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HOUSE COMMITTEE REPORT

(7)

Date Referred: April 14, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/7/92

The JUDICIARY Committee considered:

CSSB 358(JUD)

CS FOR SENATE BILL NO. 358 (JUD)

THEFT OF BOAT/PLANE SAFETY/SURVIVAL GEAR

"An Act making the theft of certain safety and survival equipment from watercraft and aircraft theft in the second degree."

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal impact _____

[] fiscal note(s) Admin 2/18/92 Law 2/18/92

[] zero fiscal note _____

zero fiscal note DPS 2/18/92

SIGNING DO PASS	DP	OTHER RECOMMEN.	DNP	NR	AM
<i>[Signature]</i>		<i>[Signature]</i>		✓	
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	

[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Version: SB 358

(S) Publish Date: 2-18-92

Revision Date: _____ Department Affected: Department of Law
 Title: "...making the theft of...survival equipment theft in the second degree." BRU: Prosecution
 Sponsor: Senator Eliason Component: All
 Requestor: Senate Judiciary Committee COMPONENT SERIAL NO.

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 85 through 91

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Changes in SB 358 (Jud) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
2/14/92 RC
 date Combs Aide (initial)

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 3, 1992
Richard I. Pegues FOR
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 3, 1992

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 358

This bill amends AS 11.46.130 to provide that a person commits the crime of theft in the second degree if the property is vessel safety or survival equipment and the property is taken from a licensed commercial fishing vessel or a vessel used exclusively for commercial salmon fishing that has been exempted from state licensing requirements under AS 16.05.495. The bill also amends AS 16.05.710(b) to provide that when a person is convicted of this crime a court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges or licenses for one year for a first conviction, and suspend their privileges for two years for a second or subsequent conviction. Theft in the second degree is a class C felony.

The Department of Law does not anticipate a fiscal impact because many safety and survival devices have a value that exceeds the \$500 threshold for theft in the second degree.

ALASKA STATE LEGISLATURE SENATE

SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE
LABOR & COMMERCE COMMITTEE
RESOURCES COMMITTEE
RULES COMMITTEE
CHAIRMAN, SPECIAL COMMITTEE ON
DOMESTIC & INTERNATIONAL
COMMERCIAL FISHERIES



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(907) 465-4916

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1/29/92

TESTIMONY OF SEN. DICK ELIASON, PRIME SPONSOR, REGARDING SB 358,
"An Act making the theft of certain safety and survival equipment form a
commercial fishing vessel theft in the second degree."

The U. S. Coast Guard, in the course of implementing provisions of the Commercial Fishing Industry Vessel Safety Act of 1988, has issued regulations which include requirements for the safety and survival equipment aboard uninspected commercial fishing vessels. The regulations went into effect in late 1991, although some provisions have a delayed effective date. The purpose of the regulations is to prevent unnecessary loss of life, and the Coast Guard believes they will also result in fewer pollution incidents arising from vessel loss.

Alaska fishermen are required to make substantial expenditures on safety and survival equipment in order to comply with these regulations, and more vessels than ever before are equipped with survival suits, EPIRBs (Emergency Position Indicating Locator Beacons), and fire fighting equipment. This is good news, especially in light of the fact that commercial fishing is considered one of the most dangerous occupations.

Unfortunately, there have been increasing problems with theft of safety equipment from fishing vessels. The repercussions of such a theft can be disastrous. At the top of the list is the horrible possibility that lives would be lost due to an emergency at sea, the very thing the new Coast Guard regulations seek to prevent. The theft of equipment just prior to a fishing opening could result in the loss of the opportunity to fish, either because the theft was discovered and the vessel remained in port, or because the Coast Guard exercised its authority to compel the vessel to return to port immediately. Given the brevity of the fishing openings these days, an individual could miss an entire opening and be financially ruined as a result. In addition, the Coast Guard may impose stiff civil and criminal penalties for violations of the regulations.

