



LAWS OF ALASKA

1979

Source

HCS CSSB 132 (Rules)

Chapter No.

79

AN ACT

Relating to fisheries taxes; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 31, 1979
Actual Effective Date: June 1, 1979

AN ACT

Relating to fisheries taxes; and providing for an effective date.

* Section 1. FINDINGS. The legislature finds that the state has

(1) funded and implemented several fisheries-related development programs;

(2) funded and implemented fishery loan programs;

(3) increased its fishery protection and management program;

(4) funded and implemented a limited entry program; and

(5) embarked on a program of encouraging the development of a bottom fishing industry.

* Sec. 2. PURPOSE. The purposes of this Act are to

(1) insure that the state is able to continue its efforts toward overall fisheries-related development programs by raising additional revenue to pay for the programs;

(2) make the imposition of the fisheries tax more uniform among fisheries businesses; and

(3) provide funding for the development of new fisheries.

* Sec. 3. AS 43.75 is amended by adding new sections to read:

Sec. 43.75.011. FISHERIES BUSINESS LICENSE. A person engaging or attempting to engage in a fisheries business shall first apply for and obtain a license as provided in AS 43.75.020.

Sec. 43.75.015. FISHERIES BUSINESS TAX. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this

Chapter 79

1 section on the value of each of the following fisheries resources pro-
2 cessed during the year at the rate set out after each:

3 (1) salmon canned at a shore-based cannery -- four and one-
4 half per cent;

5 (2) salmon processed by a shore-based fisheries business,
6 except salmon for which the tax is due under (1) of this subsection, and
7 all other fisheries resources processed by a shore-based fisheries
8 business -- three per cent;

9 (3) fisheries resources processed by a floating fisheries
10 business -- five per cent.

11 (b) Instead of the taxes levied by (a) of this section, a person
12 engaged in a fishery business which includes processing a developing
13 commercial fish species is liable for and shall pay a tax equal to

14 (1) one per cent of the value of the developing commercial
15 fish species processed by a shore-based fisheries business during the
16 year; and

17 (2) three per cent of the value of the developing commercial
18 fish species processed by a floating fisheries business during the year.

19 (c) A person engaging or attempting to engage in a fisheries
20 business who first actually and physically processes the fishery re-
21 source is liable for and shall pay to the department the entire tax
22 imposed by this section. In determining this tax liability, the person
23 may not deduct from the value of the fishery resources processed the
24 value of fishery resources that are canned or processed for other fish-
25 eries businesses, but shall include that value as part of the value of
26 the fishery resources processed.

27 Sec. 43.75.136. APPROPRIATIONS TO COMMERCIAL FISHING AND AGRICUL-
28 TURE BANK. The legislature may annually appropriate 20 per cent of the
29 amount of tax revenue collected under this chapter to the Commercial

1 Fishing and Agriculture Bank established in AS 44.54.010 until the bank
2 is fully capitalized as determined by the commissioner of revenue based
3 upon the estimated capital needs of the bank.

4 Sec. 43.75.140. DEFINITIONS. In this chapter

5 (1) "department" means the Department of Revenue;

6 (2) "developing commercial fish species" means those species
7 of fish and shellfish annually designated by the commissioner of fish
8 and game under AS 16.05.050(12);

9 (3) "fisheries business" means a person who engages in pro-
10 cessing fisheries resources for sale by freezing, cooking, salting, or
11 other method and includes but is not limited to canneries, cold stor-
12 ages, freezer ships, and processing plants;

13 (4) "fishery resource" means fin fish, shellfish and fish
14 by-products, including but not limited to salmon, halibut, herring,
15 flounder, crab, clam, cod, shrimp, and pollock;

16 (5) "floating fisheries business" means a fisheries business
17 which is not a shore-based fisheries business; the term includes, but is
18 not limited to, a shore-based fisheries business as defined in (6)(B) of
19 this section when it is removed from the state;

20 (6) "shore-based fisheries business" means a fisheries busi-
21 ness

22 (A) operated from a facility which is permanently
23 attached to the land; or

24 (B) operated from a facility which remains in the same
25 location in the state for the entire tax year;

26 (7) "value" means the actual price paid for the fisheries
27 resource by the fisheries business, including indirect consideration
28 such as fuel, supplies, or gear, whether paid at the time of purchase of
29 the fisheries resource or tendered as a deferred or delayed payment,

Chapter 79

1 except that "value" means the market value of the fishery resource if
2 the fishery resource is procured in company-owned or company-subsidized
3 boats operated by employees of the fisheries business or in boats which
4 are operated under lease or other arrangement;

5 (8) "year" means the fiscal year of the state.

