

Introduced: 2/10/82
Referred: Resources and
Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 51

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 penalties for violations of fishing
7 laws and regulations."

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

9 * Section 1. AS 16.05.632 is amended by adding a new subsection to read:

10 (f) Shellfish pots and buoys, used in taking king crab, which do
11 not bear the registration tags described in (a) of this section and
12 which are located in areas closed to the taking of king crab or in areas
13 for which the board has adopted regulations limiting the total number of
14 shellfish pots allowed for each vessel are considered abandoned. Any
15 peace officer finding an abandoned pot or buoy may remove or destroy it
16 immediately.

17 * Sec. 2. AS 16.05.710 is repealed and reenacted to read:

18 Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second
19 conviction of a person for a violation of AS 16.05.440 -- 16.05.690 or
20 of a state law enacted or regulation adopted for the protection of the
21 commercial fish of the state, the court may, in addition to the penalty
22 imposed by law, order the forfeiture, for a period of one year, of the
23 commercial fishing license of that person issued under AS 16.05.480. If
24 the person convicted holds an entry permit or interim-use permit issued
25 under AS 16.43 for the fishery in which the violation occurred, the
26 court may order the forfeiture of that permit for a period of one year.
27 Upon a third conviction for a violation of AS 16.05.440 -- 16.05.690,
28 the court may, in addition to the penalty imposed by law, order the
29 forfeiture of any or all commercial fishing licenses, entry permits, and

1 interim-use permits held by the violator, and order that the violator be
2 permanently ineligible to hold any commercial fishing license or permit
3 in the future.

4 (b) Notwithstanding the discretionary language in (a) of this sec-
5 tion, if a person has been previously convicted once of commercial
6 fishing in closed waters, commercial fishing during a closed period or
7 season, or commercial fishing with unlawful gear, including but not
8 limited to nets, pots, tackle, or other devices designed or employed to
9 take fish commercially, and is subsequently convicted of any of those
10 offenses, the person shall, upon the subsequent conviction and in addi-
11 tion to other punishment imposed by law, forfeit for a period of one
12 year his or her commercial fishing license and any entry permit or
13 interm-use permit held for the fishery in which the subsequent violation
14 occurred.

15 (c) Notwithstanding the discretionary language in (a) of this
16 section, if a person has been previously convicted twice on separate
17 occasions of any of the offenses listed in (b) of this section, whether
18 or not those convictions involved the same offense, and that person is
19 subsequently convicted again of an offense listed in (b), the person
20 shall, upon subsequent conviction and in addition to other punishment
21 imposed by law, forfeit his or her commercial fishing license and all
22 entry permits and interim-use permits held by that person. Upon the
23 subsequent conviction, that person is permanently ineligible to hold a
24 commercial fishing license or any entry permit or interim-use permit.

25 * Sec. 3. AS 16.05.720(a) is amended to read:

26 (a) Except as modified by (c) of this section, a person who vio-
27 lates AS 16.05.440 -- 16.05.690 [SECS. 480 - 700 OF THIS CHAPTER] or the
28 regulations of the department pertaining to commercial fisheries is
29 guilty of a class A misdemeanor and, upon conviction, is punishable by a

1 fine of not more than \$10,000 [\$5,000], or by imprisonment for not more
2 than one year, or by both. Imposition of sentence may not be suspended
3 under AS 12.55.085.

4 * Sec. 4. AS 16.05.720(c) is repealed and reenacted to read:

5 (c) When a person is convicted of commercial fishing in closed
6 waters, commercial fishing during a closed period or season, or commer-
7 cial fishing with unlawful gear, including but not limited to nets,
8 pots, tackle, or other devices designed or employed to take fish commer-
9 cially, the minimum sentence is a fine of not less than \$500 and impris-
10 onment for not less than three consecutive days. If the person convic-
11 ted has been previously convicted once of any of the offenses described
12 in this subsection, whether or not the prior conviction involved the
13 same offense, the minimum sentence is a fine of not less than \$2,500 and
14 imprisonment for not less than 15 consecutive days. If the person con-
15 victed has been previously convicted twice or more, on separate occa-
16 sions, of any of the offenses described in this subsection, whether or
17 not the prior convictions involved the same offenses, the minimum sen-
18 tence is a fine of not less than \$5,000 and imprisonment for not less
19 than 30 consecutive days. In addition to these mandatory fines, the
20 court may impose a fine in an amount up to the gross value to the fish-
21 erman of the fish found on the vessel, or at the fishing site, or other-
22 wise in the possession of the fisherman, at the time of the violation;
23 in the event of a third or subsequent conviction, the additional fine
24 may be an amount up to three times the gross value to the fisherman.

25 * Sec. 5. AS 16.05.720 is amended by adding a new subsection to read:

26 (d) The execution of any sentence of imprisonment mandated by (c)
27 of this section may not be suspended or stayed, except as required by
28 Appellate Rule 603(b), nor may probation or parole be granted until the
29 minimum imprisonment provided in (c) of this section has been served,

1 nor may the collection of any portion of a fine imposed under (c) of
2 this section be suspended unless the unsuspended portion equals or
3 exceeds the minimum amount specified by (c) of this section.

4 * Sec. 6. AS 16.05 is amended by adding new sections to read:

5 Sec. 16.05.730. PRIOR CONVICTIONS. (a) For purposes of consider-
6 ing prior convictions under AS 16.05.710 -- 16.05.720, a prior convic-
7 tion may not be considered if a period of five or more years has elapsed
8 between the date of the person's unconditional discharge on the immedi-
9 ately preceding offense and the commission of the subsequent offense.

10 (b) In this section, "unconditional discharge" means that the
11 defendant is released from all disability arising under a sentence, in-
12 cluding probation, parole, and a commercial fishing license forfeiture.

13 Sec. 16.05.740. LICENSE TRANSFERS. If a person is charged with a
14 violation of AS 16.05.440 -- 16.05.690 or another state law or regula-
15 tion pertaining to commercial fisheries, he may not transfer, under
16 AS 16.43.170, any entry permit he holds until after the final adjudica-
17 tion or dismissal of the charge. This section does not prohibit emer-
18 gency transfers under AS 16.43.180.

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

20 Sec. 16.10.220. PENALTIES FOR VIOLATION OF AS 16.10.200 AND 16.-
21 10.210. A person who violates AS 16.10.200 or [AND] 16.10.210 is guilty
22 of a class A misdemeanor, and, upon conviction, is punishable by a fine
23 of not more than \$10,000 [\$5,000] or by imprisonment for not more than
24 one year, or by both.

25 * Sec. 8. AS 16.10.250 is amended to read:

26 Sec. 16.10.250. PENALTY. A person, association, or corporation
27 violating AS 16.10.240 or contributing to or cooperating in the viola-
28 tion of AS 16.10.240 is guilty of a class A misdemeanor, and upon con-
29 viction is punishable by a fine of not more than \$10,000 [\$5,000], or by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

imprisonment for not more than one year, or by both. Each unlawful removal of live crab is a separate offense. Vessels and equipment used in or in aid of a violation of AS 16.10.240 may be seized and disposed of as provided in AS 16.05.190. Conviction under AS 16.10.240 is grounds for suspension of a fishing license or permit by the Department of Fish and Game or the Commercial Fisheries Entry Commission.