

**SB**

**41**

# Alaska State Legislature

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**Senator Robin L. Taylor**

## Memorandum

DATE: April 4, 1995

TO: Representative Brian Porter, Chairman  
House Judiciary Committee

FROM: Senator Robin Taylor 

**SUBJECT: CSSB 41(JUD), relating to reports by foreign fishing vessels not registered under the laws of the state**

Thank you for the hearing on CS for Senate Bill 41(JUD). This legislation would require foreign fishing vessels transiting or lying in state waters to report their catch by species, quantity and the area where harvested.

It was introduced at the request of the Ketchikan Trollers Committee. In a letter to me and Representative Williams the trollers committee stated that this requirement would result in better harvest information during the season. The letter continued "southeast Alaskan fishermen are suffering irreparable harm at the U.S./Canada Pacific Salmon Treaty due to the inability or unwillingness of fishery managers in British Columbia to monitor this growing fishery." This legislation would allow the Alaska Department of Fish and Game to better monitor in-season catch statistics.

The fishery is located in southern Southeast Alaska off of Cape Chacon and Cape Muzon. In a period of five years the fishery has gone from a relatively minor one with a dozen or so trollers to a modern freezer fleet, that at times exceeds 100 vessels. These boats are targeting Alaskan and Canadian salmon just off our coast. Since a run to Canadian harbors is some 30 miles across waters exposed to the ocean -- the Canadian boats more often than not anchor in state waters until their holds are full.

While it would be ideal to have the board of fish implement this for the upcoming season, timing considerations probably preclude this from occurring until next year. The Department of Fish and Game has said this measure will be given a zero fiscal note.

Attached is backup and a sponsor statement for the committee packets. A sectional analysis will follow soon.

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# Alaska State Legislature

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*Senator Robin L. Taylor*

## CS for Senate Bill 41(JUD)

### Sponsor Statement

#### Relating to reports by fishing vessels not registered under the laws of the state

This legislation would require foreign fishing vessels transiting or lying in state waters to report their catch by species, quantity and the area where harvested.

The bill was introduced at the request of the Ketchikan Trollers Committee in response to the rapid expansion of the fishery off Cape Muzon and Cape Chacon. It has gone from a relatively minor fishery with a dozen or so trollers, to a modern freezer fleet, that is at times in excess of 100 vessels. It will be possible to monitor this fishery because a transit to Canadian harbors is some 30 miles across waters exposed to the ocean -- so the ships often anchor in state waters until their holds are full.

The CS makes changed the phrase "Foreign fishing vessels" to "unlicensed fishing vessel" and defines an unlicensed fishing vessel as a vessel that is not licensed under AS 16.05.490 - 530. This change eliminates possible confusion with federal statutes which place a different definition on "foreign fishing vessels".

In a letter to Senator Taylor and Representative Williams, the trollers committee states, "southeast Alaskan fishermen are suffering irreparable harm at the U.S./Canada Pacific Salmon Treaty due to the inability or unwillingness of fishery managers in British Columbia to monitor this growing fishery." The letter continues, "these reporting requirements would result in better harvest information during the season."

While it would be ideal to have the board of fish implement this for the upcoming season, timing considerations preclude this from occurring until next year. The Department of Fish and Game has given this measure a zero fiscal note. I encourage your support of this measure.

District A:

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**Proposal by the Ketchikan Trollers Committee  
to require that all foreign salmon fishing vessels that enter Alaskan waters  
be required to report to the Alaska Department of Fish & Game**

**The Problem -**

Within the last five years there has been a dramatic increase in the number of Canadian salmon trollers fishing in the "disputed waters" at the Alaskan border near Cape Chacon and Cape Muzon and anchoring each night in Alaskan harbors (Nichols Bay and McLeod Bay). A border fishery that once attracted no more than a dozen trollers now has, at times, in excess of 100 vessels targeting Alaskan and Canadian salmon. Many of these vessels are state-of-the-art freezer trollers, with large crews, that are able to fish until their holds are full.

