

Introduced by: Anderson
Date: 7/21/92
Hearing: 8/18/92
Defeated: 8/18/92
Vote: 3 yes, 11 no

KENAI PENINSULA BOROUGH
ORDINANCE 92-36

**AN ORDINANCE CLASSIFYING BOATS AND VESSELS FOR THE PURPOSE OF
TAXATION AND ESTABLISHING A SEVERANCE TAX ON FISH**

WHEREAS, A.S. 29.45.050(b)(1) authorizes a municipality to classify boats and vessels for the purposes of taxation and establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; and

WHEREAS, the application of ad valorem taxes to vessels imposes a tax burden that does not fully recognize the fluctuations in commercial fishing, and downtime of vessels precluding their production of income from commercial fishing; and

WHEREAS, classification of boats and vessels for a fixed rate of taxation coupled with a tax on harvested fish will more equitably distribute the tax burden;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 5.12.150 is repealed and reenacted to read as follows:

5.12.050 Assessment--Boats. A. For purposes of taxation, boats and vessels shall be classified and taxed in the following manner:

Class 1	Less than 15 ft length and less than 5 net tons	\$ 15
Class 2	15 to 19 ft and less than 5 net tons	\$ 30
Class 3	20 to 29 ft and less than 5 net tons	\$ 50
Class 4	30 to 39 ft or 5 tons to 19 tons	\$ 150
Class 5	40 to 49 ft or 20 tons to 49 tons	\$ 300
Class 6	50 to 70 ft or 50 to 99 tons	\$ 500
Class 7	70 or more ft or 100 or more tons	\$1000

B. In establishing the class for a boat or vessel, the following procedures shall apply:

1. Length and tonnage measurements shall be based on standards established by the borough assessor.

2. Length measurements between feet whole numbers and tonnage measurements between ton whole numbers shall be rounded up to the next highest foot or ton whole number.

3. A boat or vessel's length shall determine its class; unless the boat or vessel's net tonnage is greater than the maximum tonnage for that length class, in which case the class shall be determined by the net tonnage.

SECTION 2. That KPB Title 5 is amended to add a new chapter to read as follows:

Chapter 5.14

SEVERANCE TAXES

Sections:

- 5.14.010 Severance tax levied - Resources subject to tax.
- 5.14.020 Collection and administration.
- 5.14.030 Enforcement.
- 5.14.040 Severance tax return verification.
- 5.14.050 Confidentiality.
- 5.14.060 Liability for and collection of severance tax.
- 5.14.070 Penalties and interest.
- 5.14.080 Definitions.

5.14.010 Severance tax levied - Resources subject to tax. There is levied in the borough, on any severer or harvester of certain natural resources, an excise tax, denominated as a severance tax. The tax shall be collected for each calendar quarter as provided in this chapter. The tax shall be two-tenths of one percent (0.2%) of the gross production value for the calendar quarter resulting from the following activities: harvesting of any raw finfish, shellfish, mollusks and other commercial products of the sea.

5.14.020 Collection and Administration. A. The purchaser of resources severed or harvested shall register, collect and transmit the tax on the severer or harvester's behalf.

B. A purchaser who timely and correctly files a properly completed tax return along with full payment of all taxes due under this chapter shall be entitled to retain five percent (5%) of the total tax collected during the calendar quarter to defray administrative costs.

C. The purchaser shall hold the tax collected in trust for the Borough until paid. The purchaser shall be entitled to keep any interest accruing to the tax account if the payment is timely.

D. The gross production value for the calendar quarter shall include the amount paid to any severer or harvester for taxable resources purchased but not paid for by the purchaser during any prior calendar quarter.

E. An offshore processor which processes, delivers, catches, or receives fish products within the boundaries of the borough is liable for and shall pay the tax. The gross production value will be based on the gross weight of the raw fish products and the current sales price for fish products of like quality and character.

F. Every severer or harvester shall submit to the mayor a severance tax return, under

oath, at the time the tax is paid, containing the following information:

1. A description of the property from which the resource was severed or harvested by legal description or borough-assigned account number;
2. The gross amount of recovered units severed or harvested during the calendar quarter; and
3. The gross sales value of all recovered units severed or harvested and sold during the calendar quarter.

D. The return or tax statement along with all taxes due the borough for the calendar quarter must be received at the borough on or before the last business day of the month following the end of the calendar quarter for which the return or statement is required.

E. This tax constitutes a lien chargeable against the property owned by the severer. The lien may be foreclosed by the borough in the same manner as any other lien against real or personal property.

5.14.030 Enforcement. A. The Superior Court, upon the request of the mayor, shall issue an injunction requiring compliance with the provisions of this section. In the alternative, the mayor may determine the severance tax on parties who have not filed a return in an amount based on historical data and the best information available.

B. A person who fails, refuses or neglects to file a severance tax return in compliance with this chapter shall, in addition to any other penalties provided by law, be liable for a penalty of ten percent (10%) of the tax.

5.14.040 Severance tax return verification. The mayor may:

A. Require a person engaged in natural resource extraction, production, or transportation, any agent or employee of the person, or the purchaser of natural resources taxed under this chapter to furnish any additional information reasonably necessary to compute the amount of the tax, or to determine if a tax is due;

B. Examine the books, records, and files of any such person;

C. Conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

D. Make an investigation or hold any inquiry reasonably necessary to a disclosure of facts as to;

1. the amount of extraction or production of a natural resource of an extractor, producer or seller;
2. the purchaser of the natural resource; and
3. transportation of the resource.

5.14.050 Confidentiality. Information and materials in the possession of the borough which disclose the particulars of the business or affairs of the payer of taxes under this chapter will be kept confidential by the borough except in connection with an official investigation by the borough or other agency enforcing the laws of the borough or of the state or federal government. The borough may publish statistics in a manner which prevents identification of particular returns, and may publish tax lists showing the names, taxes, penalties and interest with respect to taxpayers who are delinquent to assist in the collection of taxes.

5.14.060 Liability for and collection of severance tax. The purchaser or processor of the resources assessed under this chapter is liable for the amount of taxes, interest and penalties due. The tax, together with penalties and interest, may be collected in a personal action brought in the name of the borough.

5.14.070 Penalties and interest. All taxes due under this chapter but not timely paid as required are subject to a penalty of ten percent (10%) of the tax due. Interest shall accrue on the tax due including penalties and interest at the rate of fifteen percent (15%) per year from the date such taxes are due. Partial payments shall be applied first to accrued penalties and costs, then to interest and then to principal. A payment is timely paid when mailed to the Borough postage prepaid bearing a postmark date no later than the due date.

5.14.080 Definitions. In this chapter:

A. "Gross production value" means the value per unit at the point of severance multiplied by the number of recovered units of the natural resources sold during the calendar quarter.

B. "Severer or Harvester" means a person, company, corporation or other entity engaged in the business of severing or harvesting natural resources. This includes offshore processors of fish products who process, deliver, catch, or receive fish products within the boundaries of the borough.

C. "Calendar Quarter" means any one of the following three-month periods beginning July 1 after the date of the setting of the mill levy: July 1-September 30, October 1-December 31, January 1-March 31, April 1-June 30.

D. "Recovered Units" means all units mined, felled, extracted, or removed whether produced directly or contractually during the period of production.

E. "Point of Severance" for purposes of computing the tax is defined as the dock or delivered for processing within the borough.

SECTION 3. That this ordinance shall take effect at 11:59 p.m., on December 31, 1992.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
_____ DAY OF _____, 1992.**

Betty J. Glick, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk