



LAWS OF ALASKA

1984

Source

CSHB 505 (Jud)

Chapter No.

149

AN ACT

Relating to insurance; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 4, 1984
Actual Effective Date: July 5, 1984

AN ACT

Relating to insurance; and providing for an effective date.

* Section 1. AS 21.09.200 is amended by adding a new subsection to read:

(e) An insurer shall pay to the division \$100 for each day the insurer fails to file the annual statement in the form required and within the time established in (a) of this section. The authority of the insurer to enter into new obligations or issue new or renewal policies of insurance in this state may be suspended by the director if the annual statement has not been filed by March 1.

* Sec. 2. AS 21.09.260 is amended to read:

Sec. 21.09.260. VIOLATIONS - PENALTIES. An insurer that the director determines, following an appropriate hearing as provided in AS 21.06.170 - 21.06.230, has violated [VIOLATING] the provisions of AS 21.09.220 - 21.09.250 is subject to a civil penalty of [GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE] not more than \$2,500 [\$500] for each violation. The [IN THE EVENT OF CONVICTION THE INSURANCE] director may suspend or revoke the license of the insurer for a violation of AS 21.09.220 - 21.09.250, but violation does [SHALL] not invalidate the insurance contract.

* Sec. 3. AS 21.22.170 is amended to read:

Sec. 21.22.170. VIOLATIONS [CRIMINAL PENALTY]. An insurer that the director determines, following an appropriate hearing as provided

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1 in AS 21.06.170 - 21.06.230, is guilty of a wilful violation of
2 AS 21.22.010 - 21.22.200 is subject to a civil penalty [, UPON
3 CONVICTION, PUNISHABLE BY A FINE] of not more than \$25,000 [\$10,000].
4 A person who is not an insurer and who the director determines,
5 following an appropriate hearing as provided in AS 21.06.170 -
6 21.06.230, to be [IS] guilty of a wilful violation of AS 21.22.010 -
7 21.22.200 is subject to a civil penalty [, UPON CONVICTION, PUNISHABLE
8 BY A FINE] of not more than \$15,000 [\$5,000 OR, IF THE WILFUL
9 VIOLATION INVOLVES THE DELIBERATE PERPETRATION OF A FRAUD UPON THE
10 DIRECTOR, BY IMPRISONMENT FOR NOT MORE THAN TWO YEARS, OR BY BOTH FINE
11 AND IMPRISONMENT].

12 * Sec. 4. AS 21.27.010(d) is amended to read:

13 (d) A person that the director determines, following an
14 appropriate hearing as provided in AS 21.06.170 - 21.06.230, has
15 violated [VIOLATING] this section is subject to a civil penalty
16 [PUNISHABLE BY A FINE] of not more than \$2,500 [\$500 AND IMPRISONMEN
17 FOR NOT MORE THAN SIX MONTHS] for each [INSTANCE OF A] violation.

18 * Sec. 5. AS 21.27.360(a) is amended to read:

19 (a) An agent or other representative of an insurer involved i
20 the procuring or issuance of an insurance contract shall report to th
21 insurer the exact amount of consideration charged as premium for th
22 contract. The amount charged shall be shown in the contract and i
23 the records of the agent. [EACH WILFUL VIOLATION OF THIS PROVISIO
24 SHALL CONSTITUTE A MISDEMEANOR.]

25 * Sec. 6. AS 21.27.360(c) is amended to read:

26 (c) An agent, solicitor, or broker who, not being lawfull
27 entitled to [THE] funds, is determined by the director, following a
28 appropriate hearing as provided in AS 21.06.170 - 21.06.230, to hav
29 diverted or appropriated [DIVERTS OR APPROPRIATES] them or any portic

1 of them to personal [HIS OWN] use, is subject to a civil penalty not
2 to exceed \$25,000 for each violation [SHALL BE GUILTY OF EMBEZZLEMENT,
3 AND SHALL BE PUNISHED AS PROVIDED IN THE CRIMINAL STATUTES OF ALASKA
4 FOR THE CRIME OF EMBEZZLEMENT].

