

HOUSE BILL NO. 358

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE NEUMAN

Introduced: 2/24/16

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a fisheries bycatch tax."**

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

3 *** Section 1.** AS 16.05.050(a) is amended to read:

4 (a) The commissioner has, but not by way of limitation, the following powers
5 and duties:

6 (1) through the appropriate state agency and under the provisions of
7 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other
8 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real
9 or personal property when the acquisition is in the interest of furthering an objective or
10 purpose of the department and the state;

11 (2) under the provisions of AS 36.30, to design and construct
12 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish
13 and game resources of the state;

14 (3) to accept money from any person under conditions requiring the
15 use of the money for specific purposes in the furtherance of the protection,

1 rehabilitation, propagation, preservation, or investigation of the fish and game
2 resources of the state or in settlement of claims for damages to fish or game resources;

3 (4) to collect, classify, and disseminate statistics, data and information
4 that, in the commissioner's discretion, will tend to promote the purposes of this title
5 except AS 16.51 and AS 16.52;

6 (5) to take, capture, propagate, transport, buy, sell, or exchange fish or
7 game or eggs for propagating, scientific, public safety, or stocking purposes;

8 (6) under the provisions of AS 36.30, to provide public facilities where
9 necessary or proper to facilitate the taking of fish or game, and to enter into
10 cooperative agreements with any person to effect them;

11 (7) to exercise administrative, budgeting, and fiscal powers;

12 (8) under the provisions of AS 36.30, to construct, operate, supervise,
13 and maintain vessels used by the department;

14 (9) to authorize the holder of an interim-use permit under AS 16.43 to
15 engage on an experimental basis in commercial taking of a fishery resource with
16 vessel, gear, and techniques not presently qualifying for licensing under this chapter in
17 conformity with standards established by the Alaska Commercial Fisheries Entry
18 Commission;

19 (10) not later than January 31 of each year, to provide to the
20 commissioner of revenue

21 (A) the names of those fish and shellfish species that the
22 commissioner of fish and game designates as developing commercial fish
23 species for that calendar year; a fish or shellfish species is a developing
24 commercial fish species if, within a specified geographical region,

25 (i) [(A)] the optimum yield from the harvest of the
26 species has not been reached;

27 (ii) [(B)] a substantial portion of the allowable harvest
28 of the species has been allocated to fishing vessels of a foreign nation;

29 or

30 (iii) [(C)] a commercial harvest of the fish species has
31 recently developed; **and**

1 **(B) the monetary value of bycatch for purposes of the**
2 **fisheries bycatch tax imposed under AS 43.75.016;**

3 (11) to initiate or conduct research necessary or advisable to carry out
4 the purposes of this title except AS 16.51 and AS 16.52;

5 (12) to enter into cooperative agreements with agencies of the federal
6 government, educational institutions, or other agencies or organizations, when in the
7 public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

8 (13) to implement an on-board observer program authorized by the
9 Board of Fisheries under AS 16.05.251(a)(13); implementation

10 (A) must be as unintrusive to vessel operations as practicable;

11 and

12 (B) must make scheduling and scope of observers' activities as
13 predictable as practicable;

14 (14) to sell fish caught during commercial fisheries test fishing
15 operations;

16 (15) to establish and charge fees equal to the cost of services provided
17 by the department, including provision of public shooting ranges, broodstock and eggs
18 for private nonprofit hatcheries, department publications, and other direct services, and
19 reasonable fees for the use of state facilities managed by the department; fees
20 established under this paragraph for tours of hatchery facilities, commercial use of
21 sport fishing access sites, and for operation of state hatchery facilities by private
22 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

23 (16) to permit and regulate aquatic farming in the state in a manner
24 that ensures the protection of the state's fish and game resources and improves the
25 economy, health, and well-being of the citizens of the state;

26 (17) to operate state housing and facilities for employees, contractors,
27 and others in support of the department's responsibilities and to charge rent that is
28 consistent with applicable collective bargaining agreements, or, if no collective
29 bargaining agreement is applicable, competitive with market conditions; rent received
30 from tenants shall be deposited in the general fund;

31 (18) to petition the Alaska Commercial Fisheries Entry Commission,

1 unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to
2 establish a moratorium on new entrants into commercial fisheries

3 (A) that have experienced recent increases in fishing effort that
4 are beyond a low, sporadic level of effort;

5 (B) that have achieved a level of harvest that may be
6 approaching or exceeding the maximum sustainable level for the fishery; and

7 (C) for which there is insufficient biological and resource
8 management information necessary to promote the conservation and sustained
9 yield management of the fishery;

10 (19) to promote fishing, hunting, and trapping and preserve the
11 heritage of fishing, hunting, and trapping in the state.

12 * **Sec. 2.** AS 43.75 is amended by adding a new section to read:

13 **Sec. 43.75.016. Fisheries bycatch tax.** (a) A person engaged in a fisheries
14 business is liable for and shall pay a one percent tax on the value of bycatch the person
15 caught in the state during the year.

16 (b) A person engaged in a fisheries business in the state and who catches
17 bycatch that is not subject to the tax in (a) of this section, but that is brought into the
18 jurisdiction of, and first landed in, this state, is liable for and shall pay a landing tax on
19 the value of the bycatch. The amount of the landing tax is one percent on the value of
20 the bycatch landed during the year.

21 (c) A person is exempt from taxation under this section if the person is an
22 authorized distributor in a prohibited species donation program established by the
23 National Oceanic and Atmospheric Administration.

24 * **Sec. 3.** AS 43.75.290(7) is amended to read:

25 (7) "value" means

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

30 (i) the taking of the fishery resource is done in a boat
31 owned or leased by a person who holds a direct marketing fisheries

1 business license under AS 43.75.020(c); and

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

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

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

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

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

27 (D) for bycatch, the value established by the commissioner
28 of fish and game under AS 16.05.050(a)(10).

29 * **Sec. 4.** AS 43.75.290 is amended by adding a new paragraph to read:

30 (8) "bycatch" means chinook salmon and non-target halibut caught
31 with trawl or longline gear that are harvested in a fishery but are not sold or kept for

1 personal use.