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Referred: Rules

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1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 262 (Resources)
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; and providing for an effective date."
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 PURPOSE. (a) The legislature
12 finds that
13 (1) the salmon fishing industry is among the state's larg-
14 est industries and generates hundreds of millions of dollars and
15 thousands of jobs each year; the salmon fishery is vitally important
16 to commercial, subsistence, personal use, and sport fishing interests,
17 and to the state's developing tourist industry;
18 (2) the state 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 fisheries that intercept salmon contrary to state, feder-
23 al, or international law; the high seas interception of Alaska salmon
24 defeats the state's management and rebuilding programs, deprives the
25 state of a return on its investment in the fishing industry, and
26 detrimentally affects subsistence and sport fishing uses of Alaska
27 salmon;
28 (4) vessels that engage in the high seas interception of
29 salmon can move relatively freely and undetected from region to region

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

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

15 (6) high seas interception of salmon occurs beyond the
16 exclusive economic zone of the United States, or through incursion
17 within the exclusive economic zone and the state's territorial sea, by
18 vessels that are usually not registered in this state; moreover, these
19 vessels are not based in Alaska and can thus avoid detection more
20 easily than Alaska-based vessels; as a practical matter, it is ex-
21 tremely difficult to directly or indirectly regulate the vessels
22 themselves; it is therefore necessary to prohibit activities within
23 the state that give aid, comfort, and financial incentives to high
24 seas interception of salmon.

25 (b) The purpose of AS 16.10.750 - 16.10.800 is to prevent re-
26 sources, facilities, and expertise within the state from being avail-
27 able to promote or facilitate the high seas interception of salmon or
28 the making of intercepted salmon ready for or accessible to world
29 markets.

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

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

8 (2) knowingly provides financing, premises, equipment,
9 supplies, services, power, or fuel used to buy, sell, trade, process,
10 or possess salmon that has been, or will be, obtained by high seas
11 interception; or

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

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

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

29 (b) In this section

1 (1) "utter" has the meaning given in AS 11.46.580(b);
2 (2) "written instrument" has the meaning given in AS 11.-
3 46.580(b) and includes ships' logs and papers, bills of lading and
4 sale, documents relating to processing, shipping, and customs, and
5 information stamped on or affixed to cans, crates, containers,
6 freight, or a means of storage or packaging.

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

9 Sec. 16.10.780. ASSISTING A VESSEL IN HIGH SEAS INTERCEPTION OF
10 SALMON. (a) A person commits the offense of assisting a vessel in
11 high seas interception of salmon if, knowing that a vessel is in
12 possession of salmon obtained by high seas interception or that the
13 owner or operator of the vessel intends to engage in the imminent
14 interception of salmon, the person

15 (1) moves persons, cargo, or other property to or from the
16 vessel;

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

18 (3) provides the vessel with power, supplies, equipment, or
19 fuel;

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

25 (5) is in charge of a docking facility, harbor, or anchor-
26 age, and permits the vessel to dock or anchor, or to remain docked or
27 anchored.

28 (b) It is an affirmative defense, as defined in AS 11.81.900(b),
29 to a violation of this section, if the person honestly and reasonably

1 believed that the assistance provided to the vessel was necessary for
2 humanitarian or environmental purposes or to prevent a significant
3 loss of property. An affirmative defense under this section may not
4 be raised, unless the person provided immediate notice, by the quick-
5 est available means, to the United States Coast Guard or the Depart-
6 ment of Public Safety indicating the type of assistance being provided
7 and the circumstances requiring the assistance.

8 (c) In this section

9 (1) "environmental purpose" means the intent to prevent or
10 minimize adverse ecological effects to water quality;

11 (2) "humanitarian purpose" means the intent to provide
12 medical services for a sick or injured person, or to prevent the loss
13 of human life;

14 (3) "owner or operator of the vessel" means a person who

15 (A) has an ownership interest in the vessel;

16 (B) has authority to control or direct the vessel's
17 activities; or

18 (C) physically operates a vessel or its equipment.

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

21 Sec. 16.10.790. FINES. Notwithstanding the provisions of AS 12.
22 55.035(b) and (c), a person convicted of an offense under AS 16.10.-
23 760 - 16.10.780 may be sentenced to pay a fine not exceeding the
24 greater of

25 (1) \$100,000;

26 (2) three times the pecuniary gain realized by the person
27 as a result of the offense; or

28 (3) if the person is convicted under AS 16.10.760, two
29 times the fair market value of the salmon involved or contemplated in

1 the commission of the offense.

2 Sec. 16.10.800. DEFINITIONS. In AS 16.10.750 - 16.10.800

3 (1) "high seas interception," "interception," or a similar
4 term means the unauthorized catching, taking, or harvesting of salmon
5 for other than sport, subsistence, or personal use purposes,

6 (A) throughout the migratory range of each species, by
7 a vessel not registered under the laws of this state; or

8 (B) beyond the territorial sea of the state by a
9 vessel registered under the laws of the state;

10 (2) "knowing" or "knowingly" has the meaning given for
11 "knowingly" in AS 11.81.900(a);

12 (3) "process" means affecting the condition or location of
13 salmon, including preparation, packaging, storage, refrigeration, or
14 transportation;

15 (4) "reckless disregard" has the meaning given for "reck-
16 lessly" in AS 11.81.900(a);

17 (5) "salmon" means Pacific salmon and steelhead, and parts
18 of Pacific salmon and steelhead, whether mature or immature, processed
19 or unprocessed; and

20 (6) "unauthorized" means contrary to a statute or regu-
21 lation of the United States or the state, or to a treaty or interna-
22 tional fishery agreement, or in violation of a foreign law.

23 * Sec. 2. This Act takes effect June 1, 1989.