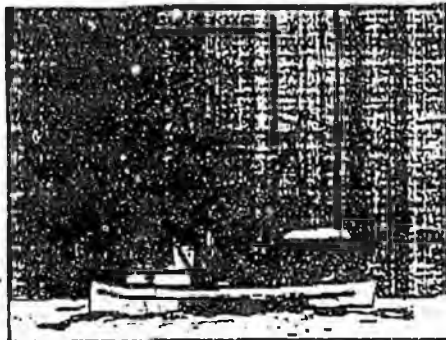
4 \* Sec. 7. TRANSITION FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE  
5 ALASKA SEAFOOD MARKETING INSTITUTE. (a) Notwithstanding AS 16.51.020(b),  
6 as amended by sec. 2 of this Act, a person who is serving as a member of the board of  
7 directors of the Alaska Seafood Marketing Institute on the day before the effective date of  
8 sec. 2 of this Act may continue to serve as a member of the board for the remainder of the  
9 term to which the person was appointed.

10 (b) As soon as practicable after the effective date of sec. 1 of this Act, the governor  
11 shall appoint seven persons engaged in commercial fishing to the new memberships created  
12 on the board of directors of the Alaska Seafood Marketing Institute by secs. 1 and 2 of this  
13 Act. Notwithstanding AS 16.51.030, the governor shall appoint two persons appointed under  
14 this subsection to one-year terms, two persons appointed under this subsection to two-year  
15 terms, and three persons appointed under this subsection to three-year terms.

16 \* Sec. 8. AS 43.76.110, 43.76.120, and 43.76.130 are repealed June 30, 1999.

17 \* Sec. 9. AS 16.51.100(7), 16.51.100(8), and 16.51.100(9) are repealed June 30, 2000.

18 \* Sec. 10. Section 6 of this Act takes effect July 1, 1993.



## Alaska Trollers Association

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

April 13, 1993

Senator Tim Kelly, Chairman  
Senate Labor and Commerce Committee  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Senator Kelly:

The Alaska Trollers Association (ATA) would like to comment on SB 177, which relates to salmon marketing and enhancement taxes. ATA does not support this bill, or any other, that seeks to impose an additional tax on our fleet for the purposes of marketing. Further, ATA does not want to see the Alaska Seafood Marketing Institute (ASMI) general fund budget dollars replaced by a marketing assessment on the fleets' landings.

Troll caught fish enjoy a specialty market niche and the marketing of our fish is somewhat different than that of other commercially caught salmon. ATA is sympathetic to the marketing dilemma confronting the net fisheries; however, we firmly believe that any move to assess trollers additional monies for marketing would be unnecessarily burdensome given our fleets' unique situation.

Considerable effort already goes into the marketing of troll caught fish through the Alaska Troll Processors Association, Seafood Producers Cooperative, and independent trollers who supply fresh or frozen product. In recent years, the trollers primary marketing problem has been direct competition for traditional markets with fish farmers who are flooding the market year-round with cheap fish -- not a lack of interest in our product. There is a ready market for troll fish, so long as the price-is right.

Finally, our concern for ASMI stems from what we perceive to be an improvement in services to the salmon fleets in recent years. We note that ASMI put \$800,000 into domestic marketing last year, and has seemed decidedly more focused on salmon under the last two administrators. ATA has been directly involved with ASMI's foreign marketing push on troll product, which we believe helped to increase French sales last season. ASMI has provided ATA the opportunity to participate in promoting seafood in Washington, D.C. by facilitating shipments of troll caught salmon to several events, including President Clinton's inaugural luncheon. ASMI has involved other salmon fishermen as well. ASMI has even helped to

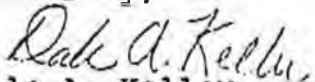
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Page 2

get some badly needed press for our industry -- from articles on Glacier Bay and winter trolling to joint promotions of "seafood" with other businesses such as Weight Watchers. Any programs that seek to add funds to ASMI for increased marketing of specific species should be in addition to existing levels of funding, or else, what's the point?

The "user pay" argument is lost on ATA, because we already know that fishermen DO PAY THEIR WAY. On average, Alaska's commercial fisheries return 3:1 on every dollar that the state invests in the ADF&G commercial fisheries budget. We fail to understand why the return to the state from our fisheries is not considered enough to provide ample funding for both marketing and the ADF&G budget.

Thank you for the opportunity to comment on SB 177. If I can be of assistance on this or other related issues, please do not hesitate to call.

