

SCOMM

99:10

TO: Rep. Ramona Barnes

FROM: Wayne Maloney

DATE: February 2, 1995

RE: HB113 "An Act relating to reports by fishing vessels that are not registered"

*Sec. 1 Amends AS 16.05.251 (a) to allow the Board of Fisheries to adopt a regulation requiring foreign fishing vessels entering state waters to report the quantity, species and origin of all fish on board. The new subsection also defines the term "foreign fishing vessel".

*Sec. 2 Requires the Board of Fisheries to consider for adoption, and adopt regulations referenced in Sec 1 (16) prior to May, 1996.

Alaska State Legislature

Committees:

House Resources,
Chairman

Community &
Regional Affairs

Labor & Commerce



Representative William K. Williams

During Session:
State Capitol
Juneau, AK 99801-1182
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in Ketchikan:
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Ketchikan, AK 99901
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SPONSOR STATEMENT

HOUSE BILL 113

"An Act relating to reports by fishing vessels that are not registered under the laws of the state."

House Bill 113 will give the Board of Fish the authority to adopt regulations concerning foreign fishing vessels transiting or in state waters. This legislation would allow the Board to require foreign fishing vessels to report to the Department of Fish and Game the quantity, species, and origin of fish on board.

This will assist the Alaska Department of Fish and Game in their effort to collect data on our border fisheries. House Bill 113 could provide Fish and Game with additional in season management data, providing the state with some significant and timely information that was previously unavailable to our fisheries managers. House Bill 113 will also help protect the state's interest by deterring potential illegal fishing in our waters.

Section two of the Bill directs the Board of Fish to consider for adoption, before May of 1996, the provisions of House Bill 113 concerning foreign fishing vessels present in or transiting the waters of Southeast Alaska.

I urge your positive support of this proposed legislation.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 113

Revision Date:	Dept. Affected: <u>Fish and Game</u>
Title: <u>Reports by Fishing Vessels Not Registered</u>	BRU: <u>Commercial Fisheries Manage. & Dev.</u>
Under the Laws of the State.	Component: <u>Fisheries Management</u>
Sponsor: <u>Rep. Williams</u>	
Requester: <u>House Fisheries</u>	COMPONENT SERIAL NO. <u>1941</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	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 Clasby
Division: Commercial Fisheries Management and Development
Approved by Commissioner: [Signature]
Agency: _____

Phone: 485-4210
Date: 1/28/95
Date: 1.30.95

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DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No. HB 113

Sponsor: Rep. Williams

Division: Commercial Fisheries Management and Development

Bill Title: Reports by Fishing Vessels That Are Not Registered Under the Laws of the State.

Department Position: Support

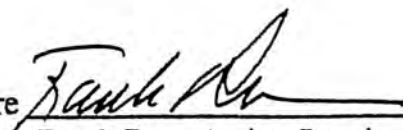
Background/Legislative Intent:

Canadian commercial salmon trollers commonly fish close to the international boundary in Dixon Entrance. Frequently, these vessels enter Alaskan waters to anchor for the night. While at anchor, they do occasionally clean and ice fish. Because of the controversy surrounding the Pacific Salmon Treaty, the use of Alaska harbors by Canadian vessels disturbs some Alaskans. There is also the possibility of illegal fishing by the vessels while in Alaskan waters. The intent of the proposed legislation is to have the Board of Fisheries adopt regulations that will allow the state to more closely monitor the activities of Canadian vessels while in Alaskan waters. This will not only prevent illegal fishing, but reassure concerned Alaskans that Canadian vessels are not taking advantage of their access to our waters to engage in illegal fishing.

Analysis of Bill/Program Effects:

The proposed legislation explicitly grants the Board of Fisheries the authority to adopt regulations that will require a foreign fishing vessel to report to the state information on fish they have aboard their vessel when it is in or transuding state waters. The adoption of this legislation and subsequent adoption of regulations requiring the reporting by a foreign fishing vessel should not have a negative impact on the division's programs. The adoption of such regulations may assist in the prevention of illegal fishing by foreign vessels.

Commissioner's Signature



Frank Rue, Acting Interim Commissioner

Date

1-30-95

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 1, 1995

SUBJECT: Authority of the State to Impose Reporting Requirements on Fishing Vessels Not Registered Under the Laws of the State (HB 113)

TO: Representative Bill Williams

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to the query of Pete Ecklund of your staff as to whether the state may impose reporting requirements on a fishing vessel not registered under the laws of the state (foreign fishing vessels).

