



# HOUSE BILL

**H.B. 38-8**

THE THIRTY-EIGHTH LEGISLATURE OF AMERICAN SAMOA

First Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the ninth day of January  
two thousand and twenty three

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE DEPARTMENT OF PORT ADMINISTRATION AUTHORITY TO ISSUE LANDING LICENSES TO PURSE SEINER VESSELS TO MAINTAIN A RECORD OF LOCALLY BASED PURSE SEINER VESSELS; CREATING A CHAPTER 6 IN TITLE 20 A.S.C.A."

Preamble:

WHEREAS, the Department of Port Administration together with the Department of Marine and Wildlife Resources, have identified a strong need to establish a local licensing system for US-flagged purse seiner vessels that will aid the Territory in seeking full Small Islands Developing State/Participating Territories benefits within the Western and Central Pacific Fisheries Commissions; and

WHEREAS, the American Samoa economy is highly dependent on the tuna industry and sustaining this sector is of critical importance, especially as it will now contribute greatly as another revenue source for the Territory; and

WHEREAS, the development of this local licensing system shall enable the U.S. purse seiner fleet that supplies the local cannery to be recognized as an American Samoa - based fleet; and

WHEREAS, this act shall establish a record of locally based purse seiner vessels that regularly land tuna to American Samoa, either for use in the tuna processing plant or for transshipment.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

**Section 1. There is created a Chapter 6 in Title 20 A.S.C.A. which reads:**

**"CHAPTER 6  
RECORD OF LOCALLY BASED PURSE SEINERS**

**Sections:**

- 20.0601 Purpose.
- 20.0602 Definitions.
- 20.0603 Duties of the Director.
- 20.0604 Landing License.
- 20.0605 Licensing of Purse Seiners Vessels.
- 20.0606 Terms and Conditions of Landing License.
- 20.0607 Grounds and Procedure for suspension or revocation of a Landing License.
- 20.0608 Appeals.
- 20.0609 Fees.
- 20.0610 Violation--Penalty.

**20.0601 Purpose.**

The purpose of this chapter is:

- (a) to issue landing licenses to locally based purse seiner vessels to land tuna in American Samoa;
- (b) establish and maintain a record of all locally based Purse Seiner vessels that regularly land tuna to American Samoa; either for use in the tuna processing plant or for transshipment, in support of the American Samoa tuna industry; and
- (c) require locally based purse seiner vessels to land at least fifty percent (50%) of its tuna catch to American Samoa in support of the American Samoa tuna dependent economy.

**20.0602 Definitions.**

As used in this chapter:

- (1) "Commercial Purposes", within this chapter, means to engage in fishing with the intent of disposing of harvested fish, or any part thereof, or by sale or barter, in commercial trade.
- (2) "Department" means the Department of Port Administration.
- (3) "Director" means the Director of the Department of Port Administration or his/her designee.
- (4) "Land, Landing or Landed" means offloading fish from a fishing vessel, arriving in port to begin offloading fish, or causing fish to be offloaded from a fishing vessel.
- (5) "Landing License" means the license issued by the Department to a Purse Seiner for the purpose of landing tuna in American Samoa.
- (6) "Locally based Purse Seiner" means a Purse Seiner that is based at Pago Pago and lands at least 50% of its tuna catch in American Samoa.
- (7) "Operator" means, with respect to any vessel, the master or other individual aboard and in charge of that vessel.
- (8) "Owner" means with respect to any Purse Seiner:
  - (A) Any person who owns that Purse Seiner in whole or part (whether or not the Purse Seiner is leased or chartered);

(B) Any charterer of the Purse Seiner, whether bareboat, time, or voyage;

(C) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(D) Any agent designated as such by a person described in this definition.

(9) "Purse Seiner" means any vessel used exclusively to harvest any species of tuna by purse seiner fishing method for commercial purposes.

(10) "Tuna" means any fish of the genus *Thunnus* and the species *Katsuwonus pelamis*.

(11) "Vessel" includes every description of watercraft (except longboats and paopaos) used or intended to be used as a means for transporting passengers or freight for profit.

#### **20.0603 Duties of the Director.**

(a) The Director shall have the following duties under this chapter:

(1) Shall issue a landing license to any owner or operator of a Purse Seiner who submits the application and documents that are required by the Director along with payment of the required fee;

(2) maintain a record of all locally based Purse Seinners who are licensed to land tuna under this chapter on behalf of their owner or operator(s);

(3) enforce the terms and conditions of landing licenses as determined by the Director to ensure compliance with this chapter and any applicable laws and rules; and

(4) carry out any other activities for the purposes of implementing this chapter.