Sincerely,

  
Dale A. Kelley  
Executive Director

A M E N D M E N T

OFFERED IN THE SENATE

TO: DRAFT TO CSSB 177(L&C), (Version O, dated 4/13/93)

Page 1, line 1:

Delete "and"

Insert ", "

Page 1, line 2, after "tax":

Insert ", and reduction of the salmon enhancement tax"

Page 4, following line 29:

Insert a new bill section to read:

"\* Sec. 6. AS 43.76 is amended by adding a new section to read:

Sec. 43.76.023. REDUCTION OF SALMON ENHANCEMENT TAX. (a)

If a salmon marketing tax levied under AS 43.76.110 - 43.76.130 is in effect, a salmon enhancement tax levied under AS 43.76.010 may be reduced to a two percent salmon enhancement tax by the commissioner of revenue upon majority vote at an election held under AS 43.76.015 in the region in which the salmon enhancement tax is levied.

(b) A salmon enhancement tax shall be reduced by the commissioner of revenue under (a) of this section following an election in a region if

(1) a petition is presented to the commissioner of commerce and economic development requesting reduction of the salmon enhancement tax that is signed by at least 25 percent of the number of persons who voted under AS 43.76.015 in the election approving the salmon enhancement tax in the region;

(2) the commissioner of commerce and economic development determines that the reduction of the salmon enhancement tax to two percent will not significantly jeopardize repayment of outstanding loans to the qualified regional

association under AS 16.10.510 that are secured by the tax:

(3) an election is held in accordance with AS 43.76.015(a), (c), and (d); the ballot must ask the question whether the salmon enhancement tax for the region shall be reduced to two percent; the ballot must be worded so that a "yes" vote is for reduction of the salmon enhancement tax to two percent and a "no" vote is for continuation of the three percent salmon enhancement tax;

(4) a majority of the eligible interim-use permit and entry permit holders who vote in the election cast a ballot for the reduction of the salmon enhancement tax; and

(5) the qualified regional association provides notice of the election in accordance with AS 43.76.015 within two months after receiving notice from the commissioner of commerce and economic development that a valid petition under (1) of this subsection has been received.

(c) An election to reduce a salmon enhancement tax under this section shall be held within 90 days after the commissioner of commerce and economic development receives a valid petition under (b)(1) of this section, unless the commissioner authorizes an extension of the election date in order to provide for an orderly election.

(d) If approved, the reduction of the salmon enhancement tax takes effect on the date set out in the ballot.

(e) If the salmon marketing tax levied under AS 43.76.110 - 43.76.130 is repealed, then on the effective date of the repeal of the salmon marketing tax, the ~~three percent~~ <sup>two</sup> percent salmon enhancement tax is automatically reinstated in a region that has voted to reduce the salmon enhancement tax under this section, so long as the salmon enhancement tax in the region has not been terminated or amended under AS 43.76.015 or 43.76.020 after the salmon enhancement tax is reduced under this section."

*check w/  
Rogers*

Renumber the following bill sections accordingly.

Page 6, line 18:

Delete "Section 6"

Insert "Section 7"

8-LS09460  
Utermohle  
4/13/93

# NEWEST

CS FOR SENATE BILL NO. 177(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

*From 24 to 25*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Seafood Marketing Institute and a salmon  
2 marketing tax; and providing for an effective date."

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

4 \* Section 1. AS 16.51.020(a) is amended to read:

5 (a) The governing body of the institute is a board of directors. The board  
6 consists of 25 [18] voting members appointed by the governor. [IN MAKING  
7 APPOINTMENTS TO THE BOARD THE GOVERNOR SHALL CONSIDER, BUT  
8 NEED NOT APPOINT, NOMINEES PRESENTED BY PERSONS ENGAGED IN  
9 FISH PROCESSING, THE FINANCING OF FISH PROCESSING, OR  
10 COMMERCIAL FISHING.]

*delete  
f/c  
confirm*

11 \* Sec. 2. AS 16.51.020(b) is amended to read:

12 (b) Twelve members of the board shall be seafood processors: eight of the  
13 seafood processors must have an annual payroll in the state of more than \$2,500,000  
14 [\$1,000,000 OR MORE]; four of the seafood processors must have an annual payroll

1 in the state of \$50,000 - \$2,500,000. Twelve [\$1,000,000. FIVE] members of the  
 2 board must be engaged in commercial fishing. One member of the board shall be a  
 3 lay person selected by the governor.

*\* added  
hook  
in.*

4 \* Sec. 3. AS 16.51.050 is amended to read:

5 Sec. 16.51.050. QUORUM. Fourteen [TEN] members of the board appointed  
 6 under AS 16.51.020 constitute a quorum for the transaction of business and the  
 7 exercise of the powers and duties of the board.