HB 113 provides that the Board of Fisheries may adopt regulations requiring foreign fishing vessels present in or transiting the water of the state to report the quantity, species, and origin of fish on board to the Department of Fish and Game. In the context of HB 113, a foreign fishing vessel is any fishing vessel that is not registered under the laws of the state, i.e. fishing vessels from another state or another country. Generally to be registered under the laws of the state, a fishing vessel must have a commercial fishing vessel license issued by the state. The Board of Fisheries is authorized under AS 16.05.475 to adopt a definition of "registered under the laws of the state" for purposes of that statute but has not done so.

The primary constraint on the authority of the state to enact a provision such as that proposed by HB 113 is the interstate and foreign commerce provisions of the United States Constitution (Article 1, sec. 8, cl. 3). The commerce clause gives power to the Congress to regulate foreign and interstate commerce and limits the power of the states to erect barriers against interstate and foreign trade.

The commerce clause is not an absolute barrier to state laws affecting interstate or foreign commerce. The state retains authority under its general police powers to regulate matters of legitimate local concern, even though interstate and foreign commerce may be affected. Maine v. Taylor, 477 U.S. 131, 138, 91 L.Ed.2d 110, 120 (1986). In reviewing a state law affecting commerce, the courts distinguish between state laws that affirmatively discriminate against interstate and foreign commerce and those that place only an incidental burden on commerce.

State laws that fall into the first group, by directly discriminating against commerce or by having an effect that discriminates against commerce, are subjected to demanding scrutiny by the courts. The burden falls on the state to demonstrate that the law serves a legitimate local purpose and that the purpose cannot be served as well by nondiscriminatory means. Maine, 477 U.S. at 138, 91 L.Ed.2d at 121. Laws that fall into the second group violate the commerce clause only if the burden that they impose on commerce are clearly excessive to the putative local benefits.

The first issue to be resolved is whether HB 113 falls into the first group by discriminating against interstate and foreign commerce or the second group by only incidentally affecting commerce. The distinction between the two groups is often a function of whether the purpose or effect of the law is economic protectionism. Pacific Northwest Venison Producers v. Smitch, 20 F.3d 1008 (9th Cir. 1994). If HB 113 is viewed as affirmatively discriminating against interstate and foreign commerce, the state must be able to establish that it is pursuing a legitimate state interest, unrelated to economic protectionism. A law that pursues the goal of economic protectionism is per se invalid under the commerce clause.

The state's interest in protecting fish resources is a recognized justification for state laws affecting interstate and international commerce. Hughes v. Oklahoma, 441 U.S. 322, 60 L.Ed.2d 250 (1979). If the purpose of the HB 113 is to protect state fishery resources by preventing illegal fishing by foreign fishing vessels while they are in state waters, the state would be able to establish that it is pursuing an appropriate goal. However as the purpose of the law become less oriented toward the conservation of state resources and more oriented toward protecting the economic interests of Alaska fishermen, the ability of the state to satisfy the requirements of the commerce clause decreases. The state must also be able to show that it cannot achieve its purpose by a less discriminatory means. If HB 113 is directed at addressing a problem that is posed only by foreign fishing vessels, such as illegal fishing by foreign fishing vessels while they are temporarily in state water, there could not be any less discriminatory means available to the state to achieve its purpose. Also, as long as the reporting requirement is the least burdensome measure available to achieve that goal, then the state law should be able to survive scrutiny under the commerce clause. A simple reporting requirement that could be satisfied by radio or by a phone call is more likely to be consistent with the requirements of the commerce clause, than would a requirement that foreign fishing vessels report to the nearest Fish and Game office and be subjected to a physical inspection by a fish and game officer.

If HB 113 falls into the second group then the state need only show that the local benefit of the law justifies the burden placed on commerce. Under this analysis, the conservation and protection of fishery resources are a legitimate local concern. New York State Trawlers Association v. Jorling, 16 F.3d 1303 (2d Cir. 1994). A simple reporting requirement would probably be a slight burden on foreign vessels and not be clearly excessive in relation to the benefit derived by the state by imposing the requirement.

Representative Bill Williams
February 1, 1995
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In the abstract, it would seem that the state could easily justify imposing a reporting requirement on foreign fishing vessels in state water and still conform with the requirements of the federal commerce clause. However, the ultimate issue will be whether the actual reporting requirement as adopted by the Board of Fisheries is consistent with the federal commerce clause. In adopting a reporting requirement for foreign fishing vessels, the Board of Fisheries must be very careful as to the proposes for which it is establishing the requirement and as to the degree of burden that is imposed on foreign fishing vessels.