6 * Sec. 4. AS 43.75.100 is repealed and re-enacted to read:

7 Sec. 43.75.100. TAX IMPOSED ON TAKING OF FISHERY RESOURCE. (a) A
8 person taking, purchasing, or otherwise acquiring a fishery resource
9 covered by this chapter which has not been subject to the tax imposed in
10 AS 43.75.015 is subject to the tax levied in AS 43.75.015 on the value
11 of the fishery resource sold if the person

12 (1) transports the fishery resource to a point outside the
13 taxing jurisdiction of the state for subsequent processing or sale to a
14 fisheries business outside the taxing jurisdiction of the state; or

15 (2) sells the fishery resource to a fisheries business out-
16 side the taxing jurisdiction of the state.

17 (b) A person whose liability for a tax is established by this
18 section shall pay the same rate of tax that a person in the fisheries
19 business would pay on the value of the fishery resource under AS 43.75-
20 015.

21 * Sec. 5. AS 43.75.030(a) is amended to read:

22 (a) A person subject to the tax shall file a return stating the
23 value of [RAW] fisheries resources [PRODUCTS] processed during the
24 license year, computed as required by [AS 43.75.010 - 43.75.050 OF] this
25 chapter, and such other information as the department prescribes by
26 regulation. The return shall show the license number and shall be
27 signed by the taxpayer or his authorized agent, under penalty of per-
28 jury. If a receiver, trustee, or assign is operating the property or
29 business, he shall file the return for the person. A tax due on the

1 basis of such a return shall be collected in the same manner as if
2 collected from the person of whose business he has custody and control.

3 * Sec. 6. AS 43.75.030(e) is amended to read:

4 (e) Every person engaging or attempting to engage in a business
5 for which a license is required under [AS 43.75.010 - 43.75.050 OF] this
6 chapter shall keep [SUCH] records, make [SUCH] statements under oath,
7 file [SUCH] returns, and comply with all [SUCH] regulations which [AS]
8 the commissioner of revenue may prescribe.

9 * Sec. 7. AS 43.75.050(f) is amended to read:

10 (f) A person who wilfully fails to obtain a license, pay a tax,
11 make a return, keep or display a record, or supply the information at
12 the time required by law or regulation, in violation of [AS 43.75.010 -
13 43.75.055 OF] this chapter, is, in addition to other penalties provided
14 by law, guilty of a misdemeanor, and upon conviction is punishable by a
15 fine of not more than \$1,000, or by imprisonment for not more than one
16 year, or by both, together with the cost of prosecution.

17 * Sec. 8. AS 43.75.055 is amended to read:

18 Sec. 43.75.055. SECURITY FOR COLLECTION OF TAXES. Each applicant
19 for a license under this chapter shall, in or with his application,
20 state under oath the amount of each of the products which he expects to
21 produce during the license year. The applicant shall further state the
22 extent of lienable real property owned by the applicant in the state
23 against which the tax may be collected and other information with re-
24 spect to description, location and value of the property which the
25 department prescribes. If the lienable value of the property is not
26 equal to three times the amount of the tax for which the applicant will
27 probably be liable under this section, the department may not issue the
28 license until the applicant files with the department a surety bond
29 approved by the attorney general in a penal sum equal to twice the

Chapter 79

1 probable amount of the tax for which the applicant will be liable,
2 conditioned upon payment of the tax in full when due, with interest if
3 not paid before delinquency. However, if the applicant purchases salmon
4 for export from Alaska in the round, the amount of the bond is \$50,000
5 unless the applicant is the owner of lienable real property in the state
6 of a value of at least \$50,000, and the bond must be conditioned upon
7 payment to the fisherman of the full purchase price for the salmon and
8 the payment of the tax in full when due. The department may waive the
9 bond requirement if the applicant posts other security in the form of
10 collateral acceptable to the department or prepays the estimated tax.