5 * Sec. 7. AS 21.27.440 is amended to read:

6 Sec. 21.27.440. CIVIL PENALTIES [FINES] MAY BE IMPOSED. After
7 hearing and in addition to or in lieu of the suspension, revocation,
8 or refusal to renew a license, the director may levy a civil penalty
9 [FINE] upon the licensee not to exceed \$2,500 [OF NOT LESS THAN \$25
0 AND NOT MORE THAN \$250]. The order levying the civil penalty [FINE]
1 shall specify the period within which the civil penalty [FINE] shall
2 be fully paid, which period may not be less than 15 or more than 30
3 days from the date of the order. Upon failure to pay the civil pen-
4 alty [FINE] when due, the director shall revoke the licenses of the
5 licensee if not already revoked. The civil penalty [FINE] shall be
6 paid by the director to the commissioner of revenue for deposit in the
7 general fund.

8 * Sec. 8. AS 21.27.450 is amended to read:

9 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE
0 [SUSPENSION, REVOCATION, OR REFUSAL]. Upon the hearing of an appeal
1 from an order suspending, revoking, or refusing to renew a license
2 issued under this chapter, the court, if it finds that the licensee is
3 guilty of violation of the law and if it considers the suspension,
4 revocation, or refusal to renew the license too severe a penalty under
5 the facts as found, may instead impose a fine of not more than \$2,500
6 [\$500]. Payment of the fine within 10 days after its imposition shall
7 reinstate, restore, or renew the license.

8 * Sec. 9. AS 21.33.320 is amended to read:

9 Sec. 21.33.320. RECORDS OF INSUREDS. In order that the director

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1 may effectively administer this chapter, each person who has placed
2 insurance with an unauthorized insurer shall, upon the director's
3 order, produce for the [HIS] examination of the director all policies
4 and other documents evidencing the insurance [,] and shall disclose to
5 the director the amount of premiums paid or agreed to be paid for the
6 insurance. For each refusal to obey the order the person is subject
7 to a civil penalty [, UPON CONVICTION, IS GUILTY OF A MISDEMEANOR
8 PUNISHABLE BY A FINE] of not more than \$2,500 following an appropriate
9 hearing as provided in AS 21.06.170 - 21.06.230 [\$500].

10 * Sec. 10. AS 21.36 is amended by adding new sections to read:

11 Sec. 21.36.360. FRAUDULENT OR CRIMINAL INSURANCE ACTS. (a) A
12 person may not commit a fraudulent or criminal insurance act involving
13 an insurance transaction that is subject to the provisions of this
14 title. The penalty for a fraudulent or criminal insurance act de-
15 scribed in this section is in addition to a civil penalty levied under
16 this title.

17 (b) A fraudulent insurance act is committed by a person who,
18 with intent to injure, defraud, or deceive

19 (1) collects a sum as premium or charge for insurance if
20 the insurance has not been provided or is not in due course to be
21 provided, subject to acceptance of the risk by the insurer, by an
22 insurance policy authorized under this title;

23 (2) presents to an insurer a written or oral statement in
24 support of a claim for payment or other benefit under an insurance
25 policy, knowing that the statement contains false, incomplete, or
26 misleading information concerning a matter material to the claim;

27 (3) assists or conspires with another to prepare or make a
28 written or oral statement that is presented to an insurer in support
29 of a claim for a benefit under an insurance policy, knowing that the

statement contains false, incomplete, or misleading information concerning a matter material to the claim;

(4) wilfully collects as premium or charge for insurance a sum in excess of the premium or charge applicable to the insurance as specified in the policy by the insurer in accordance with the applicable classifications and rates approved by the director, or in cases where classifications and rates are not subject to approval, the premiums and charges applicable to the insurance as specified in the policy and fixed by the insurer;

(5) fails to make disposition of funds received or held or misappropriates funds received or held representing premiums or return premium; or

(6) fails to pay its tax liability under this title when due.

