



# LAWS OF ALASKA

1974

Source

HB 527 am S

Chapter No.

124

## AN ACT

Relating to penalties for fish and game violations.

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

\* Section 1. AS 16.05.720(a) is amended to read:

(a) Except as modified by (c) of this section, a person who violates secs. 480 - 700 of this chapter or the regulations of the department pertaining to commercial fisheries is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both.

\* Sec. 2. AS 16.05.720 is amended by adding a new subsection to read:

(c) A person who is convicted of commercial fishing in closed waters, commercial fishing during a closed period or season, or commercial fishing with unlawful gear including but not limited to nets, pots, tackle, or other devices designed or employed to take fish commercially, is guilty of a misdemeanor and in addition to the penalty imposed under (a) of this section is punishable by a fine of not less than the gross value to the fisherman of the fish found on the vessel or at the fishing site at the time of the violation. Upon a third conviction of a person for a violation under this subsection, and in addition to the forfeiture provision in sec. 710 of this chapter, the fine shall be not less than three times the gross value to the fisherman of the fish found on the vessel or at the fishing site, or, if no fish are found on the vessel or at the fishing site, a fine of not more than \$10,000.

\* Sec. 3. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.195. FORFEITURE OF EQUIPMENT. (a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title, or regulation promulgated under this title, and all fish and game or parts of fish and game or nests or eggs of birds taken, transported or possessed contrary to the provisions of this title, or regulation promulgated under it, may be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding of a violation of this title in a court of competent jurisdiction; or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that the item specified in (a) of this section was used in or in aid of a violation of this title or a regulation promulgated under it.

(b) Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them or nests or eggs of birds taken, transported or possessed contrary to the provisions of this title or a regulation promulgated under it.

(d) It is no defense that the person who had the item specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of such use.

(e) No forfeiture may be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.

(f) An item forfeited under this section shall be disposed of at the discretion of the department.