

Original sponsor: Chuckwuk

Offered: 4/7/82

Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 637 (Finance) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of the taking,
7 purchase, or sale of certain fishery resources; and
8 providing for an effective date."

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

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

11 Sec. 16.10.265. PURCHASE OF FISH FROM PERMIT HOLDERS. (a) It is
12 unlawful for an individual while acting as a fish processor or primary
13 fish buyer, or as an agent, director, officer, member, or employee of a
14 fish processor, of a primary fish buyer, or of a cooperative corporation
15 organized under AS 10.15 to intentionally or knowingly make an original
16 purchase of fish from a seller who does not hold an entry permit or an
17 interim-use permit issued or transferred to the seller in accordance
18 with AS 16.43.

19 (b) An individual who violates (a) of this section is

20 (1) upon a first conviction, guilty of a class B misdemeanor
21 and shall be sentenced to a fine of not less than \$1,000 nor more than
22 \$5,000, and may be sentenced to a definite term of imprisonment of not
23 more than 90 days;

24 (2) upon a second conviction, guilty of a class A misdemeanor
25 and shall be sentenced to a fine of not less than \$5,000 nor more than
26 \$10,000, and may be sentenced to a definite term of imprisonment of not
27 more than one year;

28 (3) upon a third or subsequent conviction, guilty of a
29 class A misdemeanor and shall be sentenced to a fine of not less than

1 \$10,000 nor more than \$25,000, and may be sentenced to a definite term
2 of imprisonment of not more than one year.

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

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

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

20 (f) As used in this section, "individual" means a natural person.

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

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

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

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

1 (b) If requested by the purchaser of the fish or by a peace
2 officer, the fisherman shall present for inspection the identification
3 card, entry permit, interim-use permit, or other document required to be
4 in the fisherman's possession under (a) of this section.

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

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

21 Sec. 16.10.268. NOTICE OF LIABILITY. (a) The commissioner of
22 labor shall print posters that contain notice of the requirements of
23 AS 16.10.265. The commissioner shall distribute the posters to fish
24 processors, primary fish buyers, and cooperative corporations organized
25 under AS 10.15 for the purpose of buying fish.

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

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

2 Sec. 16.10.296. DEFINITIONS. In AS 16.10.265 - 16.10.296 [AS 16.-
3 10.270 - 16.10.296], unless the context otherwise requires,

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

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

9 (3) "fish processor" means a person engaging or attempting to
10 engage in a business for which a license is required under AS 43.75.-
11 010 - 43.75.090;

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

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

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

1 [H14] for a period of not more than three years. This subsection does
2 not apply to violations of AS 16.43.140(a).

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

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

5 (1) upon a first conviction, guilty of a class B misdemeanor
6 and may be sentenced to a definite term of imprisonment of not more than
7 90 days, or forfeiture of the person's fishing vessel, or both, and
8 shall be sentenced to a fine of not less than \$5,000 nor more than
9 \$10,000 and loss of commercial fishing privileges for a period of one
10 year after the date of conviction;

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

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

23 (h) A person convicted of violating the provisions of AS 16.43.-
24 140(a) forfeits the value of the fishery resources found on board the
25 person's vessel at the time of the violation.

26 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).