

Law enforcement on the arrest and prosecution of non-compliance of fishing vessels using crab trap fishing gear in Surat Thani Province

Related Laws

THE FISHERIES ROYAL ORDINANCE B.E.2558

Section 71, “the Minister or the Provincial Fisheries Committee shall have the power to issue the following announcements:

(1) Fishing gear according to the form of the tool, fishing method, fishing area, size of fishing vessels that used for fishing operations and other conditions prohibiting the use of fishing in fisheries.”

Section 147, “Any person who violates section 67 (2) (3) or (4), section 69 or section 71 shall be liable to a fine of ten thousand baht to one hundred thousand baht or a fine of five times the value of the aquatic animals obtained from fishing, whichever is higher.

If the offender under paragraph one using a vessel of ten gross tons upwards but less than twenty gross tons shall be liable to a fine of one hundred thousand baht to two hundred thousand baht or a fine of five times the value of aquatic animals obtained from fishing, whichever is higher.

If the offender under paragraph one using a vessel of twenty gross tons upwards but less than sixty gross tons shall be liable to a fine of two hundred thousand baht to six hundred thousand baht or a fine of five times the value of the aquatic animals obtained from the fishing, whichever is higher.

If the offender under paragraph one using a vessel of sixty gross tons upwards but less than one hundred and fifty gross tons shall be liable to a fine of six hundred thousand baht to six million baht or a fine of five times the value of the aquatic animals obtained from the fishing, whichever is higher.

If the offender under paragraph one using a vessel of one hundred and fifty gross tons upwards shall be liable to a fine of six million baht to thirty million baht or a fine of five times the value of the aquatic animals obtained from the fishing, whichever is higher.

Announcement of the Ministry of Agriculture and Cooperatives regarding the determination of fishing gear, fishing method and fishing areas that are prohibited from fishing in coastal marine fisheries, B.E. 2560 dated November 9th 2017.

Article 2 No one shall use the following fishing gears to fish in coastal area fishing.

(4) Crab Gill Nets with a net length more than 3,000 meters per 1 fishing vessel.

(7) Crab Traps with a net size smaller than 2.5 inches or for fishing more than 300 per one fishing vessel.

Analysis

According to the table, there are 3 cases of fishing vessels ranging in size from ten gross tons upwards but less than twenty gross tons of crab traps fishing gear between 2018 to May 2022 with an arrest procedure and prosecute according to the criminal prosecution plan and administrative measures according to the Fisheries Royal Ordinance B.E.2558, as amended and the results of the litigation are as follows:

1.2018, there is 1 case.

To be a commercial fishing license to fish in the coastal areas, which is a violation of Section 38 of the Fisheries Royal Ordinance B.E. 2558, and the court has sentenced to confiscate the fishing vessel.

2.2020, there are 2 cases.

1 case, using crab trap more than 300 traps in coastal fisheries area a violation of the Fisheries Royal Ordinance B.E. 2558, Section 71 (1) with announcement of the Ministry of Agriculture and Cooperatives regarding the determination of fishing gear, fishing method and fishing areas that are prohibited from fishing in coastal marine fisheries, B.E. 2560 dated November 9th, 2017, article 2 (7), and the accused paid the fine, Criminal case dismissed.

1 case, to be a commercial fishing license to fish in the coastal areas, which is a violation of Section 38 and using a seafarer without a seafarer's certificate which is a violation of Section 83, and the accused paid the fine, Criminal case dismissed.

It can be seen that the offenses in 2018 and 2020 involve the use of fishing vessels with a size of ten gross tons upwards but less than twenty gross tons. In 2018, 1 case was a case of a commercial fishing license to fish in the coastal areas which is a violation of Section 38 of the Fisheries Royal Ordinance B.E. 2558, and the court has sentenced to confiscate the fishing vessel. And 2020, 1 case was a case of a violation of the Fisheries Royal Ordinance B.E. 2558, Section 71 (1) with announcement of the Ministry of Agriculture and Cooperatives regarding the determination of fishing gear, fishing method and fishing areas that are prohibited from fishing in coastal marine fisheries, B.E. 2560 dated November 9th, 2017, article 2 (7) and the court has sentenced to confiscate the property in dispute. One other case was a case of a commercial fishing license to fish in the coastal areas, which is a violation of Section 38 and using a seaman without a seaman book which is a violation of Section 83 and the accused paid the fine, Criminal case dismissed. Which the case of using crab trap as violation of the Fisheries Royal Ordinance B.E. 2558, Section 71 (1) with announcement of the Ministry of Agriculture and Cooperatives had only 1 case. The other two cases were offenses related to fishing areas and the use of seafarers without a seafarer's certificate.

For offenses according to the Fisheries Royal Ordinance B.E.2558, Section 71 (1) impose fine penalties for violating the law based on the size of the fishing vessel. Enforcement of deterrent law that is effective enough to keep offenders from committing crimes again which will find that there is a tendency to violate the law in 2019 and 2021 until now, there has been no illegal action and increased compliance with the law because the offender saw that the law had severe penalties.

Case study on Law Enforcement, Arrest and Non-Compliance in the Gulf of Thailand (Crab Gil Nets Vessel/Crab Trap Vessel) 2017 – Present

Surat Thani Province found the arrest of offenders, 2 cases.

