

HB

109

HOUSE COMMITTEE REPORT

(9)

Date Referred to Committee: March 17, 1999

FURTHER REFERRALS:

Date of Committee Action: 3-31-99

The RESOURCES Committee considered:

HB 109

HOUSE BILL NO. 109

GLACIER BAY NATIONAL PARK

"An Act relating to management of fish and game in Glacier Bay National Park and Preserve and navigable waters."

recommends it be replaced with the following committee substitute CS HB 109 (RES) the same title
 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) _____

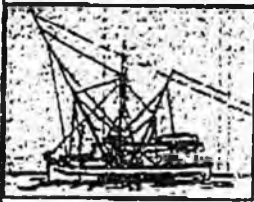
fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Div F+WP 3/4/99,
Div. Com Fish 3/1/99, Div. Spt. Fish. 3/1/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	✓			
<i>John P. Harris</i>	✓			
<i>[Signature]</i>			✓	
<i>Tamara Barnes</i>	✓			
<i>[Signature]</i>	✓			
<i>Scott Dan</i>	✓			

CHAIR'S SIGNATURE *Scott Dan*



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

March 23, 1999

Representative Scott Ogan, Chairman
House Resources Committee
Alaska State Legislature
Juneau, AK 99811

Dear Representative Ogan:

The Alaska Trollers Association (ATA) is generally supportive of HB109. ATA believes that the state has jurisdiction over fish and game in all waters of the state, including those adjacent to Glacier Bay National Park.

While ATA strongly supports the notion that Alaska should manage its fisheries, there are portions of your bill, which we do not fully understand. Hopefully you will clarify on the record your intent on the following points:

1. If the state is not allowed to expend funds to "adopt, enforce, or otherwise assist in the implementation of the federal regulatory program...in the park", will that preclude ADFG and CFEC from assisting fishermen who are slated for compensation programs? Will ADFG still be able to generate numbers and work with fishermen to minimize the impact of federal actions (e.g. park management plan)? There are significant issues that fishermen will confront as the regulatory and statutory process moves ahead. The assistance of the state will be needed to ensure a good outcome for our families and communities.
2. Is the mandate not to "adopt, enforce, or otherwise assist in the implementation of the federal regulatory program" limited only to the Park? Will this measure in any way impact fisheries that the state has been delegated management authority for by another body, such as the North Pacific Fishery Management Council or the International Pacific Halibut Commission? Since salmon and halibut fisheries occur in many waters where the state has not "assented to federal control", our members are deeply concerned about the ramifications of this provision on their fisheries.

ATA appreciates your efforts on our behalf and hope that some clarifying language can be generated to address the above issues.

Sincerely,

Dale A. Kelley
Executive Director

House Resources
HIB 109 Glacier Bay National Park
March 24, 1999

Communities near Glacier Bay National Park need adequate opportunities to maintain their economic and social survival. We request the continued fair and reasonable opportunity to fish in Glacier Bay National Park, to help alleviate the growing social economic crisis within our community. We have traditionally depended on the marine resources for our economic and social well being. We wish to maintain the ability to diversify our local economies and maintain stable long term employment. No actions should be taken to restrict the exercise of valid commercial fishing rights or privileges. There is a long-term pattern of commercial and subsistence taking of fish resources within the marine waters of Glacier Bay National Park. Local residents from communities in close proximity are a natural part of the ecosystem and are dependent upon the harvesting of marine resources as a part of their economic survival. These communities are economically and socially integrated to the commercial fishing lifestyle. The State of Alaska and the Secretary of Interior have an obligation to protect the pattern of use of commercial fishing, consisting of methods and means of harvest which are characterized by a reliance that provides to the economic well-being of our community. The City of Pelican has a direct dependence on the continuation of commercial fishing within Glacier Bay National Park. It is essential the State of Alaska continue to assert state jurisdiction of all fish & game within marine navigable state boundaries. Thank you for your continued support of fishing in Glacier Bay National Park.

