

LEGAL SERVICES

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MEMORANDUM

February 17, 2014

SUBJECT: Statutory penalties for violations of AS 16.05.480(i)
(CSHB 143(FIN) (Work Order No. 28-LS0520\O))

TO: Representative Bill Stoltze
Co-Chair House Finance Committee
Attn: Daniel George

FROM: Alpheus Bullard 
Legislative Counsel

In addition to requesting certain changes to CSHB 143(FSH) (enclosed), Daniel asked that I provide a memorandum detailing the existing statutory penalties for violations of AS 16.05.480(i).

A person who violates AS 16.05.480(i), or a regulation adopted under the statute, is guilty of a violation under AS 16.05.722 ("Strict liability commercial fishing penalties"). AS 16.05.722(a) provides:

- (a) A person who without any culpable mental state violates AS 16.05.440 - 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a violation and upon conviction is punishable by a fine of not more than
- (1) \$3,000 for a first conviction;
 - (2) \$6,000 for a second conviction or for a subsequent conviction not described in (3) of this subsection; and
 - (3) \$9,000 for a third or subsequent conviction within a 10-year period.

A person who negligently violates AS 16.05.480(i) may also be found guilty of a class A misdemeanor under AS 16.05.723 ("Misdemeanor commercial fishing penalties").

A fisherman who employs a person who is not properly licensed under AS 16.05.480 is also subject to a range of statutory penalties. Under AS 16.05.680(a), it is unlawful for a fisherman or the fisherman's agent to employ, in the harvesting, transporting, or purchasing of fish, a person who is not licensed under AS 16.05.480 or the holder of a permit under AS 16.43. Accordingly, a fisherman who employs someone who is not the holder of a commercial fishing permit or a crewmember license is subject to (1) the possible suspension of the fisherman's commercial fishing license (AS 16.05.710),

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(2) fines and the forfeiture of fish and fishing gear (AS 16.05.722 and AS 15.05.723), and
(3) a class A misdemeanor charge (AS 16.05.723).

I hope the above is helpful. Please do not hesitate to contact me with any questions.

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Enclosure