

## KSC, TITLE 19. MARINE RESOURCES

### Chapter 7. Civil Remedies

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#### **Section 19.701. General enforcement.**

The Attorney General shall prosecute violations of this Title unless he determines that administrative enforcement proceedings satisfy the interests of justice. The Attorney General may take action to stop any violation of this Title, including seeking injunctions and restraining orders. Any prosecution not handled administratively may be pursued under the criminal laws of Title 13 and/or the civil penalties and forfeiture provisions of this Title.

#### **Section 19.702. Civil penalties.**

(1) Any person who is found in a civil proceeding to have committed an act prohibited by this Title is liable to the State for a civil penalty. Civil penalties and fines may be imposed in addition to any criminal punishment imposed pursuant to Title 13.

(2) The amount of the civil penalty may not exceed \$1,000,000 for each violation of this Title. Each day of a continuing violation constitutes a separate offense for which a separate penalty may be imposed.

(3) In determining the amount of a civil penalty, the court shall consider:

- (a) The nature, circumstances, extent, and gravity of the acts;
- (b) The violator's degree of culpability and any history of prior offenses; and
- (c) Any other matter that justice requires.

(4) The Attorney General may initiate all proceedings under this Title and recover the amount assessed as a civil penalty.

(5) The proceeds of civil penalties must be deposited into the General Fund.

#### **Section 19.703. Liability for loss or damage.**

In addition to imposition of a fine or imprisonment for violation of this Title, the Court may also determine and impose a damage award for any loss or damage caused by the act(s) underlying the violation. The damage award may be recovered in the same manner as a fine.

#### **Section 19.704. Revocation of permit.**

In addition to other penalties, the Court may order the revocation or suspension of any permit issued under this Title and may prohibit holding any such permit for up to 5 years.

**Section 19.705. Liability of operator.**

In any proceedings under this Title, the operator of a fishing vessel is liable for the acts or omissions of any crew member under his direction or supervision.

**Section 19.706. Civil liability of officers of companies.**

Each officer of a partnership, corporation, firm, company, or any other business enterprise engaged in activities governed by this Title is personally liable for any violation of this Title by any member or employee of that business enterprise. It is an affirmative defense to liability under this section that the officer used due diligence to secure compliance with the Title or that the violation or offense was committed without that officer's knowledge, consent, collusion or collaboration.

**Section 19.707. Presumptions.**

The presumptions set forth in this Section establish prima facie evidence of the subject matter of the presumption and constitute sufficient proof of any element of an offense to which the presumption is material unless the Court, or the Director in an administrative proceeding, finds that the presumption is rebutted by competent evidence.

(1) Any fish found on board any fishing vessel used in the commission of an offense under this Title is presumed to have been caught or taken in the commission of that offense.

(2) Any entry in or on any log, chart or other document required to be maintained or used to record the activities of a fishing vessel is presumed to be that of the operator of that vessel.

**Section 19.708. Burden of proof.**

Where, in any proceeding under this Title, a person has been alleged to have committed an offense involving an act for which a permit is required, the burden is on that person to prove that at the relevant time the requisite permit was held.

**Section 19.709. Remittance to informant.**

If a person has given material information leading to a conviction or determination of liability, he is entitled to receive 1% of the fine collected.