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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 12

BILL NAME: Maximum length of salmon seine vessels.

SPONSOR(S): Ziegler (request)

RELATED BILLS PENDING:

DATE INTRODUCED: 1-18-83

HB 5

REFERRALS: Resources
L+C

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

RELATING TO THE MAXIMUM LENGTH OF SALMON SEINE VESSELS.

SB 12

ZIEGLER

Repeals the statute limiting salmon seiners to 50 feet (official Coast Guard register length, and 58 feet overall length) except vessels that have fished for salmon with seines before January 1, 1962.

Fishermen in Southeast support - want to be able to fish with larger boats. Fishermen in Kodiak don't - have built their economy on fishing with 58 foot boats. Feel they might get cut out of too large a share if bigger boats are allowed to come in.

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

BILL SHEFFIELD, GOVERNOR

Robert J. Sundberg
Commissioner

P. O. BOX 6188, ANNEX
ANCHORAGE, ALASKA 99502

January 27, 1983

FEB 1 1983

Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I would like to present the following positions which the Division of Fish & Wildlife Protection, Department of Public Safety hold with regard to the subsequent Senate Bills under proposal:

S.B. 2 - Opposed

- (1) Would be nearly impossible to enforce as it would require vessels be measured while fishing, generally hard to do under most water conditions.
- (2) would also negate 16.05.520 which establishes a vessel identification number which is required to be displayed, thus making all effected vessels unidentifiable from any distance.
 - (a) Would negate 5 AAC 06.342, 09.342, 15.342, 21.342, 39.120(3)(c),(3), 39.120(4)(c); 39.120(5), 39.270(c), 39.381(b) and 39.374.
 - (b) Would make those sections in (a) above unenforceable as these sections all require a number emanating from a vessel license.

S.B. 5 - Neutral (with amendment)

Proposed Amendment:

Require all nonresidents to be guided or
in the company of 2nd degree kindred.

As written the bill will invite an increase in residency falsification on hunting licenses. These are not usually identified until after the season is over and consequently the people are already out of state.

Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

January 27, 1983

Assigning nonresidents to guides will increase control of the non-residents. We would propose that permits be issued to the guides in the areas where the Board determines a population of animals warrants allowing nonresidents to hunt.

Nonresident aliens are already required to use a guide and since that requirement became effective enforcement problems with nonresident aliens has declined sharply.

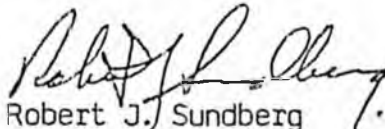
S.B. 12 - Neutral

This bill may prove to be detrimental in the future to some of the smaller fishermen.

S.B. 51 - Neutral

No Comment.

Sincerely,


Robert J. Sundberg
Commissioner

MAY 2, 1983

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 12 Date on Bill: _____
 Title: relating to the maximum length of salmon seine vessels; providing effective date
 Sponsor: By Ziegler by request
 Requestor: Senate Resources

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	0	0	0	0

b. Revenues:

	FY 83	FY 84	FY 85	FY 86
Revenue	0	0	0	0

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Col. Robert J. Stickles *RJS* Phone: 269-5532
 Division: Fish & Wildlife Protection Date: 3/4/83

Approved by Commissioner: *[Signature]* Date: 3/10/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

Seine Length

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-1800

MEMORANDUM

April 7, 1980

SUBJECT: Salmon seine vessels
CSHB 1

TO: Representative Charles H. Parr

FROM: Kenneth E. Vassar
Legislative Counsel *KEV*

You have asked for an opinion relating to any constitutional questions which may arise under CSHB 1 (relating to the maximum length of salmon seine vessels). This bill amends the existing statute which places a maximum length on salmon seine vessels in the state of 58 feet overall length and 50 feet official Coast Guard register length. The amendment in the bill would provide that this limitation does not apply to salmon seine vessels in southeastern Alaska.

Since this bill, on its face, treats one area of the state differently from other areas, it raises questions relating to Article II, sec. 19, Constitution of the State of Alaska. That constitutional section provides in part:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

Essentially, an act challenged as local or special is analyzed in the same manner as an act challenged as violative of equal protection. Abrams v. State, 534 P.2d 91 (1975); State v. Lewis, 559 P.2d 630 (1977). However, there is one significant difference between the local legislation analysis and the equal protection analysis. Under the equal protection analysis, the act must fairly and substantially relate to a legitimate state interest or concern. Under the local legislation analysis, the interest or concern is, at least in part, determined to be "legitimate" only if it is

statewide in nature. That is, even though the act may treat certain areas of the state differently from other areas, it is not local or special if it fairly and substantially relates to a matter of statewide concern or interest. Thus, in Abrams, the court found the incorporation of the Eagle River-Chugiak Borough to be a matter which is not of statewide interest or concern and found the legislation authorizing the formation of that borough to be local legislation. On the other hand, in Lewis, the court found the capital move to be a matter of statewide concern, and legislation which fairly and substantially related to the capital move was not found to be local or special legislation.