Patricia Phillips
P.O. Box 33
Pelican, Alaska 99832
907-735-2240

Pelican City Council Member
F/V Pacific Dawn: commercial fishing

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 109

Revision Date/Time (Note if correction) _____ Dept. Affected Fish and Game
 Title GLACIER BAY NATIONAL PARK BRU Commercial Fisheries
 Component Southeast Region Fish Management
 Sponsor Rep. Ogan
 Requester House WTR Component Serial No. 2167

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

Prepared by Duffy, Acting Deputy Director Kevin C. Duffy Phone 465-6151
 Division Division of Commercial Fisheries Date/Time 3/1/99 4:14 PM
 Approved by Commissioner Frank Rue *Kevin Bruce for* Date 3/1/99
 Agency Alaska Department of Fish and Game

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 109

Revision Date (Note if correction) _____ Dept. Affected: Fish and Game
 Title Glacier Bay National Park BRU Sport Fish
 Component Sport Fish
 Sponsor Representative Ogan
 Requester House WTR Component Serial No. 464

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (1002)	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						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this bill will not affect the Division of Sport Fish therefore a zero fiscal note is being submitted.

Prepared by Kevin Delaney, Director
 Division Sport Fish
 Approved by Commissioner Beron Bruce for
 Agency Alaska Department of Fish and Game

Phone 465-4180
 Date 2/25/99
 Date 3/1/99

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO: HB109

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to management of fish and game BRU: Fish and Wildlife Protection
in Glacier Bay National Park and Preserve Component: Detachments
 Sponsor: Representative Ogan,
 Requestor: _____ COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 99) impact: \$ -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.)

This bill is inconsistent with divisional objectives, but will not adversely impact the budget.

Prepared By: Lieutenant Howard R. Starbard Phone: 746-9107
 Division: Fish and Wildlife Protection Date: February 26, 1999

Approved by Commissioner: *Ronald L. Ote* Date: 3-4-99
 Agency: Ronald L. Ote, Department of Public Safety

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SPONSOR STATEMENT

House Bill 109

"An Act relating to management of fish and game in Glacier Bay National Park and Preserve and navigable waters."

HB 109 adds Glacier Bay National Park to existing statute (AS 16.20.010) affirming the State of Alaska has not assented to federal control in that area.

The existing statute recognizes the state has jurisdiction over all fish and game within state boundaries except in those areas where it has assented to federal control.

HB 109 also adds a section to AS 16.20.010 which includes language from a U.S. Supreme Court case, *New York v. United States (1992)*, "...the federal government cannot commandeer the lawmaking process of the states to compel the state to enact and enforce a federal regulatory program."

The new section further strengthens the state's position with language asserting the state may not expend funds to adopt, enforce, or otherwise assist in the implementation of the federal regulatory program for control of fish and game in the park.

Recent activity by the U.S. Department of Interior sparked the introduction of this bill. HB 109 affirms that the State of Alaska supports continuing traditional activities, such as commercial and subsistence fishing, in Glacier Bay National Park and Preserve.

Article 01. STATE GAME REFUGES

Sec. 16.20.010. Legislative recognition.

The legislature recognizes that

(1) the state has jurisdiction over all fish and game in the state except in those areas where it has assented to federal control;

(2) the state has not assented to federal control of fish and game in those areas which were set apart as National Bird and Wildlife Refuges while the state was a United States territory;

(3) special recognition of the value to the state and the nation of areas of unspoiled habitat and the game characteristic to it will be demonstrated by designating as state game refuges those federal lands which were National Bird and Wildlife Refuges or Ranges at the time that Alaska achieved statehood.

