

Original sponsor: Chuckwuk

Offered: 4/1/82
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

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CS FOR HOUSE BILL NO. 637 (Resources)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - SECOND SESSION

5

A RILL

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For an Act entitled: "An Act relating to limited entry; and providing for an effective date."

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

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* Section 1. AS 16.10 is amended by adding new sections to read:

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Sec. 16.10.265. PURCHASE OF FISH FROM PERMIT HOLDERS. (a) It is unlawful for a natural person who is a fish processor or primary fish buyer, or an agent, director, officer, member, or employee of a fish processor, of a primary fish buyer, or of a cooperative corporation organized under AS 10.15 to intentionally or knowingly purchase raw fish from a seller who does not hold an entry permit or an interim-use permit issued or transferred to the seller in accordance with AS 16.43.

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(b) A natural person who violates (a) of this section is

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(1) upon a first conviction, guilty of a class B misdemeanor and shall be sentenced to a fine of not less than \$1,000 nor more than \$5,000, and may be sentenced to a definite term of imprisonment of not more than 90 days;

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(2) upon a second conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$5,000 nor more than \$10,000, and may be sentenced to a definite term of imprisonment of not more than one year;

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(3) upon a third or subsequent conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$10,000 nor more than \$25,000, and may be sentenced to a definite term of imprisonment of not more than one year.

1 (c) The commissioner of revenue shall impose upon a fish processor,
2 primary fish buyer, or cooperative corporation organized under AS 10.15,
3 a civil fine equal to the value of fish purchased in violation of this
4 section by (1) the fish processor or primary fish buyer if the fish
5 processor or primary fish buyer is not a corporation; or (2) an officer,
6 director, or employee in a policy-making position of the fish processor,
7 of the primary fish buyer, or of the cooperative corporation. Value is
8 based on the average price paid to fishermen at the time of the viola-
9 tion.

10 (d) The commissioner of revenue may suspend or revoke a business
11 license issued under AS 43.70.020 or a license to engage in the business
12 of fish processing or primary fish buying if the licensee or an officer,
13 director, or employee in a policy-making position of the licensee has
14 been convicted of four or more offenses under this section. Proceedings
15 to suspend or revoke a license are governed by the Administrative Pro-
16 cedure Act (AS 44.62).

17 (e) An organization may not be criminally prosecuted under (a) of
18 this section.

19 Sec. 16.10.267. POSSESSION OF PERMIT AND IDENTIFICATION BY SELLER.

20 (a) When a fisherman sells fish the fisherman shall possess

21 (1) an entry permit or interim-use permit issued or trans-
22 ferred to the fisherman under AS 16.43, or other document authorized by
23 regulation to be used in place of an entry permit or interim-use permit;
24 and

25 (2) an identification card that has been issued to the fisher-
26 man by a state or federal agency and that bears a photograph of the
27 fisherman.

28 (b) If requested by the purchaser of the fish or by a peace
29 officer, the fisherman shall present for inspection the identification

1 card, entry permit, interim-use permit, or other document required to be
2 in the fisherman's possession under (a) of this section.

3 (c) Examples of a suitable identification card required under
4 (a)(2) of this section are a motor vehicle operator's license issued
5 under AS 28.15.111 and an identification card issued under AS 18.65.310.

6 (d) An individual who violates or assists in the violation of this
7 section is, upon conviction, guilty of a misdemeanor and is punishable
8 by a fine of not more than \$5,000 for a first conviction, and a fine of
9 not more than \$10,000 for a second or third conviction. Upon a third
10 conviction, the person forfeits all interim-use and entry permits held
11 by him and loses eligibility for future issuance or transfer of interim-
12 use or entry permits for a period of three years. Upon a first or
13 second conviction under this section, the court may in its discretion
14 order a forfeiture of interim-use or entry permits held by the person,
15 as well as a loss of eligibility for future issuance or transfer of
16 interim-use or entry permits, or order a suspension of fishing rights
17 under interim-use or entry permits held or to be held by the person for
18 a period of not more than three years.