The first question in this bill, then, is whether the length of salmon seine vessels in southeastern Alaska is a matter of statewide concern or interest. I think it probably is not. Perhaps it is conceivable that this bill is somehow related to boating safety, which would be a matter of statewide concern; however, nothing in the bill indicates this is the concern being addressed or, if it is, how it is fairly and substantially related to that concern.

Assuming that the length of salmon seine vessels in southeastern Alaska is not a matter of statewide concern, the next question is whether a general act can be made applicable to the problem being addressed. There is in existence in Alaska a board of fisheries with powers to regulate the means used for harvesting fish in the waters of the state. If there were no maximum length of salmon seine vessels in the statutes, the board of fisheries would probably have the authority to fix a maximum length under the powers it currently possesses; however, to resolve any doubt, a general act could be passed expressly giving the board that authority. If considerations of safety necessitate a maximum length or lack of a maximum length, the general act authorizing the board to establish maximum lengths could list those considerations as criteria for the board to follow. Alternatively, a new statute prescribing maximum lengths of vessels in various areas of the state might be fashioned using the same kinds of criteria, or other criteria which establish a fair and substantial relationship between the legislation and a legitimate state interest could be used.

In summary, I believe the bill in its present form poses significant problems under the local legislation prohibition in the state Constitution.

KEV:ljb

1143

1216 — ★



1244

REPEAL 58' LIMIT
3 YEARS
5 YEARS — TASKI
[REPERCUSSIONS]



'REASONABLE BASIS' FOR GEOGR.
DISCRIMINATION.

BOARD F DECISION BETTER

STATUTE IS TOO RIGID →

58' EXCEPT AS PROVIDED FOR
BY BOARD OF F+G REG'S

[PUBLIC INTEREST]
[PUBLIC NEEDS]
REASONABLE BASIS FOR DISCRIM.

~~SAFETY~~ CRITERIA

- ① SAFETY
- ② PROTECTION OF RESOURCE

MAKE SURE IN RECORD

THE INTENT — PURPOSE —

STAB REASON. BASIS.

EXCEPTION IS THE WAY TO GO.

718400

January 14, 1982

John Oaksmith
716 Totem Way
Ketchikan, Alaska 99901

The Honorable Eric G. Sutcliffe
Alaska State House of Representatives
Pouch "V", State Capitol Building
Juneau, Alaska 99811

RE: Alaska 58' Seine Vessel Size Limit

Dear Eric:

As you sort through the vast amount of bills I am sure that you will have, I'm positive that you will run across some sort of bill that will ask for the repeal of the 58' size that Alaska seiners have at the present time.

The original law was passed in the thirtys so the California, Oregon and Washington state fleers could not participate in the Alaskan seine fishery.

Some of my thoughts on why the law should be changed are:

1. We now have Limited Entry to "protect" the Alaskan fishermen from the outside fleet.
2. Some of the 58' Limit boats coming out of the yards in recent times are becoming alarmingly more topheavy. The owners are putting more equipment topsides because they don't have the room for the gear necessary for mutlliple fisheries.

A vessel here in SE, the "JOHNNIE A", is a 58' (49.9' on the keel) combination vessel that is as wide as a 108' Marco boat. There is a large Jacobsen Brothers crane instead of a boom and it is used for crabbing as well as seining. The boat cost was around \$1.3 million and looks like "4 pounds of ___ in a 3 pound bag". Icing down in the winter could be a real problem in the winter time, not necessarily for the present owner, but to a skipper or if he sold the vessel.


3. Most boats in the fisheries in Alaska are having to be used as multi-purpose vessels with inflation and interest costs on the rise. The seiners are starting to use their vessels for dragging and crabbing more and more. Being from Dutch Harbor/Unalaska, I don't have to tell you how unstable most "converted" vessels are in the crab industry and the same is basically true for the drag fishing industry. The 58' Limit boats are still being designed for the inside waters and for use during the summer months. If a larger

size were to be used (or could be used), a seiner could safely fish his vessel on the outside during the winter months and therefore, supplement his fishing income as well as develop a small size offshore bottom fishery.

I really believe that down the line, some lives could be saved by a change in this law. The main arguments that I hear at the present time against the repeal is from the present owners of 58' Limit boats. They just don't want it to happen. Sometimes, I feel as if I can see some of their points, but it just comes down to the fact that "change is bad". I don't believe that is true. The entire fishing community as a whole would benefit from a change to a larger size as well as the development of a small bottom fishery. The Fish and Game Advisory Board has stated for the past six or seven years that it is up to the Legislature to change the law every time the resolution has been brought before them. A size I feel that would be fair and still large enough to meet the requirements would be 70' to 75' in length. This would also leave more room below decks for refrigeration equipment and properly insulated holds.