(b) The Director shall have the authority to adopt, amend, and repeal rules pursuant to A.S.C.A. §4.1001 et seq., as required to implement this chapter.

#### **20.0604 Landing License.**

All Purse Seinners landing tuna in American Samoa must possess a landing license from the Department.

#### **20.0605 Licensing of Purse Seinners Vessels.**

(a) Any owner or operator of a Purse Seiner must apply to the Department for a landing license on a form prescribed by the Department.

(b) The owner or operator of a Purse Seiner applying for a landing license must provide documents prescribed by the Director to demonstrate that the Purse Seiner may lawfully operate a vessel in the waters of American Samoa.

(c) The owner or operator of a Purse Seiner applying for a landing license must pay the required fee.

#### **20.0606 Terms and Conditions of Landing License.**

(a) Any landing license issued by the Department under this Chapter shall only be valid for one year from the date of issuance.

(b) A landing license shall only apply to one vessel.

(c) Any landing license issued by the Department under this Chapter shall not be transferrable and shall be personal to the holder.

(d) Any landing license issued by the Department under this Chapter may be issued with conditions or further terms as determined by the Director.

(e) Any landing license issued by the Department under this Chapter does not confer on to the license holder any rights to engage in fishing.

(f) Any landing license issued by the Department does not supersede any other license or regulatory certification needed to operate the vessel in American Samoa.

**20.0607** Grounds and procedure for suspension or revocation of a landing license.

(a) The Director may suspend or revoke a landing license of any owner or operator under this chapter for any one or combination of the following grounds:

(1) fraud or misrepresentation in obtaining a landing license authorized to be issued by the provisions of this chapter;

(2) willful and deliberate violation of any of the provisions of this chapter or any of the rules promulgated by the Director;

(3) failure to comply with any qualification or requirement provided in this chapter or any of the rules promulgated by the Director;

(4) violation of any law or rule related to operations of a vessel or any territorial or federal commercial fishing regulation.

(b) Prior to issuing a suspension or revocation of a landing license, the Director shall provide the owner or operator written notice of the Director's intention to suspend or revoke the landing license, and allow an opportunity for the owner or operator to respond in writing within seven (7) days.

(1) The notice shall provide the following:

(A) the grounds for the suspension or revocation of the landing license;

(B) the reference to the law upon which it relies upon; and

(C) the documentary evidence supporting the grounds, including affidavits or witnesses (if any).

(c) The Director shall issue a written notice to the owner or operator of their decision within seven (7) days of the owner or operator's response.

**20.0608** Appeals.

Appeals from the Director's final decision in A.S.C.A. § 20.0607 shall be heard before the Office of the Administrative Law Judge under their authority in A.S.C.A. § 4.0604(h).

**20.0609** Fees.

(a) The annual fee for a purse seiner landing license shall be prescribed in the rules promulgated by the Director.

(b) In the absence of any rules prescribing a fee, the annual fee for a purse seiner landing permit shall be \$500.

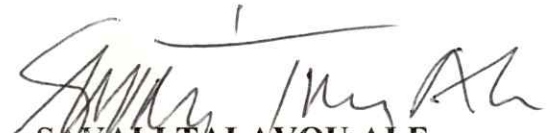
(c) All revenues collected under the landing license fees of this Chapter shall be deposited in the general fund and earmarked fund for the Department to administer this chapter.

**20.0610 Violation—Penalty.**


Any person who is convicted of violating any section of this chapter or any rules promulgated pursuant thereto shall be guilty of a class A misdemeanor and upon conviction, sentenced accordingly.”

Sec 2. Effective date.

Section 1 of this bill shall become effective 60 days after the end of the session at which it has been passed.

  
**SAVALI TALAVOU ALE**  
Speaker, House of Representatives

  
**TUAOLO MANAIA FRUEAN**  
President of the Senate

  
**LEMANU P. S. MAUGA**  
Governor of American Samoa

NOFOA'IGA TOLUSEFULU-VALU FONOFAITULAFONO AMERIKA SAMOA

Fono Tele Muamua

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa  
Aso Gafua, aso Iva o Ianuari  
Lua afe luasefulutolu

O SE PILI MO LE TULAFONO E FAAULUTALAINA: "O LE TULAFONO E  
TUUINA ATU AI I LE MATAGALUEGA O UAFU LE PULE E TUU ATU LAISENE  
E TUTA AI VAA MO VAAFAGOTA TETELE IA FAAMAUINA SE  
FAAMAUMAUGA O VAAFAGOTA FAALOTOIFALE; FAAVAE AI SE MATAUPU  
6 I LE ULUTALA 20 TTAS.