There is no obstacle, that I am aware of, to assertion of state jurisdiction over foreign fishing vessels while they are present in state water. A cursory review of the Magnuson Fishery Conservation and Management Act has not uncovered any provisions that would deprive the state of its authority to regulate activities of foreign fishing vessels in state water.

The laws of the state are equally applicable to nonresidents and aliens who are present in the state. The only possible exception being a treaty that restricts the power of the state to arrest a foreign national, such as treaties relating to diplomatic immunity. There are no treaties that I am aware of that would prevent the state from arresting fishermen who are foreign nationals. The Department of Law has not reported any such problems in exercising criminal jurisdiction over foreign nationals.

If I may be of further assistance, please advise.

GU:lmb
95-109.lmb

Legislative Research Agency

Alaska State Legislature



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February 1, 1995

MEMORANDUM

TO: Representative Bill Williams

FROM: Linda J. Snow *LJ Snow*
Legislative Analyst

RE: Reporting Requirements of Fishing Vessels Entering U.S. and Canadian Waters
Research Request 95.083

You asked for information about the Canadian reporting and fee requirements for U.S. fishing vessels that enter Canadian waters. In particular, you asked what, when, to whom, and how U.S. vessels must report. You were also interested in similar information about reporting requirements of Canadian fishing vessels that enter U.S. (Alaska) waters.

Reporting Requirements for U.S. Fishing Vessels Entering Canadian Waters

In general, the Canadian government has no mandatory reporting requirements or fees¹ for foreign fishing vessels transiting Canadian waters unless the vessel operators intend to dock or anchor somewhere along the way. If a foreign vessel intends to dock or anchor in Canadian waters, operators of that vessel must report to Canadian Customs. The exception is that operators of foreign vessels fishing for tuna in Canadian waters must report the vessel name, owner, position, radio call-in sign, and areas to be fished, whether or not they stop in Canadian waters.

According to Roy Zak, senior customs officer with the Canadian Customs office in Prince Rupert, B.C., U.S. vessels that intend to stop at a Canadian port for any reason, or intend to anchor in

¹According to Dave Knapton, enforcement officer for the Conservation and Protection section of the Canadian Department of Fisheries and Oceans, a fee for U.S. fishing vessels transiting Canadian waters was temporarily charged during the summer of 1994. However, that fee was politically motivated in response to the continued dispute over shares of salmon harvest allocated between the U.S. and Canada as defined in a proposed treaty between the two countries, and has since been discontinued.

Representative Williams

February 1, 1995

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Canadian waters must report to the first Customs clearing station after crossing the border (in a north to south transit, Prince Rupert is the first Customs clearing station). In reporting to Canadian Customs, a vessel operator must present the vessel and crew to the Customs dock immediately upon arrival (Customs personnel is on call 24 hours a day). The information required for a report to Canadian Customs includes documentation information on the vessel, its registry, tonnage, crew, owner, operator, and home port. Canadian Customs checks the citizenship, and sometimes the criminal records, of the crew. Customs also requires a cargo manifest, which will include pounds of fish by species, and in which country they were caught if the vessel is transporting fish.

Large vessels that have four or five crew members and can carry a large supply of fuel have no difficulty making the three-day transit of Canadian waters without stopping. However, many small boats must dock or anchor at some time along the way. Vessel operators who feel they can travel further than the first customs port into Canada before they must dock or anchor, and do not report at the first customs port, subject themselves to possible fines and vessel seizure.

Mr. Zak stated that it is not common for small U.S. fishing vessels to bring a cargo of fish caught in Alaska all the way through Canadian waters to sell or process in Bellingham or further south. Some vessels will take their catch to Prince Rupert for processing, but the vessels do not come in unannounced. They generally have prearranged agreements with processors in Prince Rupert.

All foreign vessels transiting Canadian waters are urged to voluntarily report to the Canadian Coast Guard for safety's sake, as the trip takes about three days, and the Coast Guard can be aware of the vessel's position should it run into trouble. Also, vessels over 20 meters in length (about 65 feet) are asked to voluntarily take part in the "Vessel Traffic System," an electronic tracking safety system that helps prevent collisions of large vessels. As is the case in U.S. waters, the Coast Guard of the host country makes its radio facilities available free of charge to relay any reports made from a vessel to a government agency.

