

CS FOR HOUSE BILL NO. 194(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/10/07

Referred: Judiciary, Finance

Sponsor(s): THE HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fines for certain offenses involving aeronautics, alcoholic beverages,
2 boats, fish and game, health care records and public health, medical review
3 organizations, public restroom facilities, smoking, shelter cabins, refrigerators and
4 similar equipment, radiation sources, high voltage lines, child labor, employment in
5 underground mines, marriage licenses, motor vehicles and driver's licenses, ignition
6 interlock devices, pipelines, use of the state seal, and emissions requirements; relating to
7 the maximum fine provided for violations and infractions and to the definition of 'minor
8 offenses'; redesignating certain fish and game misdemeanor offenses as class A
9 misdemeanors; relating to violations and offenses that are committed on state land,
10 water, and land and water or that are related to water management or dam and
11 reservoir safety; amending Rule 8(b), Alaska District Court Rules of Criminal
12 Procedure; and providing for an effective date."

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

2 * **Section 1.** AS 02.35.130 is amended to read:

3 **Sec. 02.35.130. Penalty for violation of AS 02.35.090 and 02.35.110.** A
 4 person violating a provision of AS 02.35.090 and 02.35.110 is guilty of a **violation**
 5 [MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE OF
 6 NOT MORE THAN \$500].

7 * **Sec. 2.** AS 02.40.020(d) is amended to read:

8 (d) A person who violates this section is guilty of a **violation** [CLASS B
 9 MISDEMEANOR] and is punishable by a fine of not less than **\$750** [\$500] or more
 10 than \$1,000.

11 * **Sec. 3.** AS 04.21.065(f) is amended to read:

12 (f) A holder of a license or permit who violates this section is guilty of a
 13 violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of
 14 not less than \$20 nor more than **\$750** [\$300]. Each day a violation continues after a
 15 citation for the violation has been issued constitutes a separate violation.

16 * **Sec. 4.** AS 05.25.090(b) is amended to read:

17 (b) A person who violates
 18 (1) AS 05.25.010, 05.25.020, 05.25.030(b), 05.25.060(2), or a
 19 regulation adopted under this chapter relating to AS 05.25.010 or 05.25.020 is guilty
 20 of a violation [AS DEFINED IN AS 11.81.900 AND MAY BE FINED UP TO \$500];
 21 (2) AS 05.25.055 is guilty of a violation [AS DEFINED IN
 22 AS 11.81.900] and may be fined up to \$50.

23 * **Sec. 5.** AS 12.55.035(b) is amended to read:

24 (b) Except as provided in AS 12.55.036, upon conviction of an offense, a
 25 defendant who is not an organization may be sentenced to pay, unless otherwise
 26 specified in the provision of law defining the offense, a fine of no more than

27 (1) \$500,000 for murder in the first or second degree, attempted
 28 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
 29 sexual abuse of a minor in the first degree, kidnapping, or misconduct involving a
 30 controlled substance in the first degree;

31 (2) \$250,000 for a class A felony;

- 1 (3) \$100,000 for a class B felony;
 2 (4) \$50,000 for a class C felony;
 3 (5) \$10,000 for a class A misdemeanor;
 4 (6) \$2,000 for a class B misdemeanor;
 5 (7) **\$750** [\$500] for a violation **or an infraction**.

6 * **Sec. 6.** AS 16.05.407(d) is amended to read:

7 (d) A nonresident who violates (a) of this section, or who fails to furnish an
 8 affidavit under (b) of this section, is guilty of a **class A** misdemeanor [AND UPON
 9 CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
 10 ONE YEAR, OR BY A FINE OF NOT MORE THAN \$5,000, OR BY BOTH].