(c) A fraudulent insurance act is committed by a person forming or proposing to form an insurer, an insurance holding corporation, a stock corporation to finance an insurer or insurance production, a corporation to manage an insurer, a corporation to be attorney in fact for a reciprocal insurer, or a syndicate for any of these purposes that advertises, or solicits or receives funds, agreement, stock subscription, or membership on account unless the person has applied for and has received from the director a solicitation permit as required by AS 21.69.

(d) A fraudulent insurance act is committed by a person who makes a false sworn statement which the person does not believe to be true as to matter material to an examination, investigation or hearing of the division.

(e) A fraudulent insurance act is committed by a person if

(1) as to a matter material to an examination,

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1 investigation, or hearing by the division, the person makes two or
2 more sworn statements that are irreconcilably inconsistent to the
3 degree that one of them is necessarily false; and

4 (2) the person does not believe one of the statements to be
5 true at the time the statement is made.

6 (f) A fraudulent insurance act is committed by a person who with
7 intent to deceive, knowingly exhibits a false account, document, or
8 advertisement, relative to the affairs of an insurer, a corporation,
9 or syndicate of the kind described in AS 21.69.060, formed or proposed
10 to be formed.

11 (g) A fraudulent insurance act is committed by a person who
12 wrongfully removes or attempts to remove records from the place where
13 they are required to be kept under AS 21.69.390(a) or who conceals or
14 attempts to conceal records from the director.

15 (h) A fraudulent insurance act is committed by a person who
16 deliberately perpetrates a fraud upon the director under AS 21.22.

17 (i) A criminal insurance act is committed by an insurer doing
18 business in this state who knowingly

19 (1) writes, places, or causes to be written or placed in
20 this state a policy, duplicate policy or contract of insurance of any
21 kind or character, or general or floating policy upon persons or
22 property resident, situated or located in this state, from or through
23 a broker, agent, surplus line broker or person who has not secured
24 general agent license in this state; or

25 (2) pays a commission or form of remuneration to a person
26 firm or organization for the writing or placing of insurance coverage
27 in this state unless that person, firm or organization holds a license
28 issued by the director for the kind of insurance written or placed.

29 (j) A criminal insurance act is committed by a person in thi

state who acts as an insurance agent, broker, solicitor, or adjuster without being licensed by the director. A criminal insurance act is committed by an agent, broker, or solicitor who solicits or takes application for, procures, or places for others any insurance for which the person is not licensed or for which the license of the person has been suspended or revoked. This subsection does not apply to a person described in AS 21.27.520 or to a person securing and forwarding information required for the purposes of group insurance covering the unpaid balance or remaining payments proposed to be made in connection with the purchase of merchandise or services if no commission or other compensation is payable on account of the insurance to the person.

(k) A criminal insurance act is committed by an agent, general agent, broker, or solicitor who knowingly compensates or offers to compensate in any manner a person other than an agent, general agent, broker, or solicitor licensed in this or another state or province, for procuring or in any manner helping to procure applications for or to place insurance in this state. This subsection does not apply to the payment of compensation that is not contingent upon volume of business transacted in the form of salaries to the regular employees of the agent, general agent, broker, or solicitor.

(l) A criminal insurance act is committed by a person who has placed insurance with an unauthorized insurer and refuses to obey an order by the director to produce for examination all policies and other documents evidencing the insurance and the amount of premiums paid or agreed to be paid for the insurance.

(m) A criminal insurance act is committed by a director of a domestic stock or mutual insurer who votes for or concurs in a declaration or payment of a dividend to stockholders or members other than

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1 as authorized under AS 21.69.490 - 21.69.500.

2 (n) A criminal insurance act is committed by an agent or other
3 representative of an insurer involved in the procuring or issuance of
4 an insurance contract who intentionally fails to report to the insurer
5 the exact amount of consideration charged as premium for the contract
6 and to maintain records showing that information.

7 (o) A fraudulent insurance act is committed by a person who
8 with intent to injure, defraud, or deceive, knowingly makes a false or
9 fraudulent statement or representation in or with reference to a
10 application for insurance.

11 (p) A fraudulent insurance act is committed by a person who
12 violates a provision of this title or a regulation issued under it.