History -

(Sec. 1 ch 114 SLA 1960)

Collateral Refs -

38 C.J.S., Game, Sec. 7, 8, 15.

Article Notes -

Opinions of the Attorney General. For a discussion of the authority of the Department of Natural Resources and

Subject: glacier Bay waters

Date: Fri, 05 Mar 1999 09:28:28 -0900

From: "Marlin E. Benedict" <fishing@seapac.net>

To: Fairbanks_LIO@legis.state.ak.us

Marlin Benedict wrote:
Box 301
Wrangell Alaska 99929

To The My State (Alaska) Representatives;

You (the state of Alaska) have my hopes and prayers that you win the law suit against the Federal Government over Glacier Bay, navigable waters, and the lands under the waters. If you do not win I see them (USFS) claiming the same on wilderness areas and in fact they are even now claim this here in Wrangell with the Stikine river but have not tried it in court.

If Alaska can not manage Alaska for Alaskan's we have truly have lose are freedom to kept Alaska a place for those who live here first. >From our wildlife to our fishes and land. We see here in Wrangell the federal government destroying a way of live, just so the USFS can make us like the rest of the US. Leases on federal lands have doubled this year. One USFS personal said we want you to rent our cabins and do away with yours. We are seeing changes in our way of life that not useful or my any sense. How long before we need a permit to park our car to enjoy a picnic or pick berries or walk on a trail. John Murr would have been put in jail now days for the things he did and he is the forest service hero.

Please win for Alaska what is Alaska's. Do not let them walk all over us because were different and small. We like it that way. Wild and free!

Keep Alaska for Alaskan's and visitors as visitors.

Marlin E. Benedict
Box 301
Wrangell Alaska 99929
(907)874-2590
email: fishing@seapac.net

9450 Herbert Place
Juneau, Alaska 99801
PH #789-7516

March 4, 1999

The Honorable Representative Scott Ogan
Alaska Legislature

Dear Representative Ogan,

Glacier Bay Fisheries

Recently employees of the National Park Service, wearing Firearms, contacted Alaska Fishermen in Glacier Bay National Park, boarding their vessels, and causing the Fishing People to be frightened and intimidated.

These fishermen were conducting legal operations as set forth by the Alaska Department of Fish & Game, in State waters.

The action by the National Park Service exceeded their authority, and violates the Sovereignty of the State of Alaska to manage Fisheries within State boundaries.

The Right of the State of Alaska to manage Fisheries is guaranteed by Historical Precedent in that No State has ever been denied such Management, and is a Primary Reason why Alaskans voted for Statehood, so as to obtain management of our own affairs and resources, especially Fisheries.

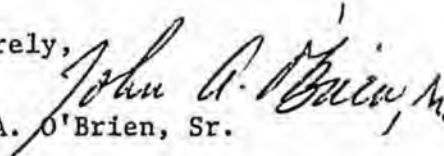
I respectfully urge Passage of your Bill about Fisheries in Glacier Bay, and action by our U.S. Congressional Delegation, and Governor Knowles to protect Alaskans from Federal Agents. It is recommended that Federal employees cease & desist from wearing Firearms when Alaskans are conducting legal operations in peaceful assembly.

Anything less is to let Federal Departments of the National Park Service, and also notably the U.S. Forest Service, to subject Alaska to an expanding Police State atmosphere.

These agencies over time have assumed the position that Government Agencies and employees are more powerful than the People, whereas the genius Founding Fathers of our Country intended that the People are supposed to be more Powerful than the Government.

Thank you for the opportunity to express my views on behalf of Alaska.