11 * **Sec. 7.** AS 16.05.420(b) is amended to read:

12 (b) A person may not make a false statement, or omit a material fact, in an
 13 application for a license, tag, permit, or sport fishing vessel registration issued under
 14 AS 16.05.330 - 16.05.430. A person who without any culpable mental state makes a
 15 false statement as to the person's identity or residency in an application for a license,
 16 tag, permit, or sport fishing vessel registration issued under AS 16.05.330 - 16.05.430
 17 is guilty of a violation and upon conviction is punishable by a fine of not more than
 18 **\$750** [\$300]. A person who knowingly violates this subsection is guilty of a class A
 19 misdemeanor.

20 * **Sec. 8.** AS 16.05.783(c) is amended to read:

21 (c) A person who violates this section is guilty of a **class A** misdemeanor [,
 22 AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN
 23 \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY
 24 BOTH]. In addition, the court may order the aircraft and equipment used in or in aid
 25 of a violation of this section to be forfeited to the state.

26 * **Sec. 9.** AS 16.05.831(c) is amended to read:

27 (c) A person who violates this section or a regulation adopted under it is **guilty**
 28 **of a class A misdemeanor** [PUNISHABLE BY A FINE OF NOT MORE THAN
 29 \$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR
 30 BY BOTH]. In addition, a person who violates this section is subject to a civil action
 31 by the state for the cost of replacing the salmon wasted.

1 * **Sec. 10.** AS 16.05.905(b) is amended to read:

2 (b) An alien person who violates (a) of this section is guilty of a **class A**
 3 misdemeanor. **In addition, the court may order the** [, AND UPON CONVICTION
 4 IS PUNISHABLE BY A] confiscation and forfeiture of the fishing vessel used in the
 5 violation [, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR
 6 BY FINE OF NOT MORE THAN \$10,000, OR BY ALL OR ANY TWO OF THE
 7 FOREGOING PUNISHMENTS].

8 * **Sec. 11.** AS 16.10.030 is amended to read:

9 **Sec. 16.10.030. Penalty for violation of AS 16.10.010 - 16.10.050.** A person
 10 who violates AS 16.10.010 - 16.10.050 is guilty of a misdemeanor and, upon
 11 conviction, is punishable by a fine of not less than \$100 nor more than **\$750** [\$500].

12 * **Sec. 12.** AS 16.10.055 is amended to read:

13 **Sec. 16.10.055. Interference with commercial fishing gear.** A person who
 14 wilfully or with reckless disregard of the consequences [,] interferes with or damages
 15 the commercial fishing gear of another person is guilty of a **class A** misdemeanor. For
 16 the purposes of this section,

17 (1) "interference" means the physical disturbance of gear **that**
 18 [WHICH] results in economic loss or loss of fishing time;

19 (2) [, AND] "reckless disregard of the consequences" means a lack of
 20 consideration for the consequences of one's acts in a manner that is reasonably likely
 21 to damage the property of another.

22 * **Sec. 13.** AS 16.10.090 is amended to read:

23 **Sec. 16.10.090. Penalty for violation of AS 16.10.070.** A person who violates
 24 AS 16.10.070 is guilty of a **class A** misdemeanor [AND IS PUNISHABLE BY
 25 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT
 26 MORE THAN \$5,000 OR BY BOTH].

27 * **Sec. 14.** AS 16.10.110 is amended to read:

28 **Sec. 16.10.110. Penalty for violation of AS 16.10.100.** A person who violates
 29 AS 16.10.100 is guilty of a **class A** misdemeanor [AND IS PUNISHABLE BY
 30 IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT
 31 MORE THAN \$5,000, OR BY BOTH].

1 * **Sec. 15.** AS 16.10.130 is amended to read:

2 **Sec. 16.10.130. Penalty for violation of AS 16.10.120 or 16.10.125.** A person
3 who violates AS 16.10.120 or 16.10.125 is guilty of a class A misdemeanor [, AND
4 UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR NOT MORE
5 THAN SIX MONTHS, OR BY A FINE OF NOT MORE THAN \$1,000, OR BY
6 BOTH].

