

**BRINE SHRIMP ROYALTY ACT AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Thomas V. Hatch**

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**LONG TITLE**

**General Description:**

This bill changes the amount of the brine shrimp royalty described in the Brine Shrimp Royalty Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ beginning on February 1, 2004, and ending on January 31, 2006, imposes for each tax year a brine shrimp royalty of the lesser of:
  - 3.75 cents multiplied by the total pounds of unprocessed brine shrimp eggs that are harvested in the state during the tax year; or
  - \$550,000;
- ▶ beginning on February 1, 2006, imposes for each tax year a brine shrimp royalty of 3.75 cents multiplied by the total pounds of unprocessed brine shrimp eggs that are harvested in the state during the tax year;
- ▶ describes the royalty amount due from each person that harvests unprocessed brine shrimp eggs in the state; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.



28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-23-3**, as last amended by Chapter 232, Laws of Utah 2004

32 **59-23-4**, as last amended by Chapter 232, Laws of Utah 2004

33 **59-23-5**, as last amended by Chapter 232, Laws of Utah 2004



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **59-23-3** is amended to read:

37 **59-23-3. Definitions.**

38 As used in this chapter:

39 (1) "Alternate royalty rate" means \$550,000 divided by the gross volume of  
40 unprocessed brine shrimp eggs harvested in the state during the tax year.

41 ~~[(1)]~~ (2) "Brine shrimp eggs" means dormant, early stage brine shrimp embryos  
42 encapsulated as cysts that are harvested from the waters of the state.

43 ~~[(2)]~~ (3) "[Taxable] Tax year" means a one-year period beginning on February 1 and  
44 ending on January 31 of the following year.

45 Section 2. Section **59-23-4** is amended to read:

46 **59-23-4. Brine shrimp royalty -- Royalty rate -- Commission prepare billing**  
47 **statement -- Deposit of revenue.**

48 ~~[(1)(a) Except as provided in Subsection (1)(b) and subject to the other provisions of~~  
49 ~~this section, for taxable years beginning on or after February 1, 2004, there is imposed a brine~~  
50 ~~shrimp royalty of \$550,000 each taxable year for the harvest of unprocessed brine shrimp~~  
51 ~~eggs.]~~

52 ~~[(b) If no unprocessed brine shrimp eggs are harvested during a taxable year, a brine~~  
53 ~~shrimp royalty is not imposed under Subsection (1)(a).]~~

54 ~~[(2)(a)(i) A person that harvests unprocessed brine shrimp eggs shall pay a~~  
55 ~~proportional amount of the annual brine shrimp royalty imposed under Subsection (1) based on~~  
56 ~~the total volume of unprocessed brine shrimp eggs harvested by all persons harvesting brine~~  
57 ~~shrimp eggs during that taxable year.]~~

58 ~~[(ii) The commission shall determine the royalty rate for a taxable year by dividing the~~

59 total annual royalty amount under Subsection (1) by the total gross volume of unprocessed  
60 brine shrimp eggs harvested during that taxable year.]

61 ~~[(iii) The royalty amount due from a person for a taxable year is the annual royalty rate~~  
62 ~~calculated under Subsection (2)(a)(ii) multiplied by the gross volume of unprocessed brine~~  
63 ~~shrimp eggs harvested by that person for that taxable year.]~~

64 (1) (a) Beginning on February 1, 2004, and ending on January 31, 2006, there is  
65 imposed for each tax year a brine shrimp royalty of the lesser of:

66 (i) 3.75 cents multiplied by the total pounds of unprocessed brine shrimp eggs that are  
67 harvested in the state during the tax year; or

68 (ii) \$550,000.

69 (b) Beginning on February 1, 2006, there is imposed for each tax year a brine shrimp  
70 royalty of 3.75 cents multiplied by the pounds of unprocessed brine shrimp eggs that are  
71 harvested in the state during the tax year.

72 (2) Beginning on February 1, 2004, and ending on January 31, 2006, the royalty  
73 amount due from a person for each tax year is:

74 (a) if the brine shrimp royalty for the tax year is as described in Subsection (1)(a)(i),  
75 the gross volume of unprocessed brine shrimp eggs harvested in the state by that person during  
76 that tax year multiplied by 3.75 cents; or

77 (b) if the brine shrimp royalty for the tax year is \$550,000, the gross volume of  
78 unprocessed brine shrimp eggs harvested in the state by that person for that tax year multiplied  
79 by the alternate royalty rate.

