

103^D CONGRESS
2^D SESSION

S. 2243

AN ACT

To amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. FINDINGS.**

2 The Congress finds that—

3 (1) customary international law and the United
4 Nations Convention on the Law of the Sea guaran-
5 tee the right of passage, including innocent passage,
6 to vessels through the waters commonly referred to
7 as the “Inside Passage” off the Pacific Coast of
8 Canada;

9 (2) Canada has recently announced that it will
10 require all commercial fishing vessels of the United
11 States to pay 1,500 Canadian dollars to obtain a “li-
12 cense which authorizes transit” through the Inside
13 Passage off the Pacific Coast of Canada;

14 (3) this action is inconsistent with international
15 law, including the United Nations Convention on the
16 Law of the Sea, and in particular Article 26 of that
17 Convention, which specifically prohibits such fees,
18 and threatens the safety of United States commer-
19 cial fishermen who may seek to avoid the fee by
20 traveling in less protected waters;

21 (4) the Fishermen’s Protective Act of 1967 pro-
22 vides for the reimbursement of vessel owners who
23 are forced to pay a license fee to secure the release
24 of a vessel which has been seized, but does not per-
25 mit reimbursement of a fee paid by the owner in ad-
26 vance in order to prevent a seizure;

1 (5) Canada has announced that the license fee
2 may only be paid in two ports on the Pacific Coast
3 of Canada, and must be paid in person or in ad-
4 vance by mail;

5 (6) significant expense and delay would be in-
6 curred by a commercial fishing vessel of the United
7 States that had to travel from the point of seizure
8 back to one of those ports in order to pay the license
9 fee required by Canada, and the costs of that travel
10 and delay cannot be reimbursed under the Fisher-
11 men's Protective Act as presently enacted;

12 (7) the Fishermen's Protective Act of 1967
13 should be amended to permit vessel owners to be re-
14 imbursed for fees required by a foreign government
15 to be paid in advance in order to navigate in the wa-
16 ters of that foreign country, provided the United
17 States considers that fee to be inconsistent with
18 international law;

19 (8) the Secretary of State should seek to re-
20 cover from Canada any amounts paid by the United
21 States to reimburse vessel owners who paid the tran-
22 sit license fee;

23 (9) the United States should review its current
24 policy with respect to anchorage by commercial fish-
25 ing vessels of Canada in waters of the United States

1 off Alaska, including waters in and near the Dixon
2 Entrance, and should accord such vessels the same
3 treatment that commercial fishing vessels of the
4 United States are accorded for anchorage in the wa-
5 ters of Canada off British Columbia;

6 (10) the President should ensure that, consist-
7 ent with international law, the United States Coast
8 Guard has available adequate resources in the Pa-
9 cific Northwest and Alaska to provide for the safety
10 of United States citizens, the enforcement of United
11 States law, and to protect the rights of the United
12 States and keep the peace among vessels operating
13 in disputed waters;

14 (11) the President should continue to review all
15 agreements between the United States and Canada
16 to identify other actions that may be taken to con-
17 vince Canada that continuation of the transit license
18 fee would be against Canada's long-term interests,
19 and should immediately implement any actions
20 which the President deems appropriate until Canada
21 rescinds the fee;

22 (12) the President should immediately convey
23 to Canada in the strongest terms that the United
24 States will not now, nor at any time in the future,
25 tolerate any action by Canada which would impede

1 or otherwise restrict the right of passage of vessels
2 of the United States vessels in a manner inconsis-
3 tent with international law; and

4 (13) the United States should redouble its ef-
5 forts to seek expeditious agreement with Canada on
6 appropriate fishery conservation and management
7 measures that can be implemented through the Pa-
8 cific Salmon Treaty to address issues of mutual con-
9 cern.

10 **SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE**
11 **ACT.**

12 The Fishermen's Protective Act of 1967 (P.L. 90-
13 482), as amended, is further amended by adding at the
14 end the following new section:

15 "SEC. 11. (a) In any case on or after June 15, 1994,
16 in which a vessel of the United States exercising its right
17 of passage is charged a fee by the government of a foreign
18 country to engage in transit passage between points in the
19 United States (including a point in the exclusive economic
20 zone or in an area over which jurisdiction is in dispute),
21 and such fee is regarded by the United States as being
22 inconsistent with international law, the Secretary of State
23 shall reimburse the vessel owner for the amount of any
24 such fee paid under protest.

1 “(b) In seeking such reimbursement, the vessel owner
2 shall provide, together with such other information as the
3 Secretary of State may require—

4 “(1) a copy of the receipt for payment;

5 “(2) an affidavit attesting that the owner or the
6 owner’s agent paid the fee under protest; and

7 “(3) a copy of the vessel’s certificate of docu-
8 mentation.

9 “(c) Requests for reimbursement shall be made to the
10 Secretary of State within 120 days of the date of payment
11 of the fee, or within 90 days of the date of enactment
12 of this section, whichever is later.

13 “(d) Such funds as may be necessary to meet the re-
14 quirements of this section may be made available from the
15 unobligated balances of previously appropriated funds re-
16 maining in the Fishermen’s Guaranty Fund established
17 under section 7 and the Fishermen’s Protective Fund es-
18 tablished under section 9. To the extent that requests for
19 reimbursement under this section exceed such funds, there
20 are authorized to be appropriated such sums as may be
21 needed for reimbursements authorized under subsection
22 (a).

23 “(e) The Secretary of State shall take such action
24 as the Secretary deems appropriate to make and collect

1 claims against the foreign country imposing such fee for
2 any amounts reimbursed under this section.

3 “(f) For purposes of this section, the term ‘owner’
4 includes any charterer of a vessel of the United States.

5 “(g) The provisions of this section shall remain in
6 effect until October 1, 1995.”.

7 **SEC. 3. REAUTHORIZATION.**

8 (a) Section 7(c) of the Fishermen’s Protective Act of
9 1967 (22 U.S.C. 1977(c)) is amended by striking “The
10 amount fixed by the Secretary shall be predicated upon
11 at least 33 $\frac{1}{3}$ per centum of the contribution by the Gov-
12 ernment.”.

13 (b) Section 7(e) of the Fishermen’s Protective Act of
14 1967 (22 U.S.C. 1977(e)) is amended by striking “Octo-
15 ber 1, 1993” and inserting in lieu thereof “October 1,
16 2000”.

17 **SEC. 4. TECHNICAL CORRECTION.**

18 (a) Section 15(a) of Public Law 103–238 is amended
19 by striking “April 1, 1994,” and inserting “May 1,
20 1994.”.

1 (b) The amendment made by subsection (a) shall be
2 effective on and after April 30, 1994.

 Passed the Senate July 1 (legislative day, June 7),
1994.

Attest:

Secretary.