TALUAI, o le Matagaluega o Uafu faatasi ai ma le Matagaluega o le Gataifale ma Faigafaiva, ua faailoaina se manaoga malosi ia faavaeina se faiga o laisene faalotoifale mo vaafagota o loo tauaveina le fua o le Iunaite Setete e fesoasoani ai i le Teritori e saili Atinae i Atumotu Laiti/Atunuu auai a le Teritori i faamanuiaga o loo i totonu o le Komisi o Faigafaiva a le Pasefika i Sisifo ma Tutotonu; ma

TALUAI, o le tamaoaiga o Amerika Samoa e maualuga lona faalagolago i fale tuu apa ia ma o le faatumauina o lea vaega e taua tele, aemaise ai o le a tele sona sao o se isi alagatupe mo le Teretori; ma

TALUAI, o se atina'eina o lenei faiga o laisene faalotoifale e mafai ai ona faailoa o vaafagota tetele a le Iunaite Setete o loo sapalai a tatou fale tuu apa o se vaa a Amerika Samoa; ma

TALUAI, o lenei tulafono e tatau ona faamauina ai se faamaumauga faalotoifale o vaafagota tetele o loo tuu mai ai le tuna i Amerika Samoa, pe fa'aaoga i le fale gaosi tuna, po'o le fesuiaina o uta mai vaa.

IA FAATULAFONOINA E LE FONO FAITULAFONO A AMERIKA SAMOA:

**Maga 1. O le a faavaeina se Mataupu 6 i le Ulutala 20 TTAS e faitauina:**

“MATAUPU 6  
FAAMAUMAUGA FAALOTOIFALE O VAAFAGOTA TETELE

**Maga:**

- 20.0601 Mafuaaga.
- 20.0602 Faamatalaga.
- 20.0603 Tiute o le Faatonu.
- 20.0604 Laisene e tuta ai vaa.
- 20.0605 Laiseneina o vaafagota tetele.
- 20.0606 Aiaiga ma tulaga o laisene e tuta ai vaa.
- 20.0607 Mafuaaga ma taualumaga mo le taofia po’o le faaleaogaina o se laisene e tuta ai vaa.
- 20.0608 Apili.
- 20.0609 Tau.
- 20.0610 Soliga—Faasala.

**20.0601 Mafuaaga.**

O le mafuaaga o lenei mataupu e:

- (a) tuuina atu o laisene e tuta ai vaa i vaa fagota e lauina le tuna i Amerika Samoa:
- (e) fausia ma faatumau faamaumauga o vaa fagota tetele uma faalotoifale e masani ona aumai le tuna i Amerika Samoa; pe faaoga e le fale tuu apa po’o le fesuaiga o uta o vaa, i le lagolago a le fale tuu apa ia i Amerika Samoa; ma
- (i) manaomia vaa fagota tetele faalotoifale e aumai e tusa ma le 50% o ana tuna e maua i fagotaga i Amerika Samoa e lagolago ai le tamaoiga i le tuna a Amerika Samoa.

**20.0602 Faamatalaga.**

E pei ona fa’aaogaina i lenei mataupu:

- (1) “Mafuaaga Faapisinisi”, i totonu o lenei mataupu, o lona uiga o le auai i faigafaiva i le faamoemoe e lafoai le seleselega o i’a ua maua, po’o se isi vaega, po’o le faatau atu i feaatauaiga faapisinisi.
- (2) “Matagaluega” o lona uiga o le Matagaluega o Uafu.
- (3) “Faatonu” o lona uiga o le Faatonu o le Pulega o le Matagaluega o Uafu po’o sona sui filifila.
- (4) “Tuta le vaa” o lona uiga o le la’u ese mai o i’a mai le vaa fagota, taunuu i le uafu ma amata ona la’u ese le uta i’a, po’o le la’u mai o i’a mai le vaa fagota.
- (5) “Laisene e tuta ai vaa” o lona uiga o le laisene ua tuuina atu e le Matagaluega i le vaa fagota mo le mafuaaga o le la’u eseina mai o tuna i Amerika Samoa.
- (6) “Vaa fagota e faamautu faalotoifale” o lona uiga o vaa fagota o loo faamautu i Pago Pago ma lau ese uta pe tusa ma le 50% o tuna sa maua i le fagotaga i Amerika Samoa.

