

Introduced: 2/17/86
Referred: House Special Committee on
Fisheries, Resources and Judiciary

1 IN THE HOUSE

BY HERRMANN

2

HOUSE BILL NO. 690

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

9 * Section 1. AS 16.05.720 is repealed and reenacted to read:

10 Sec. 16.05.720. PENALTIES. (a) Except as provided in (b), (c),
11 and (d) of this section, a person who violates AS 16.05.480 - 16.05.-
12 690 or a regulation of the department pertaining to commercial fisher-
13 ies is

14 (1) guilty of an infraction and upon conviction may be
15 sentenced to a fine of not more than \$15,000; or

16 (2) guilty of a misdemeanor if the person acted intention-
17 ally, knowingly, or recklessly, or with criminal negligence or negli-
18 gence, and upon conviction may be sentenced to a fine of not more than
19 \$15,000, or imprisonment for not more than one year, or by both.

20 (b) A person who violates a state statute or a regulation of the
21 department pertaining to commercial fishing in closed waters, commer-
22 cial fishing during a closed period or season, or commercial fishing
23 with unlawful gear, is

24 (1) guilty of an infraction and upon a first or second
25 conviction shall be sentenced to a fine of not less than the gross
26 value to the fisherman of the fish found on the vessel or at the
27 fishing site at the time of the violation, and also may be sentenced
28 to a fine of not more than \$15,000; or

29 (2) guilty of a misdemeanor if the person acted

1 intentionally, knowingly, or recklessly, or with criminal negligence
2 or negligence, and upon a first or second conviction, shall be sen-
3 tenced to a fine of not less than the gross value to the fisherman of
4 the fish found on the vessel or at the fishing site at the time of the
5 violation, and also may be sentenced to a fine of not more than
6 \$15,000, or imprisonment for not more than one year, or both.

7 (c) Upon a third conviction of a person for a violation under
8 (b)(1) of this section, the person shall be sentenced to a fine of not
9 less than three times the gross value to the fisherman of the fish
10 found on the vessel or at the fishing site at the time of the viola-
11 tion, and also may be sentenced to a fine of not more than \$30,000.

12 (d) Upon a third conviction of a person for a violation under
13 (b)(2) of this section, the person shall be sentenced to a fine of not
14 less than three times the gross value to the fisherman of the fish
15 found on the vessel or at the fishing site at the time of the viola-
16 tion, and also may be sentenced to a fine of not more than \$30,000, or
17 imprisonment for not more than one year, or both.

18 (e) The court shall transmit the proceeds from all fines to the
19 proper state officer for deposit in the general fund of the state.

20 (f) An infraction under this section is a strict liability,
21 noncriminal offense and may not result in imprisonment. A fine im-
22 posed for the commission of an infraction is not a penal or criminal
23 punishment. A person cited with an infraction does not have a right
24 to trial by jury or to court-appointed counsel.

25 (g) In this section,

26 (1) "gear" includes nets, pots, tackle or other devices
27 designed or employed to take fish commercially;

28 (2) "negligence" means that the person, at the time of the
29 violation, knew or reasonably should have known that the person was

1 engaging in unlawful conduct.