11 * Sec. 9. AS 43.75.110 is amended to read:

12 Sec. 43.75.110. DUTY OF TAXPAYER AND PAYMENT OF TAX. A person
13 subject to taxes under AS 43.75.100 - 43.75.120 shall make a return
14 stating the value of [RAW] fisheries resources [PRODUCTS] taken, pur-
15 chased, or otherwise acquired during the license year for sale to
16 fisheries businesses [FREEZER SHIPS, FLOATING COLD STORAGES, OR FLOATING
17 CANNERIES] outside of the taxing jurisdiction of the state computed as
18 required by AS 43.75.100 - 43.75.120, and other information to carry out
19 the provisions of AS 43.75.100 - 43.75.200 as may be prescribed by the
20 department. The return shall contain the license number and shall be
21 signed by the taxpayer or his authorized agent, under penalty of per-
22 jury. If a receiver, trustee, or assign is operating the property or
23 business, he shall make the return for the person. A tax due on the
24 basis of such return shall be collected in the same manner as if
25 collected from the person of whose business he has custody and control.
26 The requirements for time and place of payment of tax, and the obliga-
27 tion to keep records and make the records available to the commissioner
28 of revenue are the same as those prescribed in AS 43.75.011 - 43.75.050
29 [THE BUSINESS LICENSE TAX LAW FOR SALMON CANNERIES].

* Sec. 10. AS 43.75.120 is amended to read:

Sec. 43.75.120. VIOLATIONS AND PENALTIES. (a) The liability to file returns and pay interest and deficiency assessments, and the subjection of property to liens is the same as prescribed in AS 43.75.011 - 43.75.050 [THE BUSINESS LICENSE TAX LAW FOR SALMON CANNERIES].

(b) A violation of AS 43.75.100 - 43.75.120 or the regulations issued under AS 43.75.100 - 43.75.120 is a misdemeanor subject to punishment as prescribed in AS 43.75.011 - 43.75.050 [THE BUSINESS LICENSE TAX LAW FOR SALMON CANNERIES].

* Sec. 11. AS 43.75.130 is repealed and re-enacted to read:

Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of revenue shall pay

(1) to each municipality unified under AS 29.68.240 - 29.68.-440, and to each city located in the unorganized borough, 20 per cent of the amount of tax revenue collected in the municipality from taxes levied by AS 43.75;

(2) to each city located within a borough, 10 per cent of the amount of tax revenue collected in the city from taxes levied by AS 43.-75; and

(3) to each borough

(A) 20 per cent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied by AS 43.75; and

(B) 10 per cent of the amount of tax revenue collected in cities located within the borough from taxes levied by AS 43.75.

* Sec. 12. AS 16.05.050 is amended by adding a new paragraph to read:

(12) not later than March 31 of each year, provide to the commissioner of revenue the names of those fish and shellfish species which he designates as developing commercial fish species for the follow-

Chapter 79

1 ing fiscal year of the state; a fish or shellfish species is a develop-
2 ing commercial fish species if, within a specified geographical region,

3 (A) the optimum yield from the harvest of the species
4 has not been reached;

5 (B) a substantial portion of the allowable harvest of
6 the species has been allocated to fishing vessels of a foreign
7 nation; or

8 (C) a commercial harvest of the fish species has recent-
9 ly developed.

10 * Sec. 13. AS 43.75.010, 43.75.060, 43.75.070, 43.75.080, 43.75.090,
11 43.75.095, and 43.75.135 are repealed.

12 * Sec. 14. TRANSITION. (a) The taxes paid for the 1979 calendar year
13 under AS 43.75 shall be shared with municipalities in accordance with AS 43.-
14 75.130 and 43.75.135, as those sections read before their respective amend-
15 ment and repeal by this Act. The taxes paid for the 1980 calendar year and
16 for each succeeding calendar year shall be shared with municipalities in
17 accordance with AS 43.75.130, as amended by sec. 11 of this Act.

18 (b) Not later than 30 days after the effective date of this Act, the
19 commissioner of fish and game shall designate fish and shellfish species as
20 developing commercial fish species in accordance with AS 16.05.050(12) for
21 the purpose of taxing developing commercial fish species from the effective
22 date of this Act and until June 30, 1980.

23 * Sec. 15. This Act takes effect immediately in accordance with AS 01.10.-
24 070(c).