(7) "Faafoe" o lona uiga, i le vā feagai ma isi vaa fagota, o le matai po'o se isi tagata o loo i luga o le vaa ma taitaia lena vaa.

(8) "Pule" o lona uiga i le vā feagai ma isi vaa fagota:

(A) Soo se tagata e pulea lena vaa fagota atoa poo se vaega (pe lisi po'o le togipau le vaa fagota);

(E) Soo se vaa fagota e togipau, pe totogi, taimi, po'o le folau;

(I) Soo se tagata e galue i le vaa togipau, e aofia ai ae lē faatapulaaina i soo se vaega o maliliega a le pulega, faagaioiina o le maliliega, po'o se isi maliliega foliga tutusa ua faaeina atu e pulea ai lona taunuuga, matafaioi, poo le faagaioiga o le vaa; po'o

(O) Soo se sooupu tofia o se tagata ua faamatalaina i lenei mafuaaga.

(9) "Vaa Fagota tetele" o lona uiga soo se vaa ua fa'aaogaina faapitoa e fagota soo se ituaiga tuna, o metotia o fagotaga i vaa fagota tetele mo faatauga faapisinisi.

(10) "Tuna" o lona uiga soo se ituaiga i'a o le asiasi ma ituaiga atualo/kavalau.

(11) "Vaa" e aofia ai soo se faamatalaga o vaa (sei vagana fautasi ma paopao) fa'aaoga po'o le faamoemoe e fa'aaoga mo felauaiga o tagata po'o uta mo polofiti.

#### 20.0603 Tiute o le Faatonu.

(a) O le Faatonu o loo iai ona tiute i lalo o lenei mataupu:

(1) E tuuina atu laisene e tuta ai vaa i soo se pule po'o se kapeteni o le vaa o lē na tuuina mai pepa talosaga ma pepa e manaomia e le Faatonu atoa ai ma peimeni o le tau moomia;

(2) faatumau faamaumauga o vaa fagota uma faalotoifale o loo laiseneina e lau ese ai uta i'a i lalo o lenei mataupu e fai ma sui o le pule po'o le kapeteni.

(3) faamalosia le taimi ma tulaga o laisene e tuta ai vaa ua fuafua e le Faatonu e mautinoa lona tausisia i lenei mataupu ma soo tulafono talafeagai; ma

(4) o le tauaveina pea o isi galuega mo le faamoemoe e faatino i lenei Mataupu.

(e) O le Faatonu o loo iai le pule e talia ai, suia, ma soloia tulafono e tusa ai i le TTAS §4.1001 ma isi, e pei ona manaomia e faatino ai lenei mataupu.

#### 20.0604 Laisene e tuta ai vaa.

O vaa fagota tetele uma e lau ese a latou uta i'a i Amerika Samoa e tatau ona umia se laisene e tuta ai le vaa mai le Matagaluega.

#### 20.0605 Laisene o vaa fagota tetele.

(a) Soo se pule poo se kapeteni o se vaa fagota e tatau ona talosagaina i le Matagaluega mo se pemitā e tuta ai le vaa o loo i le pepa o faamatalaga mai le Matagaluega.

(e) O le pule po'o le kapeteni o se vaa fagota e talosaga mo se laisene e tuta ai le vaa e tatau ona tuuina atu ni faamaumauga faatonuina i le Faatonu e fa'aali ai o le vaa fagota ua faatulafonoina lona faagaioiga i le oga sami o Amerika Samoa.

(i) O le pule po'o le kapeteni o le vaa fagota e talosagaina mo se laisene e tuta ai vaa e tatau ona totogi le tau faatulagaina.

**20.0606 Aiaiga ma tulaga o laisene e tuta ai vaa.**

(a) Soo se laisene e tuta ai vaa ua tuuina atu e le Matagaluega i lalo o lenei Mataupu e tatau ona taualoaina mo le tasi le tausaga mai le aso na tuuina atu ai.

(e) O le laisene e tuta ai vaa e apalai i le vaa fagota e tasi.

(i) Soo se laisene e tuta ai vaa e tuuina atu e le Matagaluega i lalo o lenei Mataupu e lē tatau ona fesiitaia ma e tatau ona fai ma meatotino a lē o loo umia.

(o) Soo se laisene e tuta ai vaa e tuuina atu e le Matagaluega i lalo o lenei Mataupu e ao ona tuuina atu ma tuutuuga po'o le faaumiumi e pei ona fuafuaina e le Faatonu.

