

23-LS0738\D
Utermohle
4/22/03

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY ~~SENATOR ELTON~~ *Salmon Task Force*

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to direct marketing fisheries businesses and to exclusion from the
2 fisheries business tax; and providing for an effective date."

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

4 * **Section 1.** AS 43.75.015(c) is amended to read:

5 (c) A person engaging or attempting to engage in a fisheries business who first
6 actually and physically processes the fishery resource, or a person who purchases a
7 fishery resource that is processed [FROZEN] from a person excluded by
8 AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the
9 entire tax imposed by this section. In determining this tax liability, the person may
10 deduct from the value of the fishery resources processed the value of fishery resources
11 that are canned or processed for other fisheries businesses. A person taking the
12 deduction authorized by this subsection shall report all information relating to the
13 deduction in accordance with regulations adopted by the department.

14 * **Sec. 2.** AS 43.75.015 is amended by adding a new subsection to read:

1 (d) Instead of the taxes levied under (a) or (b) of this section, a person who
2 processes a fisheries resource under a direct marketing fisheries business license is
3 liable for and shall pay a tax equal to

4 (1) one percent of the value of the developing commercial fish species
5 processed during the year; and

6 (2) three percent of the value of a commercial fish species not subject
7 to (1) of this subsection.

8 * **Sec. 3.** AS 43.75.017 is amended to read:

9 **Sec. 43.75.017. Exclusion from fisheries business tax.** A person is not liable
10 for the fisheries business tax under AS 43.75.015 when the fishery resource is
11 processed [FROZEN] aboard a fishing vessel if

12 (1) the vessel is operated as a commercial fishing vessel under a valid
13 commercial fishing license;

14 *deleted* (2) the fishery resource is not processed beyond heading, gutting, [OR]
15 cleaning, freezing, and glazing;

16 (3) the fishery resource was caught by the vessel; and

17 (4) the fishery resource is sold by the person claiming an exclusion
18 from the tax to a fisheries business licensed under this chapter.

19 * **Sec. 4.** AS 43.75.020 is amended by adding new subsections to read:

20 (c) Instead of a license issued under (a) of this section, the department may
21 issue a direct marketing fisheries business license to a licensed commercial fisherman.
22 A direct marketing fisheries business license authorizes the commercial fisherman to
23 whom the license is issued to act as a catcher-seller or a catcher-processor, or both, of
24 fisheries resources, if the appropriate endorsements are obtained from the department.
25 An application for a direct marketing fisheries business license and for a catcher-seller
26 endorsement or a catcher-processor endorsement, shall be filed with the department
27 and accompanied by an annual fee of \$25. A separate annual fee is required for each
28 vessel specified in the application covered by the license and endorsement. A separate
29 annual fee is required for each endorsement issued for the license. The application
30 must contain the name and address of the applicant and other information that the
31 department prescribes by regulation. The application must state that the applicant

1 agrees to pay the tax imposed by AS 43.75.015(d) or 43.75.100, and that the applicant
2 will make a return and pay the tax at the time provided by law. A person who holds a
3 direct marketing fisheries business license may not under that license purchase fish
4 from another commercial fisherman or process fisheries resources for another
5 commercial fisherman or for another fisheries business.

6 (d) A direct marketer who has obtained a catcher-processor endorsement
7 issued by the Department of Revenue may place unprocessed or processed fishery
8 resources into commerce in the state or outside the state. In order to obtain a catcher-
9 processor endorsement, the direct marketer shall provide evidence to the department
10 that the direct marketer operates a direct market fishing vessel under regulations
11 adopted by the Department of Environmental Conservation.

12 (e) A direct marketer who has obtained a catcher-seller endorsement issued by
13 the Department of Revenue may sell unprocessed, unpackaged fishery resources
14 directly to

15 (1) the public from the commercial fishing vessel that caught the
16 fishery resource or from the fishing site where the fishery resource was caught; or

17 (2) a food establishment that has obtained a seafood processing waiver
18 from the Department of Environmental Conservation.

19 (f) In this section,

20 (1) "direct marketer" means a licensed commercial fisherman who has
21 obtained a direct marketing fisheries business license under (c) of this section;

22 (2) "licensed commercial fisherman" means a natural person who
23 holds a commercial fishing entry permit or interim-use permit issued under AS 16.43
24 or a quota share issued under federal law.

