

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

Assembly Joint Resolution

No. 8

Introduced by Assembly Member Monning
(Coauthors: Assembly Members Bill Berryhill, Blumenfield, Lieu,
Nava, and John A. Perez)
(Coauthor: Senator DeSaulnier)

February 25, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AJR 8, as amended, 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.

Fiscal committee: no.

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

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

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

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

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

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

22 WHEREAS, Despite recognition of the importance of reducing
23 bycatch of marine mammals in fisheries, our knowledge of the
24 global extent, nature, and impacts of direct interactions between
25 marine mammals and foreign fisheries is limited; and

26 WHEREAS, Congress also realized that marine mammal
27 conservation could not be accomplished through regulation of
28 United States fishermen alone, thereby mandating in Section
29 101(a)(2) of the MMPA that United States economic power be
30 utilized to achieve conservation of marine mammals outside United
31 States waters; and

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

38 WHEREAS, The MMPA directs that the Secretary of Commerce
39 “shall insist on reasonable proof from the government of any nation
40 from which fish or fish products will be exported to the United

1 States of the effects on ocean mammals of the commercial fishing
2 technology in use for such fish or fish products exported from such
3 nation to the United States”; and

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

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

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

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

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

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

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

38 WHEREAS, Enforcement of Section 101 of the MMPA would
39 provide an incentive for foreign fishing fleets to implement similar
40 protective measures and gear requirements as United States

1 fisheries, reducing foreign fleets' competitive advantage over
2 United States fishermen; now, therefore, be it

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

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

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

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

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