SB 358
page two

Senate Bill 358 makes it a class C felony, rather than a class A misdemeanor, to steal certain safety and survival equipment from a commercial fishing vessel, whether or not the value of the property exceeds \$500. The safety and survival equipment is closely defined in the bill. The measure also includes a section to provide that if the offense is committed by a commercial fisherman, he or she stands to lose fishing licenses and privileges. This is consistent with penalties now on the books for theft of fishing gear.

The purpose of the legislation is to discourage the theft of safety equipment from commercial fishing vessels, and I strongly encourage its adoption.

CSSB 358 (Jud) makes it a class C felony (5 years and \$50,000 fine) to steal the following from an aircraft:

Sec. 02.30.010. Two-way radios required. A person may not operate a commercial aircraft carrying passengers for a distance greater than 25 miles from an airport unless the aircraft is equipped with a two-way radio installation capable of transmitting and receiving for a distance of at least 50 miles under normal conditions. (§ 3 ch 128 SLA 1949)

Sec. 02.35.110. Emergency rations and equipment. (a) An airman may not make a flight inside the state with an aircraft unless emergency equipment is carried as follows:

(1) the following minimum equipment must be carried during the summer months:

- (A) food for each occupant sufficient to sustain life for two weeks;
- (B) one axe or hatchet;
- (C) one first aid kit;
- (D) one pistol, revolver, shotgun or rifle, and ammunition for same;
- (E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers, etc.;
- (F) one knife;
- (G) two small boxes of matches;
- (H) one mosquito headnet for each occupant;
- (I) two small signaling devices such as colored smoke bombs, railroad fuses, or Very pistol shells, in sealed metal containers;

(2) in addition to the equipment required under (1) of this section, the following must be carried as minimum equipment from October 15 to April 1 of each year:

- (A) one pair of snowshoes;
- (B) one sleeping bag;
- (C) one wool blanket for each occupant over four.

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall also be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department. (§ 32-6-13 ACLA 1949; am § 2 ch 128 SLA 1949)



UNITED FISHERMEN OF ALASKA

211 4th Street, Suit 112
Juneau, AK 99801
907-586-2820
Fax# 907-463-2545

February 4, 1992

MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fishermen's
Association
Alaska Trollers Association
Bering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area 'M' Fishermen
Cook Inlet Aquaculture Association
Copper River Fishermen's Cooperative
Cordova District Fishermen United
Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prince William Sound Seiners Association
Seafood Producers Cooperative
Southeast Alaska Seiners
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

The Honorable Dick Eliason
Alaska State Senate
Post Office Box V
Juneau, Alaska 99811

RE: Senate Bill 358

Dear Senator Eliason:

On behalf of the United Fishermen of Alaska, I would like to support the proposed amended language to AS 11.46.130(a) which would elevate the theft of certain safety and survival equipment from a commercial fishing vessel to theft in the second degree, as well as other proposed language under SB 358.

It has come to my attention, over the past several years, that theft of safety and survival equipment has become an increasing problem. Fortunately, at least in one instance of which I am aware, the theft of survival suits was discovered prior to an emergency situation. This equipment, for purposes of accessibility in time of distress, is often stored outside of a locked cabin or storage locker. This, unfortunately, also makes this equipment more readily accessible to theft. Also, life rafts and emergency locator beacons are installed in such a manner that they cannot be secured from theft.

Our organization wholeheartedly supports your sponsorship and efforts on behalf of this worthwhile legislation. It is our sincere hope that the proposed statutory change will act as a deterrent to those unscrupulous individuals who would thoughtlessly remove survival equipment from a commercial fishing vessel and jeopardize fishermen's lives.

Very truly yours,

Greg Seider
Executive Director

GS:phl

cc: Senator Rick Halford
Senator Fred Zharoff

Alaska Marine Safety Education Association

Box 2592, Sitka, Alaska 99835

(907) 747-3287

April 3, 1992

Senator Eliason
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason:

This letter is in full support of your bill to make the theft of safety and survival equipment onboard boats and aircraft a felony (SB 358).

