8-LS1676\J

SENATE BILL NO. 316

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS HALFORD, Jacko, Kerttula, Miller, Frank, Pearce

Introduced: 2/14/94
Referred: RES, FIN

A BILL

FOR AN ACT ENTITLED

"An Act relating to commercial fishing penalties."

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

*** Section 1.** AS 16.05.710(a) is amended to read:

(a) Upon the conviction of a person for a misdemeanor or felony violation of a commercial fishing law of this state, the court, in addition to other penalties imposed by law,

(1) may suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than one year [,] if the conviction is the person's first [OR SECOND] misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state or another jurisdiction; or

(2) shall suspend one or more of the person's commercial fishing privileges and licenses for [A PERIOD OF NOT MORE THAN] three years [,] if the conviction is the person's **second** [THIRD] or subsequent misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state

or another jurisdiction.

* **Sec. 2.** AS 16.05.722(a) is amended to read:

(a) A person who without any culpable mental state violates AS 16.05.440 - 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a violation and upon conviction is punishable by a fine of not more than

(1) **$6,000** [$3,000] for a first conviction; and

(2) **$12,000** [$6,000] for a second or subsequent conviction.

* **Sec. 3.** AS 16.05.722(b) is amended to read:

(b) In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 - 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department. It is the defendant's burden to show by clear and convincing [A PREPONDERANCE OF THE] evidence that fish on board or at the site were lawfully taken and retained.

* **Sec. 4.** AS 16.05.723(a) is amended to read:

(a) A person who negligently violates AS 16.05.440 - 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a misdemeanor and in addition to punishment under other provisions in this title, including AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine of not more than $15,000 or by imprisonment for not more than one year, or by both. In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation, and the court may forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device designed or employed to take fish commercially, that was used in or in aid of the violation. Any fish, or its fair market value, forfeited under this subsection may not also be forfeited under AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 - 16.05.690 or

a commercial fisheries regulation of the Board of Fisheries or the department, and it is the defendant's burden to show by **clear and convincing** [A PREPONDERANCE OF THE] evidence that fish on board or at the site were lawfully taken and retained.