7 * **Sec. 16.** AS 16.10.220 is amended to read:

8 **Sec. 16.10.220. Penalty for violation of AS 16.10.200 and 16.10.210.** A
9 person who violates AS 16.10.200 and 16.10.210 is guilty of a class A misdemeanor [,
10 AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN
11 \$5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY
12 BOTH].

13 * **Sec. 17.** AS 16.10.250 is amended to read:

14 **Sec. 16.10.250. Penalty.** A person, association, or corporation violating
15 AS 16.10.240 or contributing to or cooperating in the violation of AS 16.10.240 is
16 guilty of a class A misdemeanor [, AND UPON CONVICTION IS PUNISHABLE
17 BY A FINE OF NOT MORE THAN \$5,000, OR BY IMPRISONMENT FOR NOT
18 MORE THAN ONE YEAR, OR BY BOTH]. Each unlawful removal of live crab is a
19 separate offense. Vessels and equipment used in or in aid of a violation of
20 AS 16.10.240 may be seized and disposed of as provided in AS 16.05.190. Conviction
21 under AS 16.10.240 is grounds for suspension of a fishing license or permit by the
22 department.

23 * **Sec. 18.** AS 16.10.270(b) is amended to read:

24 (b) A person who violates this section is guilty of a class A misdemeanor
25 [AND UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR NOT
26 MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN \$5,000, OR BY
27 BOTH].

28 * **Sec. 19.** AS 18.05.061 is amended to read:

29 **Sec. 18.05.061. Penalty for violation.** A person who violates a provision of
30 AS 18.05.040 or 18.05.042 or a regulation adopted under AS 18.05.040 or 18.05.042
31 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more

1 than \$750 [\$500], or by imprisonment for not more than one year. Each day that a
 2 person continues a violation is a separate offense.

3 * **Sec. 20.** AS 18.23.040 is amended to read:

4 **Sec. 18.23.040. Penalty for violation.** Other than as authorized by
 5 AS 18.23.030, a disclosure of data and information acquired by a review committee or
 6 of what transpired at a review meeting is a misdemeanor and punishable by
 7 imprisonment for not more than one year or by a fine of not more than \$750 [\$500].

8 * **Sec. 21.** AS 18.35.110 is amended to read:

9 (a) A person who fails to comply with AS 18.35.100 is guilty of a **violation**
 10 [MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE OF
 11 NOT MORE THAN \$500]. Each operating restaurant or tavern in violation constitutes
 12 a separate offense.

13 * **Sec. 22.** AS 18.35.210 is amended to read:

14 **Sec. 18.35.210. Penalty for violation of AS 18.35.200.** A person who fails to
 15 comply with AS 18.35.200 is guilty of a **violation** [MISDEMEANOR AND UPON
 16 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$500]. Each
 17 day of operation is a separate offense.

18 * **Sec. 23.** AS 18.35.341(c) is amended to read:

19 (c) A person who violates AS 18.35.300, 18.35.305, or 18.35.330 is guilty of a
 20 violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of
 21 not less than \$10 nor more than \$50 for a violation of AS 18.35.300 or 18.35.305 and
 22 by a fine of not less than \$20 nor more than \$750 [\$300] for a violation of
 23 AS 18.35.330. Each day a violation of AS 18.35.330 continues after a citation for the
 24 violation has been issued constitutes a separate violation.

25 * **Sec. 24.** AS 18.40.050 is amended to read:

26 **Sec. 18.40.050. Prohibited acts and penalties.** A person who willfully
 27 removes, destroys, or defaces a cabin or part of a cabin, or stove or other furnishing, or
 28 who occupies a cabin for a length of time other than that necessary and incident to
 29 ordinary travel is guilty of **a misdemeanor** [VIOLATION OF THIS CHAPTER], and
 30 upon conviction is punishable by a fine of not less than \$100 nor more than \$750
 31 [\$500], or by imprisonment in a jail for not less than three months nor more than one

1 year, or by both.