Sincerely,

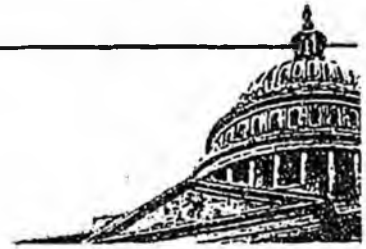

John A. O'Brien, Sr.

cc: Senator Stevens
Senator Murkowski
Representative Don Young
Governor Knowles
Senator Elton
Representative Hudson
Representative Kertula

NEWS FROM THE OFFICE OF

FRANK MURKOWSKI

United States Senator • Alaska



For Immediate Release:
March 3, 1999

Contact: Chuck Kleeschulte or Cindi Bookout
O (202) 224-9306; H (301) 283-4149; O 224-8767

(Email: chuck_kleeschulte@murkowski.senate.gov)

MURKOWSKI RESPONDS TO BABBITT COMMENTS ON GLACIER BAY

WASHINGTON -- The following memorandum presented to Department of the Interior Secretary Bruce Babbitt this morning is a response by Sen. Frank Murkowski to comments made during a hearing into the Glacier Bay issue on Tuesday, March 2.

The Senator had promised such a response during the hearing.

See attached memorandum...

FRANK H. MURKOWSKI
ALASKA

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CHAIRMAN
ENERGY AND NATURAL RESOURCES

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(907) 376-7865

MEMORANDUM

March 3, 1999

TO: Secretary Babbitt
FROM: Frank Murkowski
RE: Glacier Bay Fishing

During our exchange yesterday on Glacier Bay fishing, you indicated that fishermen may have disagreed with the policy, but not the methods, of the National Park Service.

I disagreed, saying that the methods were also questionable. The fishermen back me up when I say that the Park Service rangers, while polite, were not simply making requests for voluntary compliance with the closures... the fishermen on the boats being boarded felt that they had no choice but to remove their gear and move.

Here are some comments of the fishermen and observations of others in Alaska that support my contention:

"They have a person with a gun... the people in the (ranger) boat are taking evidence with a camera... I didn't think we had any other option than to remove our gear." - Ken Eichner of Ketchikan

"The Park Service later tried to put a benign spin on their actions, painting them as purely informational and educational vessel boardings... That's hardly the way it came across to fishermen, however. When a gun-toting park ranger tells you to leave an area, he's telling you to leave, not asking." - Juneau Empire Editorial 2/28/99

Crabber Joe Place of Juneau figures he and his crew lost about \$30,000 in gross revenues after they were pressured last week to move their boat out of waters they have fished for years. - 2/23 Juneau Empire Report

"It was inappropriate and unprofessional for the Park Service to tell crabbers about the closures during the season." - Alaska House Fisheries Committee staffer Liz Cabrera.

Here are some other relevant facts that underscore the seriousness and economic impact of the Park Service's actions:

- The 1999 tanner crab fishery was from 12:00 noon Monday 2/15 to 12:00 noon Sunday, 2/21. Statistical analysis of this 6-day fishery indicates that the first two days are critical. In the first two days, catch per vessel falls off rapidly, from 6,000-9,000 crab per day to about 3,000 crab per day. This is a drop from earnings of \$38,000 to \$57,000 per day to earnings of less than \$20,000 per day.
- This year, during the first day and later, 11 of the 14 vessels fishing in Glacier Bay were boarded by armed personnel. A number of those boarded were forced to move or prevented from fishing in their intended area. We have confirmed four of these cases with the Petersburg Vessel Owners Association, which represents most of the crabbers, and have been told of others.
- NPS now says it was conducting "education" and simply asking for voluntarily cooperation with closures made by last year's legislation. However, the fishermen did not feel they were being given a choice, and the NPS had not promulgated regulations for those closures.
- In explaining her actions, the Superintendent also makes the statement that NPS "options" include closing the entire bay until the permitting system and eligibility issues are all finalized. This is clearly contrary to the intent of Congress.

Mr. Secretary, rangers were polite and courteous, but the fact is, armed parties told fishermen they were in closed areas and subject to being cited. Fishermen were not told that they had a choice. This is not consistent with what the Park Superintendent later said was her intention.

This fishery has occurred in Glacier Bay for many years and its scheduling is well-known. NPS could easily have avoided this by contacting fishermen before the season.

Forcing the issue during the first day of the season caused serious economic losses. Was this intentional?