13 (q) A fraudulent or criminal insurance act described in

14 (1) (b) of this section that is committed to obtain \$10,000
15 or more is a class B felony;

16 (2) (c) or (d) of this section is a class B felony;

17 (3) (b) of this section that is committed to obtain \$500 or
18 more but less than \$10,000 is a class C felony;

19 (4) (e), (f), (g), or (h) of this section is a class
20 felony;

21 (5) (b) of this section that is committed to obtain less
22 than \$500 is a class A misdemeanor;

23 (6) (i), (j), (k), (l), or (m) of this section is a class
24 misdemeanor; and

25 (7) (o) of this section is a class B misdemeanor;

26 (8) (p) of this section is a class B misdemeanor unless
27 another specific penalty is provided for the violation of the provi-
28 sion.

29 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.36
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1 the following actions are not considered a premium or charge for
2 insurance:

3 (1) the charging and collection by surplus line brokers
4 licensed under AS 21.33 of the amount of applicable state and federal
5 taxes and filing fees under AS 21.33.220 - 21.33.230;

6 (2) the charging and collection by a life insurer of
7 amounts actually to be expended for medical examination of an appli-
8 cant for life insurance or for reinstatement of a life insurance
9 policy.

10 Sec. 21.36.380. NOTICE ON CLAIM FORM. A claim form shall con-
11 tain a statement that states in substance the following: "A person
12 who knowingly and with intent to injure, defraud, or deceive an insur-
13 ance company files a claim containing false, incomplete, or misleading
14 information is guilty of a felony." A lack of the statement on a
15 claim form does not constitute a defense to prosecution under this
16 title.

17 Sec. 21.36.390. NOTICE TO DIRECTOR. (a) An insurer that has
18 reason to believe that a fraudulent claim has been made against it
19 shall send the director a report disclosing information that the
20 director may require.

21 (b) An insurer, employee or agent of an insurer or another
22 person acting without malice is not subject to civil liability for the
23 filing of the report or furnishing other information required by this
24 section or by the director.

25 (c) The director shall investigate facts reported under this
26 section and shall refer facts indicating a violation of law to the
27 appropriate prosecutor.

28 Sec. 21.36.400. CONFIDENTIALITY. (a) The papers, reports,
29 documents, and evidence received under AS 21.36.390 or an

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1 investigation arising out of information received under AS 21.36.390
2 are not subject to public inspection for so long as the director
3 considers confidentiality to be in the public interest or reasonably
4 necessary to complete an investigation or protect the person investi-
5 gated from unwarranted injury. Papers, reports, documents, and evi-
6 dence relative to an investigation under this section are confidential
7 and not subject to subpoena unless, after notice to the director and a
8 hearing, a court determines the director would not be unduly hindered
9 by public inspection.

10 (b) An investigator of the director is not subject to subpoena
11 in a civil action by a court of this state to testify concerning a
12 matter that the investigator has knowledge of under a pending insur-
13 ance fraud investigation by the director.

14 Sec. 21.36.410. OUT-OF-STATE INVESTIGATIONS. (a) If material
15 the director seeks to obtain is located outside the state, the mater-
16 ial may be made available to the director to examine at the plac-
17 e where the material is located. The director may designate representa-
18 tives, including officials of the state in which the material is
19 located, to inspect the material on behalf of the director.

20 (b) The director may respond to a request from an official of
21 another state under procedures established in (a) of this section.

22 * Sec. 11. AS 21.39.160(a) is amended to read:

23 (a) If the [THE] director [MAY, IF HE] finds, following an
24 appropriate hearing, that a person or organization has violated
25 provision of this chapter, the director may impose a civil penalty not
26 to exceed \$200 or the actual amount of gain, whichever is greater, [
27 NOT MORE THAN \$50] for each violation, but if the director [HE] finds
28 the violation to be wilful the director [HE] may impose a penalty of
29 \$2,000 or three times the actual amount of gain, whichever is greater.