Reporting Requirements for Canadian Fishing Vessels Entering U.S. (Alaska) Waters

A foreign vessel that enters U.S. (Alaska) waters must report to U.S. Customs as soon as it ceases forward motion (i.e., anchors or docks). If a vessel will be in U.S. waters for less than 24 hours, and does not offload cargo (including fish), send crew ashore to purchase supplies or fuel, or to change crews, the vessel operators are only required to report the name and description of the vessel, where it will be, and the approximate time it intends to leave U.S. waters.² Foreign vessel

²According to Ketchikan Coast Guard Base Executive Officer Daryl Milburne, during Canadian fishing openings in Dixon Entrance, near the border between Alaska and Canada, Canadian fishing vessels too small to anchor in the entrance safely, seek the closest harbor in which to rest after a day of fishing. The closest harbors are across the border in Alaska waters. These boats generally leave early in the morning to continue fishing in Canada.

Representative Williams

February 1, 1995

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operators generally report to the U.S. Coast Guard, and the Coast Guard relays the information to the nearest U.S. Customs office.

The U.S. Coast Guard informs foreign fishing vessel operators that they cannot fish or process fish except to operate their freezers, and that they may have their riggers down if they need them for stability, but otherwise, all fishing gear must be stowed. Foreign fishing vessels which fall under the jurisdiction of the Magnuson Act cannot offload cargo, and the Coast Guard informs them of this also. They are also told that if their time of departure changes more than one-half hour from the original estimate, they must inform the Coast Guard of the new time and reason for the change.³ The Coast Guard watches foreign fishing vessels harbored in Alaska waters by going into those harbors at odd times of the night to make sure that the vessels are shut down, and that no fishing or processing is occurring. The Coast Guard also follows up reports of foreign vessels fishing in U.S. waters. According to the Coast Guard Base Ketchikan Executive Officer, during peak season for Canadian fisheries openings near the border last year, an average of forty boats a night were spending the night in U.S. harbors, his agency seized only three vessels for fishing north of the AB line.⁴ All Canadian vessels seized for illegal fishing were actively fishing during the day, and not in the harbors at night.

Foreign vessel operators who intend to spend more than 24 hours in U.S. waters, or who intend to send crew ashore, exchange crew, or offload cargo, must make a full report to the nearest U.S. Customs. Generally, vessel operators radio the report to a ships agent who reports to Customs for them. The information required for a full report to Customs includes documentation information on the vessel, its registry, tonnage, crew, owner, operator, and home port. U.S. Customs also requires a cargo manifest, which will include pounds of fish by species, and in which country they were caught if the vessel is a fishing vessel.⁵ Attachment A contains basic reporting forms required for the entry of foreign vessels from the U.S. Customs Services.

If a Canadian vessel enters Alaska waters from a river such as the Stikine or Taku rivers in Southeast Alaska, it is not under the jurisdiction of the Magnuson Act, and may dock to offload cargo. Generally, small Canadian fishing boats transiting rivers into Alaska waters either sell the fish unprocessed to canneries in Juneau or Wrangell, while the larger vessels flash freeze the fish in the round, containerize them, and transport them to markets in Canada. Canadian boats coming down the rivers must report to the nearest U.S. Customs office the quantity of fish on board by

³Personal communication with Ketchikan Coast Guard Base Executive Officer Daryl Milburne, January 27, 1995.

⁴The AB line is the undisputed border between Alaska and Canada waters in Dixon Entrance. There is some disputed area in Dixon Entrance, but it is not illegal to fish in those waters, although the Canadian Coast Guard informs U.S. fishing vessels it is illegal.

⁵Personal communication with Doug Harmon, port director, U.S. Customs office in Ketchikan, January 27, 1995.

Representative Williams

February 1, 1995

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weight and species.⁶ According to Steve Baker, the U.S. Customs agent in Wrangell, Canadian vessels fishing in the Stikine River are not likely to fish in the U.S. portion of the river, as the operator of each vessel has established fish camps on the Canadian portions of the river from which they fish. They simply pass through U.S. waters going to and from their home ports and their fish camps.

We hope this information is helpful to you. If you need further assistance, please don't hesitate to call this office.

Attachment

⁶Personal communication with Steve Baker, U.S. Customs agent at Wrangell, January 27, 1995.