8 \* Sec. 4. AS 16.51.090 is amended to read:

9 Sec. 16.51.090. POWERS OF BOARD. In carrying out the powers of the  
 10 institute, the board may

- 11 (1) adopt, alter, and use a corporate seal;
- 12 (2) prescribe, adopt, amend, and repeal bylaws;
- 13 (3) sue and be sued in the name of the institute;
- 14 (4) enter into any agreements necessary to the exercise of its powers  
 15 and functions;
- 16 (5) cooperate with a public or private board, organization, or agency  
 17 engaged in work or activities similar to the work or activities of the institute, including  
 18 entering into contracts for joint programs of consumer education, sales promotion,  
 19 quality control, advertising, and research in the production, processing, or distribution  
 20 of seafood;
- 21 (6) conduct, or contract for, scientific research to develop and discover  
 22 health, dietetic, or other uses of seafood harvested and processed in the state;
- 23 (7) receive contributions of money from persons;
- 24 (8) establish offices in the state and otherwise incur expenses incidental  
 25 to the performance of its duties;
- 26 (9) appear on behalf of the institute before boards, commissions,  
 27 departments, or other agencies of municipal, state, or federal government;
- 28 (10) acquire, hold, lease, sell, or otherwise dispose of property, but such  
 29 property is limited to that which is necessary to the administrative functioning of the  
 30 office of the institute;
- 31 (11) establish and maintain one or more bank accounts for the

1 transaction of the institute's business;

2 (12) prepare market research and product development plans for the  
3 promotion of any species of seafood and their by-products that may be harvested in  
4 the state and processed for sale;

5 (13) establish committees related to the marketing of salmon and  
6 salmon products: the board shall, to the extent practicable, appoint equal  
7 numbers of seafood processors and persons engaged in commercial fishing to the  
8 committees.

*del 13 taken out*

9 \* Sec. 5. AS 16.51.100 is amended to read:

10 Sec. 16.51.100. DUTIES OF BOARD. The board shall

11 (1) conduct programs of education, research, advertising, or sales  
12 promotion designed to accomplish the purposes of this chapter;

13 (2) promote all species of seafood and their by-products that are  
14 harvested in the state and processed for sale;

15 (3) develop market-oriented quality specifications for Alaska seafoods  
16 to be used in developing a high quality image for Alaska seafood in domestic and  
17 world markets, and adopt and distribute recommendations regarding the handling of  
18 seafood from the moment of capture to final distribution;

19 (4) prepare market research and product development plans for the  
20 promotion of all species of seafood and their by-products that are harvested in the state  
21 and processed for sale;

22 (5) submit an annual report to the governor and the legislature  
23 describing the activities of the institute; [AND]

24 (6) develop marketing programs based on the "inspection" and  
25 "premium quality" seals designed under AS 03.05.026 [,] and use the seals in  
26 advertising and promotion efforts of the institute;

27 (7) collect, organize, and distribute information on prices paid and  
28 market conditions for raw salmon and salmon products and provide this  
29 information on a regular and timely basis to all salmon fishermen who hold  
30 permits under AS 16.43, to licensed fish processors and fish buyers, and to all  
31 nouprofit salmon enhancement organizations that hold a permit under

*added*

1 AS 16.10.400: the board shall also provide information collected under this  
2 paragraph to the public upon request:

3 (8) cooperate with commercial salmon fishermen, fishermen's  
4 organizations, seafood processors, the Alaska Fisheries Development Foundation,  
5 the Fisheries Industrial Technology Center, state and federal agencies, and other  
6 relevant persons and entities to investigate market reception to new salmon  
7 product forms and to explore the development of commodity <sup>exchange</sup> standards and future  
8 markets for salmon products; and

9 (9) establish a salmon marketing committee to assist and advise the  
10 board in administering the domestic salmon marketing program that is funded  
11 through the tax collected under AS 43.76; the committee shall consist of seven  
12 persons selected by the board, as follows

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

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

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

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

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

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

27 (iii) one person shall be a salmon processor who is  
28 not on the board of directors of the institute and who has an annual  
29 pavroll in the state of \$50,000 - \$2,500,000.

30 \* Sec. 6. AS 43.76 is amended by adding new sections to read:

31 ARTICLE 2. SALMON MARKETING TAX.

*make changes of board*

*\* add*

*exchange*

*Should*

*UFA changes*

*AK*

1           Sec. 43.76.110. SALMON MARKETING TAX. A person holding a limited  
 2 entry permit or interim-use permit under AS 16.43 shall pay a salmon marketing tax  
 3 at the rate of one percent of the value, as defined in AS 43.75.290, of salmon that the  
 4 person removes from the state or transfers to a buyer in the state. The buyer shall  
 5 collect the salmon marketing tax at the time the salmon is acquired by the buyer.

