

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 CS FOR HOUSE BILL NO. 364 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to commercial fishing violations;
7 and providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 16.05.710(a) is repealed and reenacted to read:
10 (a) A person convicted of a misdemeanor for violating AS 16.05.-
11 440 - 16.05.690 or a federal or state commercial fishing statute or
12 regulation is, in addition to other penalties provided by law, subject
13 to the following penalties:
14 (1) upon a first conviction the court may, for a period of
15 not more than one year,
16 (A) forfeit the person's commercial fishing license
17 and the right to obtain a limited entry permit; or
18 (B) suspend one or more of the person's limited entry
19 permits and forfeit the person's right to obtain a commercial
20 fishing license; and
21 (2) upon a second or subsequent conviction the court may,
22 for a period of not more than three years,
23 (A) forfeit the person's commercial fishing license
24 and the right to obtain a limited entry permit; or
25 (B) suspend one or more of the person's limited entry
26 permits and forfeit the person's right to obtain a commercial
27 fishing license.
28 * Sec. 2. AS 16.05.710 is amended by adding new subsections to read:
29 (c) During the period for which a limited entry permit is

1 suspended under (a) of this section a permit card may not be issued
2 and the permit may not be transferred or sold.

3 (d) In this section

4 (1) "commercial fishing license" includes a crew member
5 license;

6 (2) "limited entry permit" includes an interim use permit.

7 * Sec. 3. AS 16.05 is amended by adding new sections to read:

8 Sec. 16.05.722. STRICT LIABILITY COMMERCIAL FISHING PENALTIES.

9 (a) A person who without any culpable mental state violates AS 16.-
10 05.440 - 16.05.690, or a regulation of the Board of Fisheries or the
11 department governing commercial fishing, is guilty of a violation and
12 upon conviction is punishable by a fine of not more than

13 (1) \$3,000 for a first conviction; and

14 (2) \$6,000 for a second or subsequent conviction.

15 (b) In addition to the penalties imposed under (a) of this
16 section, the court may

17 (1) for a first conviction, impose a fine equal to 50
18 percent of the value of the fish found on board or at the fishing site
19 at the time of the violation; and

20 (2) for a second or subsequent conviction, impose a fine
21 equal to the value of the fish found on board or at the fishing site
22 at the time of the violation.

23 Sec. 16.05.723. MISDEMEANOR COMMERCIAL FISHING PENALTIES. (a)

24 A person who negligently violates AS 16.05.440 - 16.05.690, or a
25 regulation of the board of fisheries or the department governing
26 commercial fishing, is guilty of a misdemeanor and in addition to
27 punishment under other provisions in this title, including AS 16.05.-
28 195 and 16.05.710, is punishable upon conviction by a fine of not more
29 than \$15,000 or by imprisonment for not more than one year, or by

1 both. In addition, the court may order forfeiture of any fish, or its
2 fair market value, taken or retained in any manner in connection with
3 or as a result of the commission of the violation, and the court may
4 forfeit any vessel and any fishing gear, including any net, pot,
5 tackle, or other device designed or employed to take fish commercial-
6 ly, that was used in or in aid of the violation. Any fish, or its
7 fair market value, forfeited under this section may not also be for-
8 feited under AS 16.05.195. For purposes of this section, it is a
9 rebuttable presumption that all fish found on board a fishing vessel
10 used in or in aid of a violation, or found at the fishing site, were
11 taken or retained in violation of AS 16.05.440 - 16.05.690 or a com-
12 mercial fisheries regulation of the board of fisheries or the depart-
13 ment, and it is the defendant's burden to show by a preponderance of
14 the evidence that fish on board or at the site were lawfully taken and
15 retained.

16 (b) If a person is convicted under this section of one of the
17 following offenses, then, in addition to the penalties imposed under
18 (a) of this section, the court may impose a fine equal to the gross
19 value of the fish found on board or at the fishing site at the time of
20 the violation:

- 21 (1) commercial fishing in closed waters;
- 22 (2) commercial fishing during a closed period or season;
- 23 (3) commercial fishing with unlawful gear, including a net,
24 pot, tackle, or other device designed or employed to take fish commer-
25 cially; or
- 26 (4) commercial fishing without a limited entry permit
27 holder on board if the holder is required by law or regulation to be
28 present.

29 (c) If, within the 10 years preceding an offense, a person has

1 been convicted two or more times of an offense listed in (b) of this
2 section, regardless of whether the convictions are under this section,
3 under AS 16.05.722, or under former AS 16.05.720, then, upon a con-
4 viction of that person under this section for a violation listed in
5 (b) of this section, and in addition to the penalties imposed under
6 (a) of this section, the court may impose a fine equal to three times
7 the gross value of the fish found on board or at the fishing site at
8 the time of the violation, or a fine equal to \$10,000, whichever is
9 greater.

10 * Sec. 4. AS 16.05.925 is amended to read:

11 Sec. 16.05.925. PENALTY FOR VIOLATIONS. Except as provided in
12 AS 16.05.430, 16.05.722, 16.05.723, [16.05.720,] 16.05.831, and 16.-
13 05.860, a person who violates AS 16.05.920, or a regulation adopted
14 under this chapter or AS 16.20, is guilty of a class A misdemeanor.

15 * Sec. 5. AS 16.05.720 is repealed.

16 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).