

Assembly Joint Resolution No. 8

RESOLUTION CHAPTER 94

Assembly Joint Resolution No. 8—Relative to marine mammal protection.

[Filed with Secretary of State September 8, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 8, Monning. Marine mammal protection: swordfish importation.

This measure requests the United States government to restrict swordfish imports unless and until there is a process by which a nation seeking to export swordfish or swordfish products to the United States provides reasonable proof of the effects on marine mammals of the commercial fishing technology used to obtain the swordfish or swordfish products, and the National Marine Fisheries Service receives that proof and determines that the proof demonstrates that the swordfish or swordfish products to be imported were not caught with commercial fishing technology that results in the incidental kill or incidental serious injury of marine mammals in excess of United States standards.

WHEREAS, California is a coastal state that is dedicated to the protection of our marine mammal populations, fisheries, and ocean resources; and

WHEREAS, California and the United States public have a strong interest in healthy global marine mammal populations; and

WHEREAS, Bycatch in some fisheries poses a significant threat to many populations of marine mammals around the world and scientists estimate that the global bycatch of marine mammals is likely to number in the hundreds of thousands each year; and

WHEREAS, Scientific experts from Duke University and the University of New Hampshire concluded in 2002 that, “incidental capture in fishing operations is the major threat to whales, dolphins, and porpoises worldwide. Several species and many populations will be lost in the next few decades if nothing is done”; and

WHEREAS, Congress recognized that some types of fishing pose a grave threat to marine mammal species when it passed the Marine Mammal Protection Act (16 U.S.C. Sec. 1361 et seq.) (MMPA), a law that imposes restrictions on fishery-related mortalities and injuries of marine mammals and has led to the establishment of significant regulatory protections designed to reduce marine mammal bycatch in United States domestic fisheries; and

WHEREAS, Conservation measures have been effective in reducing marine mammal bycatch in United States fisheries, resulting in a 40 percent decrease between 1990 and 1999; and

WHEREAS, Despite recognition of the importance of reducing bycatch of marine mammals in fisheries, our knowledge of the global extent, nature,

and impacts of direct interactions between marine mammals and foreign fisheries is limited; and

WHEREAS, Congress also realized that marine mammal conservation could not be accomplished through regulation of United States fishermen alone, thereby mandating in Section 101(a)(2) of the MMPA that United States economic power be utilized to achieve conservation of marine mammals outside United States waters; and

WHEREAS, Section 101(a)(2) of the MMPA states that the United States government, “shall ban the importation of commercial fish or fish products that have been caught with commercial fishing technology that results in the incidental kill or incidental serious injury of marine mammals in excess of United States standards”; and

WHEREAS, The MMPA directs that the Secretary of Commerce “shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States”; and

WHEREAS, The United States imports over 10,000 metric tons of swordfish and swordfish products each year, making it one of the top swordfish consumers in the world; and

WHEREAS, The United States received swordfish imports from approximately 43 countries between 2005 and 2007, inclusive, yet the United States government reports that it has no information from any of these countries regarding their fishing practices, take of marine mammals, or any other information to satisfy the requirements of Section 101 of the MMPA as of December 2007; and

WHEREAS, The responsible United States agencies cannot confirm whether countries importing swordfish into the United States operate under a regulatory scheme that is comparable to United States standards without demanding, receiving, and assessing the proof required under Section 101(a)(2) of the MMPA; and

WHEREAS, It therefore seems that the United States has imported swordfish without obtaining the MMPA-mandated proof that the swordfish was caught in compliance with United States standards for the last 35 years; and

WHEREAS, Available information indicates that many of the countries exporting swordfish to the United States fail to regulate their fisheries in a manner that protects marine mammals, transship fish from other poorly regulated and destructive fisheries, or may not track bycatch data at all; and

WHEREAS, Collection and reporting of marine mammal bycatch in foreign fisheries under Section 101(a)(2) of the MMPA could help assist management organizations, such as regional fisheries organizations, in assessing fishery interaction mitigation strategies and directing conservation efforts; and

WHEREAS, United States swordfish fishermen compete with swordfish imports from many poorly regulated foreign fishermen operating without comparable and appropriate restraints on marine mammal bycatch; and

WHEREAS, Enforcement of Section 101 of the MMPA would provide an incentive for foreign fishing fleets to implement similar protective measures and gear requirements as United States fisheries, reducing foreign fleets' competitive advantage over United States fishermen; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California requests the National Marine Fisheries Service and Department of the Treasury, as appropriate, to carry out the nondiscretionary duties imposed by Section 101(a)(2) of the Marine Mammal Protection Act and immediately ban the importation of swordfish or swordfish products from any and all countries that have not satisfied the MMPA Section 101(a)(2) requirement; and be it further

Resolved, That the Legislature of the State of California requests the National Marine Fisheries Service to require nations wishing to export swordfish or swordfish products to the United States to provide information on the fishing methods used to catch the swordfish or swordfish products, programs in place to protect marine mammals from incidental harm by the fishery, and effectiveness of fishery monitoring and enforcement activities, and consider that information in making determinations under Section 101(a)(2) of the MMPA; and be it further

Resolved, That the Legislature of the State of California requests the United States government to restrict swordfish imports unless and until there is a process by which any nation seeking to export swordfish or swordfish products to the United States provides reasonable proof of the effects on marine mammals of the commercial fishing technology used to obtain the swordfish or swordfish products, and the National Marine Fisheries Service receives that proof and determines that it demonstrates that the swordfish or swordfish products to be imported were not caught with commercial fishing technology that results in the incidental kill or incidental serious injury of marine mammals in excess of United States standards; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Secretary of Commerce, to the Secretary of the Treasury, to the National Marine Fisheries Service, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.