2 * **Sec. 25.** AS 18.60.450(b) is amended to read:

3 (b) A person who violates a provision of AS 18.60.400 - 18.60.460 who has
4 previously been convicted of violating AS 18.60.400 - 18.60.460 is guilty of a
5 misdemeanor for which the maximum term of imprisonment that may be imposed is
6 30 days and the maximum fine that may be imposed is \$750 [\$500].

7 * **Sec. 26.** AS 18.60.535 is amended to read:

8 **Sec. 18.60.535. Penalty.** A person who violates a regulation, standard, or order
9 of the department adopted or issued under AS 18.60.475 - 18.60.545 is guilty of a
10 misdemeanor and, upon conviction, is punishable by a fine of not more than \$750
11 [\$500], or by imprisonment for not more than one year, or by both. Each day upon
12 which a violation occurs constitutes a separate offense.

13 * **Sec. 27.** AS 18.60.685(a) is amended to read:

14 (a) A person who violates AS 18.60.670 - 18.60.695 is guilty of a
15 misdemeanor, and upon conviction is punishable by a fine of not more than \$750
16 [\$500], or by imprisonment for not more than six months, or by both.

17 * **Sec. 28.** AS 22.15.120(c) is amended to read:

18 (c) In this section, "minor offense" means
19 (1) an offense classified by statute as an infraction or a violation;
20 (2) an offense for which a bail forfeiture amount has been authorized
21 by statute and established by supreme court order; or
22 (3) a statutory offense for which a conviction cannot result in
23 incarceration, a fine greater than \$750 [\$300], or the loss of a valuable license.

24 * **Sec. 29.** AS 23.10.370(a) is amended to read:

25 (a) Except as provided in (b) of this section, a person who violates a provision
26 of AS 23.10.325 - 23.10.370 is guilty of a misdemeanor and upon conviction is
27 punishable by a fine of not more than \$750 [\$500], or by imprisonment for not more
28 than 90 days, or by both.

29 * **Sec. 30.** AS 23.10.415(a) is amended to read:

30 (a) A person who, whether as principal or agent, employs a person in violation
31 of the provisions of AS 23.10.410 is guilty of a misdemeanor, and upon a first

1 conviction is punishable by a fine of not less than \$100 nor more than \$750 [\$500], or
2 by imprisonment in a jail for not less than 60 days, nor more than six months, or by
3 both.

4 * **Sec. 31.** AS 25.05.331 is amended to read:

5 **Sec. 25.05.331. Unlawful issuance or refusal of license.** A licensing officer
6 who knowingly issues a marriage license knowing it to be in violation of the
7 provisions of this chapter or who willfully and wrongfully refuses to issue a license is
8 guilty of a misdemeanor, and upon conviction is punishable by imprisonment for not
9 more than six months, or by a fine of not more than \$750 [\$500], or by both.

10 * **Sec. 32.** AS 25.05.341 is amended to read:

11 **Sec. 25.05.341. Misrepresentation.** A person who misrepresents a fact
12 required to be stated on the application for a license or a form related to it, or a
13 licensing officer who issues a marriage license having reason to believe that any
14 material fact has been misrepresented, is guilty of a violation [MISDEMEANOR,
15 AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN
16 \$500].

17 * **Sec. 33.** AS 28.39.010(b) is amended to read:

18 (b) A person who violates (a) of this section is guilty of an infraction [AND IS
19 SUBJECT TO A \$300 FINE UNDER AS 28.90.010(c)].

20 * **Sec. 34.** AS 28.90.010(b) is amended to read:

21 (b) A person convicted of a misdemeanor for a violation of a provision of this
22 title for which another penalty is not specifically provided is punishable by a fine of
23 not more than \$750 [\$500], or by imprisonment for not more than 90 days, or by both.
24 In addition, the privilege to drive or the registration of vehicles may be suspended or
25 revoked.