25 * Sec. 5. AS 43.75.290(7) is amended to read:

26 (7) "value" means

27 (A) the market value of the fisheries resource as determined
28 by the prevailing price paid to fishermen for the fisheries resource of the
29 same kind and quality by fisheries businesses in the same region or
30 market area where the fisheries resource was taken if

31 (i) the taking of the fisheries resource is done in a

1 boat operated by a person who holds a direct marketing fisheries
2 business license under AS 43.75.020(c); and

3 (ii) the fisheries resource was sold to a buyer other
4 than a fisheries business licensed under AS 43.75.020(a);

5 (B) for fisheries resources other than those described in (A)
6 or (C) of this paragraph, the market value of the fisheries resource if the
7 taking of the fisheries resource is done in company-owned or company-
8 subsidized boats operated by employees of the company or in boats that are
9 operated under lease to or from the company or other arrangement with the
10 company and if the fisheries resource is delivered to the company; in this
11 subparagraph, "company" means a fisheries business, a subsidiary of a
12 fisheries business, or a subsidiary of a parent company of a fisheries business;
13 "company" does not include a direct marketing fisheries business licensed
14 under AS 43.75.020(c); or

15 (C) [(B)] for fisheries resources other than those described in
16 (A) or (B) of this paragraph, the actual price paid for the fisheries resource by
17 the fisheries business to the fisherman, including indirect consideration and
18 bonus amounts paid for fuel, supplies, gear, ice, handling, tender fees, or
19 delivery, whether paid at the time of purchase of the fisheries resource or
20 tendered as a deferred or delayed payment; in this subparagraph, "delivery"
21 means

22 (i) transportation of the fisheries resource from the boat
23 or vessel on which the product was taken to a tender; or

24 (ii) if delivery was not to a tender, transportation of the
25 fisheries resource from the boat or vessel on which the product was
26 taken to a shore-based facility in which delivery of the fisheries
27 resource is normally accepted.

28 * Sec. 6. AS 43.76.025(a) is amended to read:

29 (a) Except as otherwise provided under (d) of this section, a [A] buyer who
30 acquires fisheries resources that are subject to a salmon enhancement tax imposed by
31 AS 43.76.010, 43.76.011, or 43.76.012 shall collect the salmon enhancement tax at the

1 time of purchase, and shall remit the total salmon enhancement tax collected during
2 each month to the Department of Revenue [DEPARTMENT] by the last day of the
3 next month.

4 * **Sec. 7.** AS 43.76.025 is amended by adding a new subsection to read:

5 (d) A direct marketing fisheries business licensed under AS 43.75.020(c) is
6 liable for the payment of a salmon enhancement tax imposed by AS 43.76.010,
7 43.76.011, or 43.76.012 if, at the time possession of the salmon is transferred to a
8 buyer, the salmon enhancement tax payable on the salmon has not been collected. If a
9 direct marketing fisheries business is liable for payment of the salmon enhancement
10 tax under this subsection, the direct marketing fisheries business shall comply with the
11 requirements of (b) of this section to maintain records and to report the business's
12 liability for payment of the tax. Notwithstanding (a) of this section, a direct marketing
13 fisheries business shall remit the total salmon enhancement tax payable during the
14 calendar year to the Department of Revenue before April 1 after close of the calendar
15 year.

16 * **Sec. 8.** AS 43.76.120(a) is amended to read:

17 (a) Except as otherwise provided under (e) of this section, a [A] buyer who
18 acquires salmon that is subject to a salmon marketing tax imposed by AS 43.76.110
19 shall collect the salmon marketing tax at the time of purchase and shall remit the total
20 salmon marketing tax collected during each month to the Department of Revenue by
21 the last day of the next month.

22 * **Sec. 9.** AS 43.76.120 is amended by adding a new subsection to read:

23 (e) A direct marketing fisheries business licensed under AS 43.75.020(c) is
24 liable for the payment of a salmon marketing tax imposed by AS 43.76.110 if, at the
25 time possession of the salmon is transferred to a buyer, the salmon marketing tax
26 payable on the salmon has not been collected. If a direct marketing fisheries business
27 is liable for payment of the salmon marketing tax under this subsection, the direct
28 marketing fisheries business shall comply with the requirements under (b) of this
29 section to maintain records and to make reports to the Department of Revenue.
30 Notwithstanding (a) of this section, a direct marketing fisheries business shall remit
31 the total salmon marketing tax payable during the calendar year to the Department of

