

Introduced: 1/13/81  
Referred: Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 51

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to penalties for commercial fishing  
7 violations."

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

9 \* Section 1. AS 16.05.710 is amended to read:

10 Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second  
11 conviction of a person for a violation of AS 16.05.440 - 16.05.690,  
12 16.05.720(a), [16.05.720 OR A FEDERAL] or state law or regulation for  
13 the protection of the commercial fish of the state, the court may, in  
14 addition to the penalty imposed by law, forfeit the commercial fishing  
15 license of the person for a period of one year. Upon a third convic-  
16 tion, the court may, in addition to the penalty imposed by law, forfeit  
17 the commercial fishing license for a period not to exceed three years.

18 (b) Upon a second conviction of commercial fishing in closed  
19 waters or commercial fishing during a closed period or season under  
20 AS 16.05.720(c), the court shall, in addition to other punishment im-  
21 posed by law, forfeit the commercial fishing license held by the defen-  
22 dant for one year. Upon a third or subsequent conviction, the court  
23 shall, in addition to other punishment imposed by law, forfeit the com-  
24 mercial fishing license held by the defendant and shall order that the  
25 defendant is not eligible for the issuance or transfer of a commercial  
26 fishing license.

27 (c) In this section,

28 (1) "second conviction" means that the defendant previously  
29 has been convicted of either commercial fishing in closed waters or

1 commercial fishing during a closed period or season;

2 (2) "third conviction" means that the defendant previously  
3 has on at least two occasions been convicted of either commercial fish-  
4 ing in closed waters or commercial fishing during a closed period or  
5 season.

6 \* Sec. 2. AS 16.05.720(a) is amended to read:

7 (a) A [EXCEPT AS MODIFIED BY (c) OF THIS SECTION, A] person who  
8 violates AS 16.05.480 - 16.05.690 [16.05.700] or the regulations of the  
9 department pertaining to commercial fisheries is guilty of a class A  
10 misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
11 THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY  
12 BOTH].

13 \* Sec. 3. AS 16.05.720(c) is amended to read:

14 (c) In addition to the license forfeiture provisions of AS 16.05.-  
15 710, a [A] person who is convicted of commercial fishing in closed  
16 waters, commercial fishing during a closed period or season, or commer-  
17 cial fishing with unlawful gear including but not limited to nets,  
18 pots, tackle, or other devices designed or employed to take fish commer-  
19 cially, is guilty of a class A misdemeanor and shall also pay [IN  
20 ADDITION TO THE PENALTY IMPOSED UNDER (a) OF THIS SECTION IS PUNISHABLE  
21 BY] a fine of not less than twice the gross value to the fisherman of  
22 the fish found on the vessel, [OR] at the fishing site, or otherwise in  
23 the possession of the fisherman at the time of the violation. Upon a  
24 third conviction of a person for a violation under this subsection,  
25 [AND IN ADDITION TO THE FORFEITURE PROVISION IN SEC. 710 OF THIS CHAP-  
26 TER,] the fine shall be not less than three times the gross value to  
27 the fisherman of the fish found on the vessel, [OR] at the fishing  
28 site, or otherwise in the possession of the fisherman at the time of  
29 the violation, or, if no fish are found [ON THE VESSEL OR AT THE FISHING

1 SITE], a fine of not more than \$10,000.

2 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

3 Sec. 16.05.730. PRIOR CONVICTIONS. (a) For purposes of con-  
4 sidering prior convictions under AS 16.05.710 - 16.05.720, a prior  
5 conviction may not be considered if a period of three or more years has  
6 elapsed between the date of the defendant's unconditional discharge on  
7 the immediately preceding offense and commission of the present offense.

8 (b) In this section, "unconditional discharge" means that the  
9 defendant is released from all disability arising under a sentence,  
10 including probation, parole, and a commercial fishing license forfei-  
11 ture.

12 Sec. 16.05.740. LICENSE TRANSFERS. If a person is charged with  
13 a violation of AS 16.05.440 - 16.05.720 or state law or regulation  
14 pertaining to commercial fisheries, he may not under AS 16.43.170  
15 transfer any interim-use or entry permit he holds until after the final  
16 adjudication or dismissal of the charge.

17 Sec. 16.05.750. DEFINITION. In AS 16.05.710 - 16.05.750, "com-  
18 mercial fishing license" includes all interim-use and entry permits  
19 held by the defendant.

20 \* Sec. 5. AS 16.05.720(b) is repealed.

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