

Civil penalties.

Section 7. CIVIL PENALTIES. In case of delinquency in payment of the tax herein imposed, there shall be assessed and collected, in addition to any tax that may be found to be due and unpaid, a penalty equal to such tax plus interest thereon at the rate of one percent a month, or portion thereof, from the due date until paid; provided, however, that the total amount paid as interest shall not exceed eight percent of the amount of tax due.

Section 8. EFFECTIVE DATE. This Act shall take effect on April 1, 1949.

Approved March 15, 1949.

CHAPTER 43

AN ACT

[H. B. 10]

To establish a business license system in Alaska; levying fees; and repealing all acts which are in conflict herewith or supplanted hereby and fixing an effective date.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. TITLE OF ACT. This Act shall be known as the "Alaska Business License Act".

Definitions.

Section 2. DEFINITIONS. As used in this Act, and unless otherwise required by the context:

(a) "Business" shall include any activities or acts, personal, professional or corporate, engaged in or caused to be engaged in, or following or engaging in any trade.

profession or business, including receipts from advertising services, rental of personal or real property or portions thereof, construction, processing or manufacturing, but excluding businesses specified in Section 14 of this Act, calling or vocation, with the object of financial or pecuniary gain, profit or benefit, either direct or indirect, and not exempting sub-activities producing marketable commodities or services used or consumed in the main business activity, each of which sub-activities shall be considered business. The rendering or supplying of services as an employee and the furnishing of property, services, substances, or things, by a person who does not hold himself out as regularly engaging in such transactions, shall not constitute business under the meaning of this Act. ^{Business.}

(b) "Person" shall include any individual, firm, partnership, joint adventure, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit, engaged in a business, and the plural as well as the singular in number. ^{Person.}

(c) "Income year" shall mean calendar year. In case a person has carried on business during a part only of the income year, the words "income year" shall be construed to mean the period within the income year during which the person has carried on business. ^{Income year.}

(d) "Gross receipts" shall mean all receipts from sources within the Territory, whether in the form of money, credits or other valuable consideration, received from engaging in or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses or any other expense whatsoever; provided, however, that "gross receipts" shall not include cash discounts allowed and taken on sales, and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, and payments received ^{Gross receipts.}

in final liquidation of accounts included in the gross receipts of any previous return made by the person. Receipts from sales, wherever made, of goods, wares and merchandise manufactured or originating in the Territory shall be considered to be a part of gross receipts from sources within the Territory, and any holder of a Territorial license hereunder doing business within and without the Territory shall be liable hereunder as to that portion of his gross receipts attributable to his Alaska operations. These general provisions for computing gross receipts are hereby modified as follows: Resident wholesale firms registered in Alaska as domestic corporations or otherwise identifiable as wholesalers who are residents, need not include the receipts from sales of finished products to dealers for resale to consumers upon which resale the tax levied hereunder applies, nor need the receipts from sales by manufacturers of their products manufactured in Alaska, except where such products are sold direct to the consumer, be included, nor need the receipts from any sale made to any person in a foreign country for shipment out of the United States be included unless exported in bond for re-entry into the United States. Individuals representing firms taxed hereunder on volume of business done, working as agents on commission instead of as employees, may compute their gross receipts as equal to their gross commissions. These modifications shall in no case be construed to excuse payment of the \$25.00 initial license fee or any part thereof.

Exceptions.

(e) "Tax Commissioner" shall mean the Tax Commissioner of the Territory of Alaska, or his authorized deputy.

Tax Commissioner.

Section 3. EXEMPTIONS.

(a) There are hereby specifically exempted from the provisions of this Act the gross receipts from educational, religious, benevolent, fraternal, or charitable ac-

Exemptions.

tivities, where the entire amount of such receipts is held or expended for such purposes, except receipts which are the result of a continuous engaging in a business or occupation otherwise subject hereto.

(b) Gross receipts obtained in the operation of a hospital are exempt hereunder. Hospitals.

(c) Gross receipts from municipally owned and operated utilities and from operation of utilities by incorporated utility districts or non-profit associations and non-profit cooperatives are exempt hereunder. Public and non-profit utilities.

(d) Home handicrafts up to \$500.00 on gross receipts are exempt hereunder. Home handicraft.

Section 4. APPLICATION FOR LICENSE.

(a) For the privilege of engaging in a business in the Territory of Alaska, a person shall first apply, upon forms prescribed by the Tax Commissioner, and obtain a license so to do, and pay a license fee, as provided in Section 5 of this Act. A license issued to a firm for a particular line of business shall cover all its operations in Alaska in such line of business regardless of the number of its establishments. Application for license.

(b) Application for a renewal of a license and payment of the initial fee thereon shall be made not later than January 31st of each year. Renewal.

(c) No license shall be issued for a period of time extending beyond the termination of the calendar year for which issued. Limit.

(d) Any person or firm engaging in a business subject to licensing provisions of a regulatory nature such, for example, as the requirement of posting a bond before commencing business as a collection agency, must, in Compliance with other requirements.

addition to filing the regular application above mentioned, comply with such regulatory provisions before being entitled to a license hereunder.

