



THE STATE
of **ALASKA**
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April 11, 2017

The Honorable Matt Claman
Chair, House Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801

Representative Claman,

During House Judiciary on April 11, 2017 there was considerable discussion regarding Section 45.56.670 of House Bill 170. This letter is intended to clarify and provide additional information as to the origin of that section and the provisions therein.

The majority of the proposed AS 45.56.670 is taken directly from existing law AS 45.55.925. Due to the necessity of lifting the entire Securities Act out of the ANCSA Statutes, it is difficult when reviewing the bill to recognize what is new language and what is old language. For the sake of clarity, the language in the new bill and in the existing statute is laid out below, with the language regarding violation of regulations in bold.

Existing language:

Sec. 45.55.925. Criminal penalties.

(a) In addition to the civil penalties assessed under AS 45.55.920, a person who wilfully violates a provision of this chapter except AS 45.55.030(e), 45.55.040(h), 45.55.075, or 45.55.160, **or who wilfully violates a regulation or order under this chapter**, or who wilfully violates AS 45.55.160 knowing the statement made to be false or misleading in a material respect or the omission to be misleading by any material respect, upon conviction, is punishable by a fine of not more than \$5,000, or by imprisonment for not less than one year nor more than five years, or both. Upon conviction of an individual for a felony under this chapter, imprisonment for not less than one year is mandatory. However, **an individual may not be imprisoned for the violation of a regulation or order if the individual proves that the individual had no knowledge of the regulation or order**. An indictment or information may not be returned under this chapter more than five years after the alleged violation.

Updated language:

Sec. 45.56.670. Criminal enforcement.

(a) A person who intentionally violates this chapter, **a regulation adopted under this chapter**, or an order issued under this chapter, except AS 45.56.550 or the notice filing requirements of AS 45.56.330 or 45.56.445, is guilty of a class C felony punishable by imprisonment under AS 12.55.125 or by a fine of not more than \$100,000, or by both. **A person convicted of violating a regulation or order issued under this chapter may be fined, but may not be imprisoned, if the person did not know of the regulation or order.**

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As you can see, the substantive changes include changing wilfully to intentionally, and the increase in maximum fines. We welcome further discussion from the committee regarding whether this type of regulatory authority is within the scope of what the Legislature wishes to delegate, and wanted to make it clear to the committee that under the current statutes, this practice is already authorized.

Thank you for taking the time to review House Bill 170, I look forward to further hearings on this bill as we work to modernize The Alaska Security Act for the benefit of our state.

Sincerely,



Kevin Anselm
Director