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1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 262

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the high seas interception of
7 salmon."

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

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

10 ARTICLE 10. HIGH SEAS INTERCEPTION OF SALMON.

11 Sec. 16.10.750. FINDINGS AND INTENT. (a) The legislature finds
12 the following:

13 (1) The salmon fishing industry is among Alaska's largest
14 industries and generates hundreds of millions of dollars and thousands
15 of jobs each year. The fishery is vitally important to commercial,
16 subsistence, personal use, and sport interests, and to the state's
17 developing tourist industry.

18 (2) Alaska is committed to maintaining and enhancing its
19 wild stocks of salmon by careful management, by initiating a 20-year
20 rebuilding program, and by investing in the fishing industry.

21 (3) Millions of Alaska salmon are being caught and injured
22 by high seas interception which is contrary to state, federal, or
23 international law. This high seas interception defeats the state's
24 management and rebuilding programs, deprives the state of a return on
25 its investment in the fishing industry, and detrimentally affects
26 subsistence and sport uses.

27 (4) Vessels that engage in the high seas interception of
28 salmon can move relatively freely and undetected from region to region
29 in the North Pacific, and are thus able to harvest whatever species is

1 most readily available or most valuable. By moving farther westward,
2 a greater proportion of Asian salmon are taken; moving eastward re-
3 sults in a greater proportion of the take being Alaska salmon. Al-
4 though there is intermixing of Asian and American salmon stocks,
5 scientific evidence proves that even a minimal harvest of salmon
6 within the migratory range of each species will contain Alaska salmon.

7 (5) The illegal taking of any Pacific salmon detrimentally
8 affects the Alaska fishing industry. The illegal taking of Alaska
9 salmon is of primary concern because of the direct and immediate
10 effect on Alaska. In addition, the illegal taking of Asian salmon is
11 also of concern because depletion of those stocks will ultimately
12 result in a shifting of high seas fishing efforts, both legal and
13 illegal, to Alaska salmon.

14 (6) High seas interception is committed beyond the exclu-
15 sive economic zone of the United States, or through excursions within
16 the zone, including within Alaska's territorial sea, by vessels that
17 are usually not registered in this state. Moreover, these vessels are
18 not based in Alaska and can thus avoid detection more easily than
19 Alaska-based vessels. As a practical matter, it is extremely diffi-
20 cult to directly or indirectly regulate the vessels themselves. It is
21 therefore necessary to regulate activities within the State of Alaska
22 which give aid, comfort, and financial incentives to high seas inter-
23 ception.

24 (b) The purpose of this chapter is to prevent resources, facil-
25 ities, and expertise within the State of Alaska from being available
26 to promote or facilitate the interception of Pacific salmon or the
27 making of that salmon ready for or accessible to world markets.

28 Sec. 16.10.760. TRAFFICKING IN INTERCEPTED SALMON. (a) A
29 person commits the offense of trafficking in intercepted salmon if the

1 person

2 (1) buys, sells, trades, processes, or possesses salmon, or
3 attempts to buy, sell, trade, process, or possess salmon, with reck-
4 less disregard that the salmon has been, or will be, obtained by high
5 seas interception;

6 (2) provides financing, premises, equipment, supplies,
7 services, power, or fuel used to purchase, sell, trade, process, or
8 possess salmon, with reckless disregard that the salmon has been, or
9 will be, obtained by high seas interception; or

10 (3) acts as a broker or middleman, or otherwise acts on
11 behalf of another party, to arrange for or negotiate, or attempts to
12 arrange for or negotiate, the purchase, sale, trade, processing, or
13 possession of salmon, with reckless disregard that the salmon has
14 been, or will be, obtained by high seas interception.

15 (b) Trafficking in intercepted salmon is a class C felony.