Section 5. LEVY AND COMPUTATION OF LICENSE FEE.

Rate of tax. (a) The license fee for each business shall be \$25.00 plus a sum equal to one-half of one per centum of the gross receipts in excess of \$20,000.00 from such business during the income year for which the license is to be issued; provided, that all gross volume in excess of One Hundred Thousand (\$100,000.00) Dollars per annum shall be taxed at the rate of one quarter of one per centum ($\frac{1}{4}\%$), and provided, however, that annual license fees paid by professional people to their respective professional boards shall be credited against the initial fee required hereunder.

Banks. (b) The license fee for national and territorial banks, trust companies and savings and loan associations shall be two per centum (2%) upon the net income of each such taxpayer, computed as required under the Internal Revenue Code of the United States.

Mail order business. (c) The license for the privilege of taking orders through use of catalogs and otherwise by mail order offices in Alaska shall be the same as above set forth in this Act for business generally and gross volume of business of such offices shall include all orders taken thereat whether delivery of the merchandise is made through any such office or otherwise.

(d) The initial fee of \$25.00 shall be applicable to all of the foregoing subsections of this section, and shall accompany the application, and any balance shall be due and payable on December 31st of each year and must be paid on or before January 31st following; provided, that the Tax Commissioner may extend such time until the

31st of the ensuing March upon application showing that such extension is necessary in order to enable the applicant to ascertain the amount of license money due. To enable accurate determination of balance of tax due, if any, at the end of each year, every person covered by this Act shall keep records, render under oath such statements, and make such returns as may be required by the Tax Commissioner. Returns shall be made under the penalties of perjury.

Section 6. REVIEW AND DETERMINATION OF LICENSE TAX.

(a) As soon as practicable after the final payment of the tax is made, the Tax Commissioner shall examine the return and determine the correct amount of the total tax, and in case any error shall be disclosed by such examination, shall notify the taxpayer of the error and examine the taxpayer's record as authorized in Sec. 48-2-12 Alaska Compiled Laws Annotated 1949, and take other proper steps to effectuate determination of the correct amount due. Error in return.

(b) At any time when it appears that agreement cannot be reached with the taxpayer as to the correct amount of license tax involved, the Tax Commissioner may set a time and place of hearing upon the question, with not less than 60 days notice thereof by mail to the taxpayer. At such hearing any person may be required to appear and testify and produce records and other papers as provided in Sec. 48-2-12 Alaska Compiled Laws Annotated 1949. Likewise any person aggrieved by any action of the Tax Commissioner may apply in writing to the Tax Commissioner within 60 days from the date of the notice of such action, giving notice of such grievance and requesting a hearing thereon. Hearings for tax disputes.

(c) If the Tax Commissioner determines that a fee in excess of the amount lawfully due has been paid, he

Refunds.

shall allow a refund or permit a credit according to which of said two methods the taxpayer requests. If refund is allowed, same shall be made out of the General Fund pursuant to a voucher approved by the Tax Commissioner.

Appeal to
District Court.

Section 7. APPEALS. If the person shall be aggrieved by the decision of the Tax Commissioner, he shall have the right to appeal to the District Court in the division in which he conducts his business, and such appeal shall be taken and perfected, as nearly as may be, in accordance with the procedure prescribed in Sections 68-9-3 to 68-9-15, both inclusive, Alaska Compiled Laws Annotated 1949, governing appeals from a Justice's Court in civil cases, and the Tax Commissioner shall promulgate uniform regulations adapting the above referenced procedure for such appeals.

Penalty.

Section 8. PENALTIES.

(a) Whenever the full amount of the fee or any portion or deficiency thereof, as finally determined by the Tax Commissioner has not been paid on the date when payment should have been made as provided in Section 5 of this Act, there shall be collected as part of such fee, or portion or deficiency thereof, interest at the rate of one half of one per centum per month, or fraction thereof for which said tax is delinquent.

Fraud.

(b) If any person fails to apply for a license at the time required by this Act, or makes wilfully or otherwise, an erroneous or fraudulent return, the Tax Commissioner shall proceed to assess the fee from any information he can obtain, and such assessment shall be prima facie good and sufficient for all legal purposes hereunder.

Section 9. SECURITY.

(a) Liens. The amount of any fee, interest charge, and penalty imposed upon any person under the pro-

visions of this Act shall, until collected, constitute a lien in favor of the Territory upon all the property of such person located in the Territory of Alaska. The lien shall arise at time of delinquency and shall continue until the liability for such amount is satisfied or the property sold at foreclosure sale. Such lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor until notice thereof has been filed in the office of the recorder in the manner provided in the case of Federal tax liens under Secs. 48-9-1, 48-9-7 Alaska Compiled Laws Annotated 1949, all of the provisions of which are hereby made applicable to the tax liens arising under this Act.

