

CS FOR SENATE BILL NO. 316(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/3/94  
Referred: Finance

Sponsor(s): SENATORS HALFORD, Jacko, Kerttula, Miller, Frank, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to commercial fishing penalties."

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

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

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

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

11 (2) shall suspend one or more of the person's commercial fishing  
12 privileges and licenses for a period of at least one year but not more than three years  
13 [,] if the conviction is the person's second [THIRD OR SUBSEQUENT] misdemeanor  
14 or felony conviction within a 10-year period for violating a commercial fishing law of

1 this state or another jurisdiction;

2 (3) shall suspend one or more of the person's commercial fishing  
3 privileges and licenses for a period of at least two years but not more than five  
4 years if the conviction is the person's third misdemeanor or felony conviction  
5 within a 10-year period for violating a commercial fishing law of this state or  
6 another jurisdiction;

7 (4) shall suspend one or more of the person's commercial fishing  
8 privileges and licenses for a period of at least three years but not more than seven  
9 years if the conviction is the person's fourth misdemeanor or felony conviction  
10 within a 10-year period for violating a commercial fishing law of this state or  
11 another jurisdiction; or

12 (5) shall order the forfeiture of one or more of the person's  
13 commercial fishing privileges and licenses if the conviction is the person's fifth or  
14 subsequent misdemeanor or felony conviction within a 10-year period for violating  
15 a commercial fishing law of this state or another jurisdiction.

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

17 (a) A person who without any culpable mental state violates AS 16.05.440 -  
18 16.05.690, or a regulation of the Board of Fisheries or the department governing  
19 commercial fishing, is guilty of a violation and upon conviction is punishable by a fine  
20 of not more than

21 (1) \$6,000 [\$3,000] for a first conviction; and

22 (2) \$12,000 [\$6,000] for a second or subsequent conviction.

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

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

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

2 (a) A person who negligently violates AS 16.05.440 - 16.05.690, or a  
3 regulation of the Board of Fisheries or the department governing commercial fishing,  
4 is guilty of a misdemeanor and in addition to punishment under other provisions in this  
5 title, including AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine  
6 of not more than \$15,000 or by imprisonment for not more than one year, or by both.  
7 In addition, the court shall order forfeiture of any fish, or its fair market value, taken  
8 or retained as a result of the commission of the violation, and the court may forfeit any  
9 vessel and any fishing gear, including any net, pot, tackle, or other device designed or  
10 employed to take fish commercially, that was used in or in aid of the violation. Any  
11 fish, or its fair market value, forfeited under this subsection may not also be forfeited  
12 under AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption  
13 that all fish found on board a fishing vessel used in or in aid of a violation, or found  
14 at the fishing site, were taken or retained in violation of AS 16.05.440 - 16.05.690 or  
15 a commercial fisheries regulation of the Board of Fisheries or the department, and it  
16 is the defendant's burden to show by clear and convincing [A PREPONDERANCE  
17 OF THE] evidence that fish on board or at the site were lawfully taken and retained.