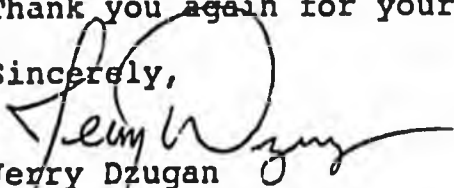
As you are well aware, recent requirements for survival equipment for commercial fishing vessels may cost some owners thousands of dollars. There has been and will be a strong temptation on the part of some people to "borrow" this equipment from owners who are in compliance with the law. This would place these owners at risk in an emergency since the survival gear they thought they had onboard would not be there.

AMSEA feels that the penalty for the theft of this equipment currently does not reflect the true nature of the seriousness of this act. Therefore, we fully support your bill to make the theft of this equipment a felony.

Please let us know if there is anything we can do to help this legislation along in the final days of the legislature.

Thank you again for your sponsorship of this bill.

Sincerely,


Jerry Dzugan
Executive Director

c.c. Rep. Richard Foster, Chair House Transportation Committee

MEMBER ORGANIZATIONS

Alaska Department of Health & Social Services,
Emergency Medical Services Section
Alaska Department of Public Safety
Northstar Survival, Inc.
Southeast Alaska Regional Health Corporation

Southeast Regional Emergency Medical Services Council
United States Coast Guard
University of Alaska Marine Advisory Program
Alaska Department of Education
Alaska Vocational Technical School (AVTEC)

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

February 3, 1992

SUBJECT: CS to SB 358, adding theft of aircraft safety equipment and upgrading the crime to a class C felony

TO: Senator Rick Halford

FROM: Robert Glennon Casey *RGC*
Legislative Counsel

A committee substitute has been prepared which adds "aircraft safety equipment" to the list of items whose theft would violate AS 11.46.130.

It would be much better, however, if the committee substitute defined aircraft safety equipment. That would follow the example of the original bill, which adds "vessel safety or survival equipment" as items whose theft would violate the statute and then goes on to define safety and survival equipment.

To further parallel the other items in the list, I have limited this to thefts from aircraft. Also, you requested that the status of the crime be upgraded to a class C felony. AS 11.46.130 is already a class C felony, so the committee substitute makes no change in that area.

RGC:gc
92-093.glc

Enclosure

Commercial Fishing Vessel Safety Act

THE FINAL RULE: A SUMMARY OF THE COMMERCIAL FISHING VESSEL SAFETY ACT

NOTE: The following is a partial summary, for Alaska waters, of the regulations and is not all inclusive. Effective date is September 15, 1991 unless otherwise noted. We strongly recommend fishermen to review the regulations and the checklist themselves. In Alaska call the USCG F/V Safety Coordinator at 1-800-478-7369 and leave your name and address for a free copy of the regulations and boarding officer checklist.

REQUIREMENTS FOR ALL FISHING VESSELS

1. Immersion suit accessible and of an appropriate size for each person onboard. If beyond the Boundary Line retro-tape, PFD light and name (vessel, owner of device, or person assigned) must be on suit (after 9/1/92)
2. Ring Life Buoys (RLB) {orange, 24" diameter, with retro-tape and vessel name}
 - a. Vessels 16' to < 26': Bouyant cushion or RLB plus 60' line minimum.
 - b. Vessel 26' to < 65': RLB plus 60' line minimum.
 - c. Vessel \geq 65': Minimum 3 RLBs one with a 90' line.
3. Survival craft required on documented vessels after 9/1/92 or on state registered vessels after 9/1/95 except those with less than 4 people within 12 miles of shore. Liferrafts with appropriate equipment packs and installed onboard before 9/15/91 are "grandfathered". Under limited conditions "auxiliary craft" may be substituted. F/V less than 36 ft. that have positive flotation and operate within 12 miles of shore are exempt. This section may be subject to future revision.
4. Distress flares if more than 3 miles from shore: 3 parachute flares; 6 handheld flares; 3 smoke flares. Lesser requirements if within 3 miles.
5. Injury placard posted.
6. 406 EPIRB if operating beyond 3 mile Territorial Sea Line. After 9/1/92 must be marked with vessel name.