(b) Bonds. Any person, firm or corporation not a resident of the Territory of Alaska entering upon the performance of a construction contract or contracts or sub-contract or other line of business in Alaska and not known by the Tax Commissioner to be the holder of adequate property in the Territory to secure collection of the license money which will probably accrue hereunder by virtue of such business shall be required in or with his or its application to state under oath the extent of lienable property both real and personal against which the tax hereunder could be collected, and such other information with respect to description, location and value of same as the Tax Commissioner may prescribe. If the value of such property is not equal to three times the amount of the tax for which applicant will probably be liable to the Territory in the premises, the Tax Commissioner shall decline to issue the license until the applicant shall have filed with the Tax Commissioner a surety company bond or bond with private sureties approved by the Attorney General in a penal sum equal to twice the probable amount of the tax for which applicant will become liable, conditioned upon payment of such tax in full when due, and with interest if not paid prior to delinquency thereof; provided, however, that the Tax Commissioner may waive this bond requirement if the

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Tax Commissioner may require bond.

applicant posts other security in the form of collateral acceptable to the Tax Commissioner.

Section 10. OFFENSES AND PENAL PROVISIONS.

It shall be unlawful for any person to wilfully evade any tax under this Act; to fail to make any return or keep or produce any record required under Section 5 of this Act; to make any false or fraudulent return or false statement with intent to defraud the Territory or evade payment of such tax, or any part thereof; or for any person to aid or abet another in any attempt to evade payment of such tax or any part thereof; or for any executive officer or agent of any corporation or agent of any person to make or permit to be made for his principal any false return or any false statement in answer to any inquiry from the Tax Commissioner under this Act with the intent to evade the payment of the tax hereunder. Any person violating any of the provisions hereof shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$1,000.00 or imprisonment in jail not to exceed one year, or both such fine and imprisonment. In any prosecution under this Act, no person otherwise competent as a witness, shall be privileged from testifying on the ground that his testimony may incriminate such person, as defined herein; but no indictment or prosecution shall afterwards be brought against such witness on account of any offense or transaction concerning which he testified as a witness; provided, that in any prosecution hereunder, the Attorney General, or other authorized legal counsel of the Territory, may, with the consent of the Tax Commissioner, compromise the case by accepting from the defendant a sum not less than the tax, interest thereon, and all costs and expenses.

Section 11. DISPOSAL OF MONEY. All moneys

collected by the Tax Commissioner under this Act shall be covered into the General Fund of the Territorial Treasury; provided, that the Treasurer shall refund to incor-

Penalty for fraud
or evasion.

Disposal of tax
returns.

porated cities, incorporated and independent school districts, and public utility districts, sixty percent of all such money collected from within said incorporated areas; provided, however, that such total refunds to an incorporated city in any one year shall in no case be less than the average refund to said city from refundable Federal or Territorial licenses for the three fiscal years immediately preceding adoption of this Act, provided that such guarantee shall be limited to the first two years following enactment.

Section 12. RULES AND REGULATIONS. The Tax Commissioner may prescribe such rules and regulations compatible with the express provisions of this Act as Rules by Tax Commissioner. may be necessary to the ascertainment of a proper assessment and collection of any fee imposed hereunder, and to the enforcement of this Act.

Section 13. SEPARABILITY. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act Savings clause. and such application to other persons or circumstances shall not be affected thereby.

Section 14. REPEALS. All business license fees and taxes heretofore in effect in Alaska are hereby repealed, except: License taxes on fisheries businesses, license Repeals. taxes on fishermen, liquor license fees, fees and taxes imposed on insurance businesses, license taxes on mining and license fees on coin operated amusement and gaming machines. Sections 35-1-12, 35-1-13, 35-1-14, 35-1-16, 35-1-17, 35-1-18, 35-1-20, 35-1-21 and 35-1-22 Alaska Compiled Laws Annotated 1949, are hereby expressly repealed.

Section 15. EFFECTIVE DATE OF ACT. This Act shall become effective upon January 1st of the calendar When Act to be effective. year immediately following the repeal by the Congress of the United States of the license taxes levied in 31

Statutes at Large 331; Sections 35-1-1 to 35-1-3 Alaska
Compiled Laws Annotated, 1949.

Approved March 18, 1949.

CHAPTER 44

AN ACT

[H. B. 63]

To authorize the Territorial Treasurer to waive the provisions of Secs. 33-3-111 to 33-3-120 inclusive ACLA 1949, providing for payment of bounties on wolves and coyotes; to likewise waive the provisions of Secs. 33-3-131 to 33-3-134 inclusive ACLA 1949, providing for payment of bounties on Hair Seals, appropriating funds therefor; and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. The Territorial Treasurer is hereby authorized to approve vouchers and pay claims for bounties on wolves and coyotes not to exceed the total sum of \$1213.50, made upon applications which failed to meet the requirements of Secs. 33-3-111 to 33-3-120 inclusive ACLA 1949, if in his opinion any such claim is made in good faith and without design to defraud the Territory.

Section 2. The Territorial Treasurer is hereby authorized to approve vouchers and pay claims for bounties on hair seals not to exceed \$969.00, made upon applications which failed to comply with the provisions of Secs. 33-3-131 to 33-3-134 inc. ACLA 1949, if in his opinion any such claim is made in good faith and without design to defraud the Territory.

Section 3. The authority herein granted shall not extend beyond March 31, 1949.

Deficiency
appropriation
for good faith

bounty claims.