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

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

16           (c) The owner of salmon removed from the state is liable for payment of  
 17 a salmon marketing tax imposed by AS 43.76.110 if, at the time the salmon is  
 18 removed from the state, the tax payable on the salmon has not been collected by a  
 19 buyer. If the owner of the salmon is liable for payment of the salmon marketing tax  
 20 under this subsection, the owner shall comply with the requirements under (a) and (b)  
 21 of this section to remit the tax to the Department of Revenue, to maintain records, and  
 22 to report to the Department of Revenue.

23           (d) The salmon marketing tax collected under this section shall be deposited  
 24 in the general fund. The legislature may appropriate revenue generated by the salmon  
 25 marketing tax to the Alaska Seafood Marketing Institute for the purpose of supporting  
 26 the institute's salmon marketing program under AS 16.51.100(7) - ~~8~~ and the ~~8~~  
 27 institute's domestic salmon marketing program. Except as otherwise provided in an  
 28 appropriation by the legislature, the amount of the allocation made to the institute's  
 29 salmon marketing program under AS 16.51.100(7) ~~(9)~~ should not exceed 10 percent  
 30 of the total amount of salmon marketing tax revenue appropriated for the institute.

31           Sec. 43.76.130. DEFINITION. In AS 43.76.110, 43.76.130, "buyer" means

*D.K.*  
 ↙

1 a person who acquires possession of salmon from the person who caught the salmon  
2 regardless of whether there is an actual sale of the salmon, but does not include a  
3 person engaged solely in interstate transportation of goods for hire.

4 \* Sec. 7. TRANSITION FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE  
5 ALASKA SEAFOOD MARKETING INSTITUTE. (a) Notwithstanding AS 16.51.020(b),  
6 as amended by sec. 2 of this Act, a person who is serving as a member of the board of  
7 directors of the Alaska Seafood Marketing Institute on the day before the effective date of  
8 sec. 2 of this Act may continue to serve as a member of the board for the remainder of the  
9 term to which the person was appointed.

10 (b) As soon as practicable after the effective date of sec. 1 of this Act, the governor  
11 shall appoint seven persons engaged in commercial fishing to the new memberships created  
12 on the board of directors of the Alaska Seafood Marketing Institute by secs. 1 and 2 of this  
13 Act. Notwithstanding AS 16.51.030, the governor shall appoint two persons appointed under  
14 this subsection to one-year terms, two persons appointed under this subsection to two-year  
15 terms, and three persons appointed under this subsection to three-year terms.

16 \* Sec. 8. AS 43.76.110, 43.76.120, and 43.76.130 are repealed June 30, 1999.

17 \* Sec. 9. AS 16.51.100(7), 16.51.100(8), and 16.51.100(9) are repealed June 30, 2000.

18 \* Sec. 10. Section 6 of this Act takes effect July 1, 1993.

8-LS0946K  
Utermohle  
4/7/93

DRAFT

DRAFT

CS FOR SENATE BILL NO. 177( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

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6 consists of <sup>25</sup>~~24~~ [18] voting members appointed by the governor. [ In making  
7 appointments to the board, the governor shall consider, but need not appoint, nominees  
8 presented by persons engaged in fish processing, the financing of fish processing, or  
9 commercial fishing.]

10 \* Sec. 2. AS 16.51.020(b) is amended to read:

11 (b) Twelve members of the board shall be seafood processors: eight of the  
12 seafood processors must have an annual payroll in the state of more than \$2,500,000  
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14 in the state of \$50,000 - \$2,500,000. Twelve [\$1,000,000. FIVE] members of the

*Put  
Back  
In*

board must be engaged in commercial fishing. ~~ONE MEMBER OF THE BOARD~~  
SHALL BE A LAY PERSON SELECTED BY THE GOVERNOR.

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- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) cooperate with a public or private board, organization, or agency engaged in work or activities similar to the work or activities of the institute, including entering into contracts for joint programs of consumer education, sales promotion, quality control, advertising, and research in the production, processing, or distribution of seafood;
- (6) conduct, or contract for, scientific research to develop and discover health, dietetic, or other uses of seafood harvested and processed in the state;
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- (8) establish offices in the state and otherwise incur expenses incidental to the performance of its duties;
- (9) appear on behalf of the institute before boards, commissions, departments, or other agencies of municipal, state, or federal government;
- (10) acquire, hold, lease, sell, or otherwise dispose of property, but such property is limited to that which is necessary to the administrative functioning of the office of the institute;
- (11) establish and maintain one or more bank accounts for the transaction of the institute's business;