80 (3) Beginning on February 1, 2006, the royalty amount due from a person for a tax year  
81 is the gross volume of unprocessed brine shrimp eggs harvested in the state by that person  
82 during that tax year multiplied by 3.75 cents.

83 ~~[(b)]~~ (4) (a) A person that harvests unprocessed brine shrimp eggs shall report to the  
84 Department of Natural Resources the total gross volume of unprocessed brine shrimp eggs  
85 harvested by that person for that [taxable] tax year on or before the February 15 immediately  
86 following the last day of that [taxable] tax year.

87 ~~[(c)]~~ (b) The Department of Natural Resources shall provide the following information  
88 to the commission on or before the March 1 immediately following the last day of a [taxable]  
89 tax year:

90 (i) the total gross volume of unprocessed brine shrimp eggs harvested for that [~~taxable~~]  
91 tax year; and

92 (ii) for each person that harvested brine shrimp eggs for that [~~taxable~~] tax year:

93 (A) the gross volume of unprocessed brine shrimp eggs harvested by that person for  
94 that [~~taxable~~] tax year; and

95 (B) a current billing address for that person; and

96 (iii) any additional information required by the commission.

97 [~~(d)~~] (c) (i) The commission shall prepare and mail a billing statement to each person  
98 that harvested unprocessed brine shrimp eggs by the March 30 immediately following the last  
99 day of a [~~taxable~~] tax year.

100 (ii) The billing statement under Subsection [~~(2)(d)~~] (4)(c)(i) shall specify:

101 (A) the gross volume of unprocessed brine shrimp eggs harvested by that person for  
102 that [~~taxable~~] tax year;

103 (B) the amount of brine shrimp royalty that the person owes; and

104 (C) the date that the brine shrimp royalty payment is due as provided in Section  
105 59-23-5.

106 [~~(e)~~] (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
107 Act, the commission may make rules prescribing the information required under Subsection  
108 [~~(2)(c)~~] (4)(b)(iii).

109 [~~(3)~~] (5) All revenue generated by the brine shrimp royalty shall be deposited in the  
110 Species Protection Account created in Section 63-34-14.

111 [~~(4)~~] (6) Beginning with the 2004 interim, the Revenue and Taxation Interim  
112 Committee:

113 (a) shall review the annual brine shrimp royalty amount imposed under this section one  
114 or more times every five years;

115 (b) shall determine on or before the November interim meeting of the year in which the  
116 Revenue and Taxation Interim Committee reviews the annual brine shrimp royalty amount  
117 imposed under this section whether the royalty amount should be:

118 (i) continued;

119 (ii) modified; or

120 (iii) repealed; and

121 (c) may review any other issue related to the brine shrimp royalty imposed under this  
122 part as determined by the Revenue and Taxation Interim Committee.

123 Section 3. Section **59-23-5** is amended to read:

124 **59-23-5. Payment of the brine shrimp royalty.**

125 (1) The brine shrimp royalty shall be paid to the commission by the person who  
126 harvests the unprocessed brine shrimp eggs.

127 (2) The payment shall be accompanied by the billing statement prepared by the  
128 commission in accordance with Section 59-23-4.

129 (3) The royalty is due on the April 30 immediately following the last day of the  
130 [~~taxable~~] tax year.

131 Section 4. **Effective date.**

132 If approved by two-thirds of all the members elected to each house, this bill takes effect  
133 upon approval by the governor, or the day following the constitutional time limit of Utah  
134 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
135 the date of veto override.

136 Section 5. **Retrospective operation.**

137 This bill has retrospective operation to February 1, 2004.

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**Legislative Review Note**  
**as of 1-20-05 6:47 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

Passage of this bill will result in a loss of restricted revenues of about \$300,000 in FY 2005, and possibly that amount annually. The amount could vary in the out years depending on amounts harvested.

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Revenue</u>
Restricted Funds	\$0	\$0	\$0	(\$300,000)	(\$300,000)	(\$300,000)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$300,000)</b>	<b>(\$300,000)</b>	<b>(\$300,000)</b>

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**Individual and Business Impact**

Entities paying taxes would see a reduction in taxes owed in FY 2005, and possibly in FY 2006 and beyond, depending on the size of the harvest.

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