REQUIREMENTS FOR DOCUMENTED VESSELS WITH MORE THAN 16 PEOPLE ON BOARD OR OPERATING BEYOND THE BOUNDARY LINE

1. Fire extinguisher(s).

2. Two fire man's outfits if more than 49 people on board.
3. Two SCBAs required with spare 30 minute bottles if ammonia refrigeration system on board.
4. First Aid book & equipment. First Aid training required by 9/1/93.
5. Guards for exposed hazards.
6. Unobstructed escape routes.
7. Relevant, up-to-date charts, Coast Pilot, light list, tide & current tables. Maintain charts using Local Notice to Mariners.
8. Compass, anchor, and radar reflector (for nonmetallic hull not providing a signature from 6 miles).
9. General alarm (after 9/1/92).
10. VHF Communication equipment to contact Coast Guard (SSB past 20 nautical miles). See Final Rule.
11. High water alarms if vessel 36 ft. or more, bilge pumps, piping & dewatering systems regardless of length.
12. F/V over 79 ft must have electronic position fixing device.
13. Monthly emergency instruction, drills & orientation.
14. Training in drill instruction. (effective 9/1/94).

REQUIREMENTS FOR F/V WITH KEELS LAID OR CONVERTED AFTER 9/15/91

This section sets standards for the areas of liferaft launching, fire fighting systems, galley hoods, fuel systems, ventilation, electrical standards, radar and depth sounding equipment, deck rails, life lines, and grab rails. See Final Rule for details.

REQUIREMENTS FOR STABILITY

Applies to F/Vs more that 79 ft. that has had keel laid or altered after 9/15/91. Sets standards and tests for these vessels. Future rule making will affect this section and smaller F/Vs. See Final Rule for details.

continued next page

Continued...

continued from page 5

TRAINING REQUIREMENTS

Applies only to documented F/Vs beyond the boundary line or with more than 16 people onboard (POB).

1. First Aid & CPR (After September 1, 1993) Acceptable certification follows:

First Aid: 1. American Red Cross
 2. OSHA
 3. USCG approved

CPR: 1. American Red Cross
 2. American Heart Association
 3. USCG approved

a. F/V with more than 2 POB must have one person trained in First Aid and CPR (can be same person).

b. F/V with more than 16 POB needs two trained in First Aid/CPR.

c. F/V with more than 49 POB needs 4 trained in First Aid/CPR.

2. Instruction, Drills and Safety Orientation:

Master will conduct drills and instruction once a month in the following:

- a. abandoning vessel.
- b. fighting a fire in different locations.
- c. recovering an individual in the water.
- d. minimizing the effects of flooding.
- e. launching survival craft.
- f. donning immersion suits and PFDs.
- g. donning fire clothing and SCBA (if so equipped).
- h. radio distress calls and visual distress signals.
- i. activating the general alarm.
- j. reporting inoperative alarm systems.

3. Drill Instruction. After Sept. 1, 1994 no person may conduct the drills or provide instruction without that person having been trained in the proper procedures for conducting the activity.

4. Safety Orientation. The master must insure that a safety orientation is given to each individual onboard that has not received the instruction or participated in the drill.

5. Emergency Instructions. Instructions must be posted or be kept readily available (F/V with less than 4 people) covering:

- a. survival craft embarkation stations.
- b. fire, emergency and abandon ship signal.
- c. location of immersion suits & illustration of donning procedure.
- d. procedures for making a distress call.
- e. essential action to be taken in an emergency.
- f. procedures for rough weather or conditions.
- g. procedures for anchoring.
- h. persons overboard procedures.
- i. fire fighting procedures.

6. Master must insure that lifesaving equipment is in good condition and readily available for immediate use.

SPECIAL NOTES

Vessels whose liferafts qualify to be grandfathered should keep a copy of receipt with date of purchase onboard. *See Final Rule for details.*

Grandfathered liferafts must still follow the yearly repacking schedule and be repacked by a certified repacker (repacker must be certified by manufacturer of raft).

Be sure to do the following and record in your log book:

1. Monthly Drills.
2. Monthly EPIRB test.
3. Inspect all other survival gear regularly.

Refer to the Final Rule to clarify questions or call your local USCG Fishing Safety Coordinator. In Alaska call 1-800-478-7369.

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