The magnitude and effect of this shift in salmon harvesting from the British Columbia side of Dixon Entrance over towards the Alaskan border is impossible to determine because:

- a. there is absolutely minimal monitoring of their border fishery by the British Columbia enforcement vessels,
- b. the reporting requirements for British Columbia fishermen are extremely lax,
- c. B.C. salmon managers are unable (or unwilling) to provide information in a timely and appropriate manner, and
- d. what data is available does not adequately differentiate the sub-areas in or near Dixon Entrance in which salmon harvesting has occurred.

The lack of appropriate information about this growing border fishery may mask an overharvest of Alaskan stocks and definitely harms Alaska during negotiations of the U.S./Canada Pacific Salmon Treaty.

**The Solution -**

Most of the Canadian trollers that participate in the border fishery in this "disputed" zone are allowed (for safety considerations) to anchor each night in harbors that are undisputedly in the jurisdiction of the United States and the State of Alaska. It is the recommendation of the Ketchikan Trollers Committee that legislation be enacted to require the operators of all foreign fishing vessels with salmon aboard that enter undisputed Alaskan waters to report the following information to the Alaska Department of Fish & Game:

- a. the quantity of salmon, per species, aboard the vessel, and
- b. the area where these fish have been harvested.

**Additional Details -**

- a. the "report" should be provided in person or via radio-telephone to the nearest ADF&G office or Fish & Wildlife Protection enforcement vessel within 48 hours of entering Alaska and prior to departing Alaskan waters (note that British Columbia has an extremely effective marine radio network that enables all vessels in the area of Dixon Entrance to access the land-based telephone systems).
- b. the reported harvest area and catch should be specific enough to allow ADF&G to accumulate data to evaluate the overall potential of these harvests to impact Alaskan stocks,
- c. failure to provide a timely or accurate report will subject the offending fisherman to a substantial fine and/or seizure of the vessel and its fishhold contents,
- d. failure to report prior to departing Alaskan waters will subject the offending vessel and its owners to a fine and/or seizure if the vessel again enters Alaska,
- e. Alaskan fishery enforcement officers and ADF&G personnel should be authorized and directed to board foreign fishing vessels in undisputed Alaskan waters in order to enforce these regulations.

**DIVISION OF LEGAL SERVICES  
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**MEMORANDUM**

February 11, 1995

**SUBJECT:** Draft CSSB 41 (JUD); Reports by certain fishing vessels  
(Work Order No. 9-LS0445\C)

**TO:** Senator Robin Taylor

**FROM:** George Utermohle *GU*  
Legislative Counsel

Enclosed is a draft CSSB 41 (JUD). This draft CS addresses certain technical issues concerning SB 41 that were raised by the United States Coast Guard.

In particular, the CS avoids the use of two terms ("foreign fishing vessel" and "registered under the laws of the state") that may be confusing to many people. The term "foreign fishing vessel" is replaced by "unlicensed fishing vessel." The term "registered under the laws of the state" is replaced by "licensed under AS 16.05.490 - 16.05.530."

In SB 41, "foreign fishing vessel" means any fishing vessel that is not licensed under the laws of Alaska and would include any fishing vessel from another country (Canada, Japan, etc) or from another state (Washington, Oregon, etc.) that is not licensed in Alaska. In this sense "foreign" means non-Alaskan. A fishing vessel becomes an Alaskan fishing vessel by being licensed under the laws of the state.

Also in SB 41, "registered under the laws of the state" means any fishing vessel that is not licensed in Alaska. But to many people and especially many federal agencies the term "registered" refers to a Coast Guard sanctioned system of state registration and numbering of boats. Alaska is the only state in the country that has not assumed responsibility for registering boats within its territorial limits. When the term "registered" is used many people automatically think of the boat registration system that is in place in other states, but not in Alaska. Since Alaska does not have a comparable registration system there is a possibility for some confusion.

SB 41, as introduced, would achieve its goal of allowing the Board of Fisheries to compel non-Alaskan fishing vessels to report certain information to the Department of Fish and Game. The proposed changes are not necessary to make the bill effective. However, the proposed changes will make the bill easier to understand by eliminating technical legal terms that may lead to confusion.