JAN 13 1995
January 13, 1995

Senator Robin Taylor
Representative Bill Williams
State Capitol
Juneau, AK 99801

Dear Robin and Bill,

Enclosed is a proposal from the trustees of the Ketchikan Trollers Committee that foreign fishing vessels with salmon aboard which enter Alaskan waters be required to report the quantity and harvest area of these fish to the nearest Alaska Department of Fish & Game personnel or Fish & Wildlife Protection officer.

The particular problem that we are trying to address is the lack of appropriate harvest information from the booming Canadian salmon troll fishery off Cape Chacon and Cape Muzon at the Alaskan border. 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.

We urge you to introduce joint legislation to address this situation. Please note that we are not asking for the State to interfere inappropriately with the ongoing federal negotiations and actions regarding the "disputed" zone in Dixon Entrance. Our proposal addresses only those foreign fishing vessels which enter waters that undisputedly are under Alaskan jurisdiction.

Thank you for taking the time to consider our proposal. We hope you find that it merits consideration and action.

Sincerely,

/Lonnie

Lonnie Haughton, Secretary/Treasurer
Ketchikan Trollers Committee
PO Box 3006
Ketchikan, AK 99901
(907) 225-1289 & 225-0600 fax

cc: Dave Gaudet, Alaska Department of Fish & Game
Dale Kelley, Alaska Trollers Association
Jim Bacon, Southeast Alaska Seiners
Geoff Bullock, United Southeast Alaska Gillnetters
Representative Jerry Mackie
Mayor Dennis Watson, City of Craig
Gary Freitag, SSRAA

**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.

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 23, 1995

FURTHER REFERRALS:

Resources

Date of Committee Action: _____

The SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 113

HOUSE BILL NO. 113

REPORTS BY OUT OF STATE FISHING VESSELS

"An Act relating to reports by fishing vessels that are not registered under the laws of the state."

recommends it be replaced ☐ the same title
with the following committee substitute _____ ☐ a new title

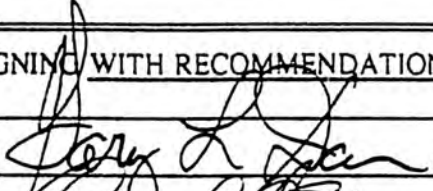
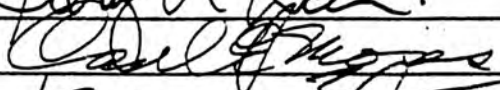
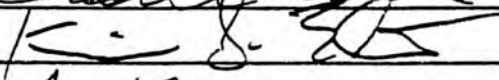
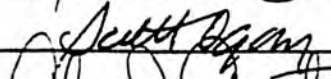
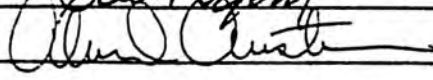
☐ additional referral to _____ Committee
☐ attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____

☐ fiscal note(s) _____ ☐ fiscal note(s) _____

☒ zero fiscal note(s) F & G ☐ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
	✓			
	✓			
	✓			
	✓			
			✓	

CHAIR'S SIGNATURE



HOUSE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES WILLIAMS, Therriault, Ogan, Grussendorf, Toohey, Mulder, Rokeberg

Introduced: 1/25/95

Referred: Resources

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the timber resources within the state."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 38.05 is amended by adding a new section to read:

4 Sec. 38.05.117. SALVAGE SALES. (a) Notwithstanding the provisions of
5 AS 38.05.113, the commissioner, after making a written finding that the disposal will
6 serve the best interests of the state, may offer for salvage sale timber stands that will
7 lose substantial economic value because of insect or disease epidemics or fire, if not
8 salvaged within two years. Timber on land to be cleared for conversion to nonforest
9 uses also may be offered as a salvage sale.

10 (b) A salvage sale offered as a negotiated timber sale is exempt from
11 AS 38.05.115.

12 * **Sec. 2.** AS 38.05.118(c) is amended to read:

13 (c) A sale of timber may not be negotiated by the commissioner under this
14 section except on a finding that, within an area proximate to the business site that
15 [WHICH] the manufacturer may economically serve, there exists, or will exist within

1 two years.

2 (1) a high level of local unemployment;

3 (2) an underutilized timber manufacturing capacity; and

4 (3) an underutilized allowable cut of state timber, timber that will lose
5 substantial economic value due to insects, disease, or fire, or timber to be cleared
6 for the conversion of land to nonforest uses.