(u) Soo se laisene e tuta ai vaa e tuuina atu e le Matagaluega i lalo o lenei Mataupu e lē tuuina atu i lē o loo umia le laisene soo se aiā tatau e auai i fagotaga.

(f) Soo se laisene e tuta ai vaa e tuuina atu e le Matagaluega e lē mafai ona suitulaga i se isi laisene po'o se tusipasi faatonutonu e manaomia e faagaioi ai le vaa i Amerika Samoa.

**20.0607 Mafuaaga ma taualumaga mo le taofia po'o le faaleaogaina o se laisene e tuta ai vaa.**

(a) O le Faatonu na te taofia pe soloia se laisene e tuta ai vaa mo soo se pule po'o se kapeteni i lalo o lenei mataupu mo soo se tasi po'o le tuufaatasiga o mafuaaga nei:

(1) o le taufaasesē po'o faamatalaga sesē i le mauaina o se laisene e tuta ai vaa ua faatagaina e tuuina atu i aiaiga o lenei mataupu;

(2) o le fai ma le loto iai ma le solia o soo se aiaiga o lenei mataupu po'o soo se tulafono e faasalalauina e le Faatonu;

(3) o le lē usitaia o so'o se agavaa po'o se manaoga aiaia i lenei Mataupu po'o soo se tulafono e faasalalauina e le Faatonu;

(4) o le solia o so'o se tulafono e fesootai ma le faagaioiga o se vaa, poo soo se Teritori po'o tulafono feterale o faigafaiva faapisinisi.

(e) A'o lei tuuina atu se faamalologa po'o le faaleaogaina o le laisene e tuta ai vaa, o le Faatonu e tatau ona tuuina atu i le pule po'o le kapeteni se fa'aaliga tusitusia i le faamoemoe o le Faatonu e faamalolo lē tumau pe faaleaoga le laisene e tuta ai vaa, ma tuu se avanoa i le pule po'o kapeteni e tali mai ai i se tusi tusitusia i totonu o le 7 aso.

(1) O le fa'aaliga e tatau ona aiaia ai mea nei:

(A) o le autu o le faamalolo lē tumau po'o le soloia o le laisene e tuta ai vaa;

(E) o le faasinomaga i le tulafono o loo faalagolago iai; ma

(I) o faamaumauga faamaonia e lagolago ai le autu, e aofia ai tautinoga po'o se molimau (pe afai e iai).

(i) O le Faatonu e tatau ona ia tuuina atu se fa'aaliga tusitusia i le pule po'o le kapeteni la latou faaiuga i totonu o le 7 aso i le tali mai o le pule po'o le kapeteni.

**20.0608 Apili.**

O le apili mai le faaiuga mulimuli a le Faatonu i le TTAS §20.0607 e tatau ona fofogaina i luma o le ofisa o Faamasino o Tulafono tau Galuega i lalo o le faatagaga i le TTAS §4.0604 (I).

**20.0609 Tau.**

(a) O le tau faaletausaga mo le laisene e tuta ai vaa mo vaa fagota e tatau ona faamatalaina i tulafono ua faasalalauina e le Faatonu.

(e) O le leai o soo se tulafono ua faatonuina lona tau, o le totogi faaletausaga mo le pemita o le vaa fagota e tuta ai e tatau ona \$500.

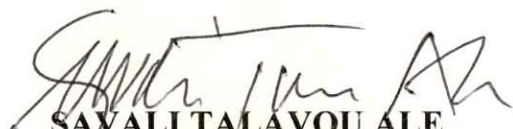
(i) O tupe uma e maua i lalo o tau o laisene e tuta ai vaa i leni Mataupu e tatau ona teu i le teugatupe tele ma tupe faailogaina tupe mo le Matagaluega e faatonu mai e leni mataupu.

**20.0610 Soliaga--Faasalaga.**

Soo se tagata ua faasalaina i le soliaina o soo se maga o leni mataupu po'o soo se tulafono ua faasalalauina e tusa ai ma lea tulafono, e tatau ona nofosala i le faasalaga mama vaega A, ma i luga o le faasalaga, ia faasala e tusa ai."

Maga 2. Aso e taualoa ai.

O le maga 1 o leni pili e tatau ona aloa'ia i le 60 aso talu ona maea le tauaofiaga lea na pasia ai.

  
SAVALI TALAVOU ALE  
Fofoga Fetalai, Maota o Sui

  
TUAOLO MANAIA FRUEAN  
Peresetene, Maota Mauaialuga

  
LEMANU P. S. MAUGA  
Kovana o Amerika Samoa