If I may be of further assistance, please advise.

GU:lmb  
95-117.lmb  
Enclosure

# Alaska State Legislature



Senator Robin L. Taylor

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## Memorandum

**DATE:** March 2, 1995

**TO:** Senator Mike Miller, Chairman  
Senate Rules Committee

**FROM:** Senator Robin Taylor *RT*

**RE:** SB 41 Federal agency jurisdictional  
question

**cc:** Senate Resource Committee Members

While Senate Bill 41 was being considered in the Senate Resources Committee Senator Pearce expressed concern about possible federal jurisdiction regarding SB 41, her concerns have been addressed. After the bill was referred to the Judiciary Committee, I sent a letter to the United States Coast Guard asking for comments. They articulated concerns with nomenclature in the legislation and so the Judiciary Committee adopted a committee substitute to address their expressed concerns.

The Coast Guard indicated the U.S. Department of Commerce might want to comment. Commerce sent a letter stating they had no comments to offer at this time. I have attached both letters to this memorandum for your review.

District A:

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U.S. Department  
of Transportation

United States  
Coast Guard



Commander  
Seventeenth Coast Guard  
District

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16214

FEB 15 1995

The Honorable Robin L. Taylor  
Alaska Senate  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. Taylor:

My legal officer reviewed Senate Bill No. 41 (SB 41) at your request. Our analysis is limited solely to the impact of the proposed legislation on Coast Guard missions, and on statutes and regulations we enforce or administer.

Our primary concern with SB 41 is with terminology. The proposed legislation defines "foreign fishing vessel" as "a fishing vessel which is not registered under the laws of the state." I understand the intent of SB 41 is to limit the reporting requirement to vessels which do not have an Alaska Department of Fish & Game permit. However, these terms are legal terms of art under the Magnuson Act, 16 U.S.C. §1801 et. seq., and the vessel documentation laws at 46 U.S.C. Chapter 121. Under the Magnuson Act, a foreign fishing vessel is generally a vessel which is not a vessel of the United States. "Certificate of registry", "register", and "registry" all refer to a registry endorsement as provided for in 46 U.S.C. §12105. The use of these terms in the proposed legislation could be a potential source of confusion.

Our other concern is that SB 41 does not identify the mechanism for making these reports. Relaying these reports through our communications facilities could place an undue burden on our ability to respond to a distress call, or accomplish other missions.

The Magnuson Act generally does not diminish the authority of a state within its boundaries. However, under 16 U.S.C. §1856 the Secretary of Commerce may make certain exceptions. Therefore, I recommend you also discuss this proposed legislation with the National Oceanic and Atmospheric Administration General Counsel for Alaska.

Sincerely,

A handwritten signature in dark ink, appearing to read "E. T. Rufe Jr.", written over the typed name.

E. T. RUFÉ JR.  
Rear Admiral, U.S. Coast Guard  
Commander,  
Seventeenth Coast Guard District



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Office of General Counsel  
P.O. Box - 21109  
Juneau, Alaska 99802-1109  
Telephone (907) 586-7414

February 16, 1995

Mr. George Utermohle  
Office of Legislative Affairs  
Division of Legal Service  
Juneau, Alaska

Re: SB 41

Dear Mr. Utermohle,

Thank you for the opportunity to review draft SB 41. NOAA does not have any comments to offer at this time.

Sincerely

Jonathan Pollard  
Staff Attorney



# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 1  
Bill Version: SB 41  
(S) Publish Date: 2/6/95

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: Reports by Fishing Vessels Not Registered BRU: Commercial Fisheries Manage. & Dev.  
Under the Laws of the State. Component: Fisheries Management  
Sponsor: Senator Taylor  
Requester: Senate Resources COMPONENT SERIAL NO. 1941

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

The proposed legislation should not have any fiscal or programmatic impact on the Commercial Fisheries Management and Development Division.

Prepared by: Bob Cleasby RC  
Division: Commercial Fisheries Management and Development  
Approved by Commissioner: Frank M.  
Agency: \_\_\_\_\_

Phone: 485-4210  
Date: 1/26/95  
Date: 1-30-95

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