Should you have any questions regarding this, please let me know. I hope you are successful in the coming session in accomplishing what you want to do. It was very enjoyable to see you and Kathy when I was in Juneau last week. If I can be of any personal help to you, please don't hesitate to let me know. Thanks.

Best regards,



John Oaksmith

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4210

March 11, 1982

Mr. Pat Lawler, Assistant to
The Honorable Eric Sutcliffe
House Resources Committee
Mail Stop 3100

Dear Pat:

If the Attorney General's opinion is favorable and the committee decides to adopt an amendment to HB-400 that would lift the seine boat length restriction for Southeastern Alaska only, then I would suggest the following language.

*Section 1. AS 16.05.835 is amended to read:

Sec. 16.05.835. MAXIMUM LENGTH OF SALMON SEINE VESSELS. No salmon seine vessel may be longer than [50 FEET, OFFICIAL COAST GUARD REGISTER LENGTH, AND] 58 feet overall length except

- (1) vessels that have taken [FISHED FOR] salmon with seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard register length vessels; and
- (2) vessels that take salmon with seines in Southeastern waters of the state north of the latitude of Dixon Entrance and east of the longitude of Cape Fairweather.

*Section 2. Effective date.

I recommend the deletion of the reference to the 50-foot length in the leadin because it is confusing and provides a possible loop-hole relative to the 58-foot requirement. I believe the intent of the current statute is that no seiner can be longer than 58-feet, otherwise there would be no need for the January 1, 1962 grandfather clause. The amendment would clarify that intent. Register length is measured from the rudder post to the stem head and does not include additions to the stern or bow that are not permanent such as welded or glassed in place.

"Take" and "taken" should be substituted for "fished" as the term is defined in AS 16.05.940(18), while the verb "fish" is not

Paragraft. (2) accurately describes the Southeastern Alaska salmon management area.

If you have any questions, please call me.

Sincerely,

Robert C. Clasby, Regulation Specialist
Division of Commercial Fisheries

Handwritten notes and signatures:
Dixon Entrance
Cape Fairweather
Sutcliffe
Clasby
3/11/82
Pat Lawler
Eric Sutcliffe
J.S. Hammond

February 19, 1982

Honorable Eric Sutcliffe
Chairman, House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Eric:

The members of our association are very concerned about House Bill 400, the bill repealing the limit on 58 foot seiners.

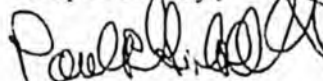
The points we would like to make are:

1. The fishery fleet presently has a tendency to be overcapitalized, repealing the 58 foot limit would only amplify that. Instead of income going to the communities, a lot more would be diverted to lending institutions for interest and principal payments;
2. All the salmon can be harvested by the 58 foot size and small^{er} boats;
3. The only other viable second^{ary} fisheries are crab - overcrowded already; shrimp - resource depleted; halibut - tremendously overcrowded;
4. Fear of the king crab fleet buying permits en masse and fishing their boats as catcher processors;
5. The boat harbors in the state are primarily designed for 58 foot and smaller vessels and are already overcrowded;
6. The only area pushing for repeal is Southeast Alaska where less than 50% of the seiners are privately owned, whereas virtually all seiners in the rest of the state are privately owned,
7. A large value loss per vessel will be realized on 58 foot boats (\$100,000-\$200,000 est.).

We would like to see the 58 foot limit left on Title 16, and no authority be given the Board to repeal the law on an area by area basis which would in effect give the whole state a defacto repeal of the 58 foot limit.

We are unanimously and adamantly opposed to the repeal of the 58 foot limit.

Respectfully,



Paul Gronhcldt
President
Peninsula Marketing Association

HUBERT G. McCALLUM
BOX 2, SAND POINT, ALASKA 99661

February 22, 1982

Representative Eric Sutcliffe
House of Representatives
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Sutcliffe:

It has been brought to my attention that a certain group of fishermen in Alaska would like to have the 58 foot salmon purse seine vessel limit repealed.

The retention of the 58' limit is of crucial economic importance to fishermen in the Sand Point Community for the following reasons:

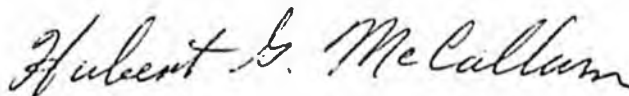
First, the 58' limit seiner law was enacted in the interest of conservation. This interest remains valid today.

Second, our present investments are in 58' limit seiners. We would be forced by competition to invest in a larger vessel, which, in turn, would not be compatible with the present purse seine length of 250 fathoms, thus creating a need for a larger and more expensive purse seine.

The Sand Point Advisory Committee voted unanimously to retain the 50 foot keel, or registered length; or 58 foot over-all length.

We would greatly appreciate your assistance in presenting our point of view on this matter.

Respectfully submitted,



Hubert G. McCallum, Member
Sand Point ADF&G Advisory Committee