19 Sec. 16.10.268. NOTICE OF CRIMINAL LIABILITY. (a) The commis-
20 sioner of labor shall print posters that contain notice of the require-
21 ments of AS 16.10.265. The commissioner shall distribute the posters to
22 fish processors, primary fish buyers, and cooperative corporations
23 organized under AS 10.15 for the purpose of buying raw fish.

24 (b) A fish processor, primary fish buyer, or cooperative corpora-
25 tion organized under AS 10.15 for the purpose of buying raw fish shall
26 display in a prominent place on its business premises posters provided
27 by the commissioner of labor under (a) of this section.

28 * Sec. 2. AS 16.10.296 is amended to read:

29 Sec. 16.10.296. DEFINITIONS. In AS 16.10.265 - 16.10.296 [AS 16.-

1 10.270 - 16.10.296], unless the context otherwise requires,

2 (1) "commissioner" means the commissioner of labor;

3 (2) "fish" means any species of aquatic finfish, inverte-
4 brates and amphibians, shellfish, or any other raw fishery resource, in
5 any stage of its life cycle, found in or introduced into the state, and
6 includes fish eggs;

7 (3) "fish processor" means a person engaging or attempting to
8 engage in a business for which a license is required under AS 43.75.-
9 010 - 43.75.090;

10 (4) "primary fish buyer" means a person, other than a co-
11 operative corporation organized under AS 10.15, engaging or attempting
12 to engage in the business of originally purchasing or buying any raw
13 fishery resource in intrastate, interstate, or foreign commerce.

14 * Sec. 3. AS 16.43.360(a) is amended to read:

15 (a) A person who violates or assists in the violation of a provi-
16 sion of this chapter or a regulation promulgated under this chapter is,
17 upon conviction, guilty of a misdemeanor and is punishable by a fine of
18 not more than \$5,000 for a first conviction, and a fine of not more than
19 \$10,000 for a second or third conviction. Upon a third conviction, the
20 person forfeits [SHALL FORFEIT] all interim-use and entry permits held
21 by him and loses eligibility for future issuance or transfer of interim-
22 use or entry permits for a period of three years. Upon a first or
23 second conviction under this section, the court may in its discretion
24 order a forfeiture of interim-use or entry permits held by the person,
25 [HIM] as well as a loss of eligibility for future issuance or transfer
26 of interim-use or entry permits, or order a suspension of fishing rights
27 under interim-use or entry permits held or to be held by the person
28 [HIM] for a period of not more than three years. This subsection does
29 not apply to violations of AS 16.43.140(a).

1 * Sec. 4. AS 16.43.360 is amended by adding new subsections to read:

2 (g) A person who violates the provisions of AS 16.43.140(a) is

3 (1) upon a first conviction, guilty of a class B misdemeanor
4 and may be sentenced to a definite term of imprisonment of not more than
5 90 days, or forfeiture of the person's fishing vessel, or both, and
6 shall be sentenced to a fine of not less than \$5,000 nor more than
7 \$10,000 and loss of commercial fishing privileges for a period of one
8 year after the date of conviction;

9 (2) upon a second conviction, guilty of a class A misdemeanor
10 and may be sentenced to a definite term of imprisonment of not more than
11 one year, and shall be sentenced to a fine of not less than \$10,000 nor
12 more than \$20,000, forfeiture of the person's fishing vessel, and loss
13 of fishing privileges for a period of two years after the date of con-
14 viction;

15 (3) upon a third or subsequent conviction, guilty of a class
16 A misdemeanor and may be sentenced to a definite term of imprisonment of
17 not more than one year, and shall be sentenced to a fine of not less
18 than \$20,000 nor more than \$50,000, forfeiture of the person's fishing
19 vessel, and loss of commercial fishing privileges for a period of five
20 years after the date of conviction.

21 (h) A person convicted of violating the provisions of AS 16.43.-
22 140(a) forfeits the value of the fishery resources found on board the
23 person's vessel at the time of the violation.

24 * Sec. 5. This Act takes effect immediatcly in accordance with AS 01.10.-
25 070(c).