

1 IN THE SENATE

BY ZHAROFF

2

SENATE BILL NO. 164

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to additional penalties for viola-
tion of commercial fishing laws and forfeiture of
limited entry permits and to transfer of limited
entry permits to avoid forfeiture; and providing for
an effective date."

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

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* Section 1. AS 16.05.710(a) is repealed and reenacted to read:

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(a) A person convicted of a misdemeanor for violating AS 16.05.-
440 - 16.05.690 or a federal or state commercial fishing statute or
regulation is, in addition to other penalties provided by law, subject
to the following penalties:

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(1) if the person held a limited entry permit at the time
the violation occurred, the court

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(A) upon the person's first or second conviction for
violating a commercial fishing statute or regulation while hold-
ing a limited entry permit, may suspend, for a period of not more
than one year, one or more of the person's limited entry permits
and the person's right to obtain a commercial fishing license;
and

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(B) upon the person's third or subsequent conviction
for violating a commercial fishing statute or regulation while
holding a limited entry permit, shall forfeit all the person's
limited entry permits; or

(2) if the person did not hold a limited entry permit at

1 the time the violation occurred, the court

2 (A) upon the person's first or second conviction for
3 violating a commercial fishing statute or regulation while not
4 holding a limited entry permit, may suspend, for a period of not
5 more than one year, the person's commercial fishing license and
6 the right to obtain a limited entry permit; and

7 (B) upon the person's third or subsequent conviction
8 for violating a commercial fishing statute or regulation while
9 not holding a limited entry permit, shall suspend, for a period
10 of not more than three years, the person's commercial fishing
11 license and the right to obtain a limited entry permit.

12 * Sec. 2. AS 16.05.710(d) is amended to read:

13 (d) In this section

14 (1) "commercial fishing license" includes a crew member
15 license;

16 (2) "commercial fishing privilege" means the privilege of
17 participating in an activity for which a commercial fishing license is
18 required;

19 (3) "limited entry permit" includes an interim use permit.

20 * Sec. 3. AS 16.05.710 is amended by adding a new subsection to read:

21 (e) A limited entry permit forfeited under this section must be
22 returned to the Alaska Commercial Fisheries Entry Commission. The
23 limited entry permit may not be reissued, unless the limited entry
24 permit is taken as security for a loan under AS 16.10.333 or AS 44.-
25 81.230 or the limited entry permit is for a fishery in which new
26 limited entry permits are being issued under AS 16.43.330. If the
27 limited entry permit forfeited under this section is taken as security
28 for a loan under

29 (1) AS 16.10.333, the limited entry permit must be

1 transferred under AS 16.10.337; or

2 (2) AS 44.81.230, the limited entry permit must be trans-
3 ferred under AS 44.81.250.

4 * Sec. 4. AS 16.10.337 is amended by adding a new subsection to read:

5 (e) The department may not sell an entry permit under this
6 section to a person who has forfeited an interim-use or entry permit
7 under AS 16.05.710.

8 * Sec. 5. AS 16.43.140 is amended by adding a new subsection to read:

9 (d) A person may not hold an interim-use or entry permit issued
10 or transferred under this chapter or transferred under AS 16.10.337 or
11 AS 44.81.250, if the person has ever forfeited an interim-use or entry
12 permit under AS 16.05.710.

13 * Sec. 6. AS 16.43.170 is amended by adding a new subsection to read:

14 (f) An application to transfer an entry permit or interim-use
15 permit filed with the commission under this section must be accom-
16 panied by an affidavit from the transferor that the transfer is not
17 made for the purpose of avoiding forfeiture of the permit under
18 AS 16.05.710. A person who falsifies an affidavit under this subsec-
19 tion is guilty of perjury under AS 11.56.200. If a permit is trans-
20 ferred to avoid forfeiture under AS 16.05.710, the transfer of the
21 permit is void and the permit is subject to forfeiture under AS 16.-
22 05.710. It is prima facie evidence of intent to avoid forfeiture of a
23 permit, if at the time of the application to transfer the permit,
24 proceedings in which the permit may be forfeited under AS 16.05.710
25 are pending against the transferor.

26 * Sec. 7. Notwithstanding the provisions of this Act, in a case pending
27 on the effective date of this Act involving a commercial fishing violation
28 that occurred before the effective date of this Act, the court and the
29 Commercial Fisheries Entry Commission shall apply the law that was in

1 effect on the date that the violation occurred.

2 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).