26 * **Sec. 35.** AS 28.90.010(c) is amended to read:

27 (c) Unless otherwise specified by law a person convicted of a violation of a
28 regulation adopted under this title, or a municipal ordinance regulating vehicles or
29 traffic when the municipal ordinance does not correspond to a provision of this title, is
30 guilty of an infraction [AND IS PUNISHABLE BY A FINE NOT TO EXCEED
31 \$300].

1 * **Sec. 36.** AS 33.05.020(e) is amended to read:

2 (e) The commissioner shall notify the manufacturer of the ignition interlock
3 device when the device is certified. The commissioner may not certify an ignition
4 interlock device unless the device prominently displays a label warning that a person
5 circumventing or tampering with the device in violation of AS 11.76.140 may be
6 imprisoned up to 30 days and fined up to **\$750** [\$500].

7 * **Sec. 37.** AS 38.05 is amended by adding new sections to read:

8 **Article 14A. Penalties and Enforcement.**

9 **Sec. 38.05.750. Penalty.** A person who violates a provision of this chapter or a
10 regulation adopted under this chapter, AS 41.23, AS 46.15, or AS 46.17, for which
11 another penalty is not specifically provided is guilty of a class B misdemeanor and
12 shall be punished as provided in AS 12.55.

13 **Sec. 38.05.755. Enforcement authority.** (a) For offenses committed on state
14 land, water, or land and water subject to the department's supervision under AS 38 or
15 AS 41.23 or committed under AS 46.15 or AS 46.17, the following persons are peace
16 officers of the state and they shall enforce the provisions of this chapter and the
17 regulations adopted under this chapter:

- 18 (1) an employee of the department authorized by the commissioner;
19 (2) a police officer in the state;
20 (3) any other person authorized by the commissioner.

21 (b) Each person designated in

22 (1) (a) of this section may, when enforcing the provisions of this
23 chapter, AS 41.23, AS 46.15, or AS 46.17, or a regulation adopted under this chapter,
24 AS 41.23, AS 46.15, or AS 46.17,

25 (A) execute a warrant or other process issued by an officer or
26 court of competent jurisdiction;

27 (B) administer or take an oath, affirmation, or affidavit; and

28 (C) issue a citation to a person who violates a provision of this
29 chapter or a regulation adopted under this chapter, AS 41.23, AS 46.15, or
30 AS 46.17;

31 (2) (a)(2) of this section, in addition to the powers and authority

1 provided in (1) of this subsection, may, when enforcing the provisions of this chapter,
2 AS 41.23, AS 46.15, or AS 46.17, or a regulation adopted under this chapter,
3 AS 41.23, AS 46.15, or AS 46.17, arrest a person who violates a provision of this
4 chapter or a regulation adopted under this chapter.

5 **Sec. 38.05.760. Form and issuance of citation.** (a) When a peace officer stops
6 or contacts a person concerning the commission of a misdemeanor offense committed
7 on state land, water, or land and water subject to the department's supervision under
8 AS 38 or AS 41.23 or committed under AS 46.15 or AS 46.17, the peace officer may
9 issue a citation to the person, subject to the provisions of AS 12.25.180 - 12.25.230.
10 The person receiving the citation may not be required to endorse the citation.

11 (b) The state supreme court shall identify those offenses that are amenable to
12 disposition without court appearance and shall establish by rule or order a schedule of
13 bail amounts, not to exceed fines prescribed by law, for those offenses. Before
14 establishing or amending the schedule of bail amounts required by this subsection, the
15 supreme court shall appoint and consult with an advisory committee consisting of two
16 persons from the department, two district court judges, one member of the House
17 Resources Committee, and one member of the Senate Resources Committee of the
18 legislature. If the offense for which the citation is issued is one that may be disposed
19 of without court appearance, the citing officer shall write on the citation the amount of
20 bail applicable to the cited offense.