16 Sec. 16.10.770. FALSIFICATION RELATED TO HIGH SEAS INTERCEPTION
17 OF SALMON. (a) A person commits the offense of falsification related
18 to high seas interception of salmon if the person creates, utters, or
19 possesses a written instrument related to salmon, or makes an asser-
20 tion for the purpose of having such a written instrument created,
21 uttered, or accepted, with reckless disregard that the salmon was
22 obtained by interception and that the written instrument or assertion
23 conveys misleading or untrue information about the ownership, pos-
24 session, processing, origin, destination, route of shipping, type,
25 condition, or time, place, and manner of the taking of the salmon.

26 (b) As used in this section

27 (1) "utter" has the meaning given in AS 11.46.580(b)(2);

28 (2) "written instrument" has the meaning given in
29 AS 11.46.580(b)(3) and specifically includes ships' logs and papers,

1 bills of lading and sale, documents relating to processing, shipping,
2 and customs, and any information stamped on or affixed to cans,
3 crates, containers, freight, or any means of storage or packaging.

4 (c) Falsification related to high seas interception of salmon is
5 a class C felony.

6 Sec. 16.10.780. ASSISTING A VESSEL IN HIGH SEAS INTERCEPTION OF
7 SALMON. (a) A person commits the offense of assisting a vessel in
8 high seas interception of salmon if, with reckless disregard that a
9 vessel is in possession of salmon obtained by interception or that the
10 person in charge of the vessel intends to engage in the imminent
11 interception of salmon, the defendant

12 (1) moves cargo or other property to or from the vessel;

13 (2) services or repairs the vessel or its equipment;

14 (3) provides the vessel with power, supplies, equipment, or
15 fuel;

16 (4) provides the vessel with information, other than weath-
17 er reports, capable of aiding the high seas interception of salmon or
18 frustrating or avoiding detection, including communicating the move-
19 ments, intentions, or activities of state or federal law enforcement
20 officials or other fishing vessels; or

21 (5) is a person in charge of a docking facility, harbor, or
22 anchorage, and permits the vessel to dock or anchor, or to remain
23 docked or anchored.

24 (b) It is an affirmative defense, as defined in AS 11.81.-
25 900(b)(1), to a violation of this section, if the person honestly and
26 reasonably believed that the assistance provided to the vessel was
27 necessary for humanitarian or environmental purposes.

28 (c) As used in this section,

29 (1) an "environmental purpose" is one designed to prevent

1 or minimize adverse ecological effects to water quality;

2 (2) a "humanitarian purpose" is one designed to provide
3 medical services for a sick or injured person, or to prevent the loss
4 of human life.

5 (d) Assisting a vessel in high seas interception of salmon is a
6 class A misdemeanor.

7 Sec. 16.10.790. FINES. (a) Notwithstanding the provisions of
8 AS 12.55.035(b), a person convicted of an offense under this chapter
9 may be sentenced to pay a fine which is the greater of

10 (1) \$100,000;

11 (2) three times the pecuniary gain realized by the defen-
12 dant as a result of the offense; or

13 (3) if the defendant is convicted under AS 16.10.750, two
14 times the fair market value of the salmon involved or contemplated in
15 the commission of the offense.

16 Sec. 16.10.800. DEFINITIONS. As used in AS 16.10.750 -
17 16.10.800,

18 (1) "Alaska salmon" means salmon that spawn in fresh or
19 estuarine waters of Alaska;

20 (2) "exclusive economic zone" has the meaning given in
21 16 U.S.C. 1802;

22 (3) "high seas interception," "interception," or a similar
23 term, means the unauthorized catching, taking, or harvesting of
24 salmon, throughout the migratory range of each species, by a vessel
25 not registered under the laws of this state;

26 (4) "with reckless disregard" has the meaning given for
27 "recklessly" in AS 11.81.900(a)(3);

28 (5) "processing salmon" means affecting the condition or
29 location of salmon, including preparation, packaging, storage,

1 refrigeration, or transportation;

2 (6) "salmon" means Pacific salmon and steelhead, and parts
3 of Pacific salmon and steelhead, whether mature or immature, processed
4 or unprocessed; and

5 (7) "unauthorized" means contrary to a statute or regu-
6 lation of the United States or the State of Alaska, or to a treaty or
7 international fishery agreement, or in violation of any foreign law.