1 Revenue before April 1 after close of the calendar year.

2 * **Sec. 10.** AS 43.76.190(a) is amended to read:

3 (a) Except as otherwise provided under (e) of this section, a [A] buyer who
4 acquires a fishery resource that is subject to a dive fishery management assessment
5 levied under AS 43.76.150(b), (c), (d), or (e) shall collect the dive fishery management
6 assessment at the time of purchase and shall remit the total dive fishery management
7 assessment collected during each calendar quarter to the Department of Revenue by
8 the last day of the month following the end of the calendar quarter. In this subsection,
9 "calendar quarter" means each of the three-month periods ending March 31, June 30,
10 September 30, and December 31.

11 * **Sec. 11.** AS 43.76.190 is amended by adding a new subsection to read:

12 (e) A direct marketing fisheries business licensed under AS 43.75.020(c) is
13 liable for payment of a dive fishery management assessment levied under
14 AS 43.76.150(b), (c), (d), or (e) if, at the time possession of the fishery resource is
15 transferred to a buyer, the dive fishery management assessment payable on the fishery
16 resource has not been collected. If a direct marketing fisheries business is liable for
17 payment of a dive fishery management assessment under this subsection, the direct
18 marketing fisheries business shall comply with the requirement to maintain records
19 under (b) of this section. Notwithstanding (a) of this section, a direct marketing
20 fisheries business shall remit the total dive fishery management assessment payable
21 during the calendar year to the Department of Revenue before April 1 after close of
22 the calendar year.

23 * **Sec. 12.** AS 43.76.260(a) is amended to read:

24 (a) Except as otherwise provided under (f) of this section, a [A] buyer who
25 acquires salmon that is subject to a salmon fishery assessment levied under
26 AS 43.76.220 shall collect the salmon fishery assessment at the time of purchase and
27 shall remit the total salmon fishery assessment collected during each month to the
28 Department of Revenue [DEPARTMENT] by the last day of the next month.

29 * **Sec. 13.** AS 43.76.260 is amended by adding a new subsection to read:

30 (f) A direct marketing fisheries business licensed under AS 43.75.020(c) is
31 liable for the payment of a salmon fishery assessment levied under AS 43.76.220 if, at

1 the time possession of the fishery resource is transferred to a buyer, the salmon fishery
2 assessment payable on the salmon has not been collected. If a direct marketing
3 fisheries business is liable for payment of the salmon fishery assessment under this
4 subsection, the direct marketing fisheries business shall comply with the requirement
5 under (b) of this section to maintain records. Notwithstanding (a) of this section, a
6 direct marketing fisheries business shall remit the total salmon fishery assessment
7 payable during the calendar year to the Department of Revenue before April 1 after
8 close of the calendar year.

9 * **Sec. 14.** AS 43.76.310(a) is amended to read:

10 (a) Except as otherwise provided under (f) of this section, a [A] buyer who
11 acquires fish that are subject to a permit buy-back assessment imposed by
12 AS 43.76.300 shall collect the permit buy-back assessment at the time of purchase and
13 shall remit the total permit buy-back assessment collected during each month to the
14 Department of Revenue [DEPARTMENT] by the last day of the next month.

15 * **Sec. 15.** AS 43.76.310 is amended by adding a new subsection to read:

16 (f) A direct marketing fisheries business licensed under AS 43.75.020(c) is
17 liable for the payment of a permit buy-back assessment imposed by AS 43.76.300 if,
18 at the time possession of the fish is transferred to a buyer, the permit buy-back
19 assessment payable on the fish has not been collected. If a direct marketing fisheries
20 business is liable for payment of a permit buy-back assessment under this subsection,
21 the direct marketing fisheries business shall comply with the requirements under (b) of
22 this section to maintain records and report the value of fish acquired during the
23 preceding year. Notwithstanding (a) of this section, a direct marketing fisheries
24 business shall remit the total permit buy-back assessment payable during the calendar
25 year to the Department of Revenue before April 1 after close of the calendar year.

26 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **ADOPTION OF REGULATIONS.** The Department of Revenue shall adopt
29 regulations it considers necessary for the administration of this Act, but the regulations may
30 not take effect until January 1, 2004.

31 * **Sec. 17.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).

1 * **Sec. 18.** Except as provided under sec. 17 of this Act, this Act takes effect January 1,
2 2004.