21 (c) A person cited for an offense for which a bail amount has been established
22 under (b) of this section may, within 15 days from the date of the citation, mail or
23 personally deliver to the clerk of the court having jurisdiction over the place where the
24 offense occurred

25 (1) the amount of bail indicated on the citation for that offense; and

26 (2) a copy of the citation indicating the offender's waiver of
27 appearance, plea of no contest, and direction to forfeit the bail and any items seized
28 from the offender.

29 (d) When bail has been forfeited under this section, a judgment of conviction
30 shall be entered. Forfeiture under this section of bail and items seized from the
31 offender is a complete satisfaction for the offense, and the clerk of the court shall

1 provide the offender with a receipt stating that fact if requested.

2 (e) If the person cited fails to pay the bail amount or appear in court as
3 required, the citation shall be considered a summons for a misdemeanor charge and
4 the offender shall be proceeded against in the manner prescribed by law.

5 (f) Notwithstanding other provisions of law, if a person cited for a
6 misdemeanor for which a bail amount has been established under (b) of this section
7 appears in court and is found guilty, the penalty that is imposed for the offense may
8 not exceed the bail amount for that offense established under (b) of this section.

9 * **Sec. 38.** AS 42.06.540(a) is amended to read:

10 (a) In addition to all other penalties and remedies provided by law, a person
11 subject to the provisions of this chapter, as well as an officer, manager, agent, or
12 employee of that person, that either violates or procures, aids, or abets the violation of
13 any provision of this chapter, or of an order, regulation, or written requirement of the
14 commission **commits a violation** [IS SUBJECT TO A MAXIMUM PENALTY OF
15 \$500 FOR EACH VIOLATION].

16 * **Sec. 39.** AS 44.09.015(b) is amended to read:

17 (b) Violation of this section is a misdemeanor, and upon conviction is
18 punishable by a fine of not more than **\$750** [\$500], or by imprisonment for not more
19 than six months, or by both.

20 * **Sec. 40.** AS 46.14.400(j) is amended to read:

21 (j) A person who operates a motor vehicle in violation of emissions
22 requirements imposed under this section is guilty of a violation [AND, UPON
23 CONVICTION, SHALL BE FINED AN AMOUNT NOT TO EXCEED \$500]. It is
24 the intent of the legislature that money collected under this subsection be appropriated
25 to promote air quality control programs in municipalities.

26 * **Sec. 41.** AS 46.14.510(f) is amended to read:

27 (f) A person who fails to display an emissions inspection decal as required by
28 law is guilty of a violation [AND, UPON CONVICTION, SHALL BE FINED AN
29 AMOUNT NOT TO EXCEED \$500]. It is the intent of the legislature that money
30 collected under this subsection be appropriated to control pollution from motor vehicle
31 emissions.

1 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **DIRECT COURT RULE AMENDMENT.** Rule 8(b), Alaska District Court
4 Rules of Criminal Procedure, is amended to read:

5 (b) **Minor Offenses.** As used in this rule, "minor offenses" means

6 (1) an offense classified by statute as an infraction or a violation; or

7 (2) any offense for which a bail forfeiture amount has been authorized
8 by statute and established by supreme court order; or

9 (3) any municipal motor vehicle or traffic offense for which a fine
10 amount has been established in a fine schedule adopted by municipal ordinance under
11 AS 28.05.151; or

12 (4) any offense under a municipal ordinance for which a conviction
13 cannot result in incarceration or the loss of a valuable license and for which a fine
14 schedule has been established under AS 29.25.070(a); or

15 (5) any offense under statute or municipal ordinance for which a
16 conviction cannot result in incarceration, a fine greater than **\$750** [\$500], or the loss of
17 a valuable license.

18 * **Sec. 43.** AS 41.23.210 and 41.23.220 are repealed.

19 * **Sec. 44.** This Act takes effect July 1, 2007.