[OF NOT MORE THAN \$500] for each violation. The penalties may be in addition to any other penalty provided by law. In this section, "gain" means the difference between the amount actually charged and the amount that should have been charged under applicable filings of the person or organization.

* Sec. 12. AS 21.66.160 is amended to read:

Sec. 21.66.160. PENALTIES. An officer, director, agent or employee of a company determined by the director, following an appropriate hearing as provided in AS 21.06.170 - 21.06.230, to have [WHO], before obtaining a certificate of authority from the director or after a revocation of a certificate of authority [THEREOF] by the director, issued [AND WHILE IN DEFAULT UNDER THIS CHAPTER ISSUES] a policy of title insurance or certificate of title on property in this state [,] or engaged [WHO ENGAGES] in title insurance business in this state, [IS GUILTY OF A MISDEMEANOR AND] is subject to a civil penalty [A FINE OF] not to exceed \$2,500 [\$500 OR IMPRISONMENT NOT TO EXCEED SIX MONTHS OR BOTH].

* Sec. 13. AS 21.66.430(a) is amended to read:

(a) If the director finds, following an appropriate hearing as provided in AS 21.06.170 - 21.06.230, that a title insurance rating organization, a title insurance company, or title insurance agent has violated a provision of this chapter, the director may impose a civil penalty of not more than \$200 or the actual amount of gain resulting from the violation, whichever is greater, [\$100] for each violation. If [HOWEVER, IF] the violation described in this section is wilful, the director may [SHALL] impose a civil penalty of \$2,000 or three times the actual amount of gain resulting from the violation, whichever is greater, [NOT MORE THAN \$1,000] for each violation. A penalty [PENALTIES] imposed under this section is [ARE] in addition to any

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1 other penalty [PENALTIES] provided by law. In this section, "gain"
2 includes the total premium acquired through actions in violation of
3 this chapter.

4 * Sec. 14. AS 21.69.060(b) is amended to read:

5 (b) A person determined by the director, following an appro-
6 priate hearing as provided in AS 21.06.170 - 21.06.230, to have
7 violated [VIOLATING] this section is subject to a civil penalty
8 [PUNISHABLE BY A FINE] of not more than \$25,000 [\$10,000, OR BY IMPRIS
9 ONMENT FOR NOT MORE THAN 10 YEARS, OR BY BOTH].

10 * Sec. 15. AS 21.69.210 is amended to read:

11 Sec. 21.69.210. PENALTY FOR EXHIBITING FALSE ACCOUNTS, ETC. :
12 [EVERY] person determined by the director, following an appropriat
13 hearing as provided in AS 21.06.170 - 21.06.230, to have knowingly
14 exhibited [WHO], with intent to deceive, [KNOWINGLY EXHIBITS] a fals
15 account, [OR] document, or advertisement, relative to the affairs o
16 an insurer, or of a corporation or syndicate of the kind enumerated i
17 AS 21.69.060, formed or proposed to be formed, is subject to a civi
18 penalty [SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN FIV
19 YEARS, OR BY A FINE] of not more than \$25,000 [\$10,000, OR BY BOTH].

20 * Sec. 16. AS 21.69.390(b) is amended to read:

21 (b) A person determined by the director, following an appropri
22 ate hearing as provided in AS 21.06.170 - 21.06.230, to have remov
23 or attempted [WHO REMOVES OR ATTEMPTS] to remove any records from t
24 place where they are required to be kept under (a) of this secti
25 with the intent to wrongfully remove them, or to have concealed
26 attempted [WHO CONCEALS OR ATTEMPTS] to conceal them from the dire
27 tor, is subject to a civil penalty [PUNISHABLE BY A FINE] of not mo
28 than \$25,000 [\$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN FI
29 YEARS, OR BY BOTH]. If a domestic insurer violates a provision

1 this section the director may institute delinquency proceedings
2 against the insurer under the provisions of AS 21.78.