Case No.1, on November, 22nd 2019 at 2.30 AM in the coastal sea, Don Sak Subdistrict, Don Sak District, Surat Thani Province, Latitude 09 27 538 North, Longitude 99 42 479 East. Mr. Sombat Chamchuen, Position of Professional Fisheries Officer, Koh Tao Marine Fisheries Prevention and Suppression Unit, Surat Thani who arrested a fishing vessel named K.Saksuriya, Thai vessel registration number 534300152, size 9.38 gross tons, found 5 offenders. With alleging that “Together, use the crab traps as illegal fishing which is smaller than 2.5 inches in circumference, fishing in the coastal seas without permission. Violate the announcement of the Ministry of Agriculture and Cooperatives regarding the determination of fishing gear, fishing method and fishing areas that are prohibited from fishing in coastal marine fisheries, B.E. 2560 dated 9th November 2017. Violation of the Emergency Decree on Fisheries B.E. 2558 and the Emergency Decree on Fisheries B.E. 2560 (Amended), section 71 (1), penalties, section 147 and section 169. Bring the suspect, the staff from the investigative officer at Don Sak Police Station on December 2nd, 2019. Investigators at the Don Sak Police Station have sent the arrest record and the accused's testimony record for comparison. The Surat Thani Provincial Comparison Committee held a meeting on December 4th, 2019. The results of the comparison committee's consideration has resolved to fine the ship's owner for 180,000 baht, the ship's master is 90,000 baht, and the 4 crew members are 4,000 baht, a total of 274,000 baht, and the accused has already made the payment on December 11th, 2019.

Case No.2, on January 12th, 2020 at 2:00 AM in the coastal sea, Don Sak Subdistrict, Don Sak District, Surat Thani Province, Latitude 09 27 538 North, Longitude 99 42 479 East. Acting Lt. Nakarin Pholcharoen, Position of Fisheries Officer, Koh Tao Marine Fisheries Prevention and Suppression Unit, Surat Thani who arrested a fishing vessel named S.Wutthichai Nawee 2, Thai vessel registration number 574201013, size 13.82 gross tons, found 5 offenders. With alleging that “Together, use crab traps to assemble commercial fishing vessels as illegal fishing in coastal seas. Violate the announcement of the Ministry of Agriculture and Cooperatives regarding the determination of fishing gear, fishing method and fishing areas that are prohibited from fishing in coastal marine fisheries, B.E. 2560. Violation of the Emergency Decree on Fisheries B.E. 2558 and the Emergency Decree on Fisheries B.E. 2560 (Amended), section 71 (1), penalties, section 147 and section 169. Bring the suspect, the staff from the investigating officer at the Koh Samui Police Station on February 6th, 2020. Investigators at the Koh Samui Police Station have sent the arrest record and the accused's testimony record for comparison. The Surat Thani Provincial

Comparison Committee held a meeting on February 7th, 2020. The results of the comparison committee's consideration have resolved to fine the ship's master for 130,000 baht, 4 crew members for 4,000 baht, and the ship's owner who gets the beneficiary base in fishing for 130,000 baht, a total of 264,000 baht, and the accused has already made the payment on February 11th, 2020.

Information on the arrest and prosecution of fishing vessels using crab trap fishing gear in Surat Thani province between 2018 to present, 3 cases.

No.	Date of arrest	Vessel Details	Behavior / Allegations	Arrest Area	Result of Administrative Measures	Result of Criminal Case	Remark
1	January, 19 th 2018	- Vessel Name = Marina A - Registration No. 534200467 - Size 11.59 GT - Crab Trap	Being a licensed commercial fishing operator in coastal areas which is a violation of section 38.	Laem Chui area Phum Rieng Sub-district, Chaiya District Surat Thani Province	Suspension of commercial fishing licenses for 30 days. The order comes into force on 9 th March 2018.	- The Chaiya Provincial Court issued a verdict on June 12 th , 2018, confiscation of the disputed fishing vessel. - The Court of Appeal made a judgment on December 12, 2018.	
2	January, 12 th 2020	- Vessel Name = S.Wutthichai Nawee 2 - Registration No. 574201013 - Size 13.82 GT - Crab Trap	More than 300 crab traps were used to fish in coastal area which is a violation of Section 71(1).	Ang Thong Islands Area Koh Samui District Surat Thani Province	Suspension of commercial fishing licenses for 20 days. The order comes into force on 4 th February 2020.	- Comparison fined in the amount of 264,000 baht. - The accused paid the fine and the criminal case was terminated.	
3	September , 29 th 2020	- Vessel Name = C.Chan Namchai 3 - Registration No. 584204055 - Size 11.96 GT - Crab Trap	- Being a licensed commercial fishing operator in coastal areas which is a violation of section 38. - Use a seaman without a seaman book which is a violation of section 83.	The coastal area of Prap Island Mueang Surat Thani District Surat Thani Province	Commercial fishing license revocation. The order comes into force on 1 st February 2021.	- Comparison fined in the amount of 23,000 baht. - The accused paid the fine and the criminal case was terminated.	

The Legal Division investigated information on illegal blue crab fishing in the Surat Thani area after Sent at the end of 2020 (29 September 2020) until now No offenses related to illegal blue crab fishing were found. This demonstrates the effective enforcement of the deterrent law, as the Fisheries Decree 2015 and its amendments, Article 147 provides for penalties for violating the law based on the size of fishing vessels and has Fines up to thirty million baht causing the offender to see that the law has severe penalties to prevent the commission of an offense and the offender never returns to commit another crime. In addition, there is an understanding of fishermen to use fishing tools according to the law, making fishermen comply with the law more.