3 * Sec. 17. AS 21.69.510(a) is amended to read:

4 (a) A director of a domestic stock or mutual insurer determined
5 by the director, following an appropriate hearing as provided in
6 AS 21.06.170 - 21.06.230, to have voted [WHO VOTES] for or concurred
7 [CONCURS] in a declaration or payment of a dividend to stockholders or
8 members other than as authorized under AS 21.69.490 or 21.69.500 is
9 subject to a civil penalty of not more than \$2,500 [, UPON CONVICTION,
10 GUILTY OF A MISDEMEANOR] and is jointly and severally liable, together
11 with other directors likewise voting for or concurring, for any loss
12 sustained by the insurer.

13 * Sec. 18. AS 21.84.420(a) is amended to read:

14 (a) A person determined by the director, following an appropri-
15 ate hearing as provided in AS 21.06.170 - 21.06.230, to have acted
16 [WHO IN THIS STATE ACTS] as insurance agent for a society without
17 having authority so to do by virtue of a license issued and in force
18 under this chapter, except as provided in AS 21.84.410(b), is subject
19 to a civil penalty of not to exceed \$2,500 [SHALL BE PUNISHABLE BY
20 IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT MORE
21 THAN \$500, OR BY BOTH].

22 * Sec. 19. AS 21.84.470(b) is amended to read:

23 (b) A person determined by the director, following an appropri-
24 ate hearing as provided in AS 21.06.170 - 21.06.230, to have violated
25 [WHO VIOLATES] a provision of this section or to have knowingly
26 received [RECEIVES] compensation or a commission by or in consequence
27 of the violation, is subject to a civil penalty of [, UPON CONVICTION,
28 PUNISHABLE BY A FINE] not [LESS THAN \$100 OR] more than \$2,500
29 [\$1,000, OR BY IMPRISONMENT IN JAIL NOT LESS THAN 30 DAYS OR MORE THAN

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1 90 DAYS, OR BY BOTH FINE AND IMPRISONMENT], and shall in addition be
2 liable for civil penalty in the amount of three times the sum received
3 by the violator as compensation or commission, which penalty may be
4 sued for and recovered by a person or society aggrieved for the per-
5 son's or society's [HIS OR ITS] own use and benefit [IN ACCORDANCE
6 WITH THE PROVISIONS OF CIVIL PRACTICE].

7 * Sec. 20. AS 21.84.590 is amended to read:

8 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the
9 provisions contained in this chapter, other chapters and provisions of
10 this title shall apply to fraternal benefit societies, to the extent
11 applicable and not in conflict with the express provisions of this
12 chapter and the reasonable implications thereof, as follows:

13 (1) AS 21.03

14 (2) AS 21.06, with the exception of AS 21.06.250

15 (3) [THE FOLLOWING SECTIONS OF AS 21.09:

16 (A)] AS 21.09.050 and

17 [(B) AS] 21.09.100

18 (4) AS 21.33.010

19 (5) AS 21.36 [AS 21.36.010 - 21.36.350]

20 (6) AS 21.42.290 and [AS] 21.42.355

21 (7) AS 21.69.370 and

22 [(8) AS] 21.69.640

23 (8) [(9)] AS 21.78

24 (9) [(10)] AS 21.89.060.

25 * Sec. 21. AS 21.90.020 is amended to read:

26 Sec. 21.90.020. GENERAL PENALTY. A person determined by t
27 director, following an appropriate hearing as provided in AS 21.06
28 170 - 21.06.230, to have violated [WHO VIOLATES] a provision of th
29 title [,] or a regulation adopted [ISSUED] under it, for whi

1 violation a greater penalty is not provided in this title [BY OTHER
2 APPLICABLE LAWS OF THIS STATE, UPON CONVICTION], is subject to a civil
3 [, IN ADDITION TO ANY ADMINISTRATIVE] penalty [OTHERWISE APPLICABLE,
4 PUNISHABLE BY A FINE] of not [LESS THAN \$50 OR] more than \$2,500
5 [\$1,000, OR BY IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 90
6 DAYS, OR BY BOTH].

7 * Sec. 22. AS 21.06.170(e); AS 21.36.180, 21.36.200; and AS 21.51.340
8 are repealed.

9 * Sec. 23. This Act takes effect July 1, 1984.
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