S. 2244

To protect the public's ability to fish for sport, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2004

Mrs. HUTCHISON (for herself and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect the public’s ability to fish for sport, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This bill may be cited as the “Freedom to Fish Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Recreational fishing is traditionally the most popular outdoor sport with more than 50,000,000 participants of all ages, in all regions of the country.
(2) Recreational anglers make a substantial contribution to local, State, and national economies and infuse $116,000,000,000 annually into the national economy.

(3) In the United States, more than 1,200,000 jobs are related to recreational fishing, a number that is approximately 1 percent of the entire civilian workforce in the United States. In communities that rely on seasonal tourism, the expenditures of recreational anglers result in substantial benefits to the local economies and small businesses in those communities.

(4) Recreational anglers have long demonstrated a conservation ethic. In addition to payment of Federal excise taxes on fishing equipment, motorboats and fuel, as well as license fees, recreational anglers contribute more than $500,000,000 annually to State fisheries conservation management programs and projects.

(5) It is a long standing policy of the Federal Government to allow public access to public lands and waters for recreational purposes in a manner that is consistent with principals of sound conservation. This policy is reflected in the National Forest Management Act of 1976, the Wilderness Act, the

(6) In most instances, recreational fishery resources can be maintained without restricting public access to fishing areas through a variety of management measures including take limits, minimum size requirements, catch and release requirements, gear adaptations, and closed seasons.

(7) A clear policy is required to demonstrate to recreational anglers that recreational fishing can be managed without unnecessarily prohibiting such fishing.

(8) A comprehensive policy on the implementation, use, and monitoring of marine protected areas is required to maintain the optimum balance between recreational fishing and sustaining recreational fishery resources.

SEC. 3. POLICY.

It is the policy of the United States to promote sound conservation of fishery resources by ensuring that—

(1) Federal regulations promote access to fishing areas by recreational anglers to the maximum extent practicable;

(2) recreational anglers are actively involved in the formulation of any regulatory procedure that
contemplates imposing restrictions on access to a fishing area; and

(3) limitations on access to fishing areas by recreational anglers are not imposed unless such limitations are scientifically necessary to provide for the conservation of a fishery resource.

SEC. 4. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT AMENDMENTS.

(a) LIMITATION ON CLOSURES.—Section 303(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended by adding at the end the following:

“(15) not establish geographic areas where recreational fishing is prohibited unless—

“(A) clear indication exists that recreational fishing in such area is the cause of a specific conservation problem in the fishery;

“(B) no alternative conservation measures related to recreational fishing, such as gear restrictions, quotas, or closed seasons will adequately provide for conservation and management of the fishery;

“(C) the management plan—

“(i) provides for specific measurable criteria to assess whether the prohibition
provides conservation benefits to the fish-
ery; and

“(ii) requires a periodic review to as-
sess the continued need for the prohibition
not less than once every 3 years;

“(D) the best available scientific informa-
tion supports the need to close the area to re-
creational fishing; and

“(E) the prohibition is terminated as soon
as the condition in subparagraph (A) that was
the basis of the prohibition no longer exists.”.

(b) TECHNICAL AMENDMENTS.—Such section is fur-
ther amended—

(1) in paragraph (13), by striking “and” after
the semicolon; and

(2) in paragraph (14), by striking “fishery.”
and inserting “fishery; and”.

SEC. 5. NATIONAL MARINE SANCTUARIES ACT AMEND-
MENT.

Section 304(a)(5) of the National Marine Sanctuaries
Act (16 U.S.C. 1434(a)(5)) is amended to read as follows:

“(5) FISHING REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall
provide the appropriate Regional Fishery Man-
agement Council with the opportunity to pre-
pare, and to revise from time to time, draft reg-
ulations for fishing within the exclusive eco-
nomic zone as the Council may deem necessary
to implement the proposed designation.

“(B) RELATIONSHIP TO MAGNUSON.—
Draft regulations prepared by the Council
under subparagraph (A) shall be made in ac-
cordance with the standards and procedures of
the Magnuson Act.

“(C) REGULATION WITHIN A STATE.—
Such regulations may regulate a fishery within
the boundaries of a State (other than the
State’s internal waters) if—

“(i) the Governor of the State ap-
proves such regulation; or

“(ii) the Secretary determines, after
notice and an opportunity for a hearing in
accordance with section 554 of title 5,
United States Code, that the State has
taken any action, or omitted to take any
action, the results of which will substan-
tially and adversely affect the fulfillment of
the purposes and policies of this Act and
the goals and objectives of the proposed
designation.
“(D) Notification and Hearing.—If the Secretary makes a determination under subparagraph (C)(ii) to regulate a fishery within the boundaries of such State (other than State’s internal waters)—

“(i) the Secretary shall promptly notify the State and the appropriate Council of such determination;

“(ii) the State may request that a hearing be held pursuant to section 554 of title 5, United States Code; and

“(iii) the Secretary shall conduct a hearing requested under clause (ii) prior to taking any action to regulate a fishery within the boundaries of such State (other than the State’s internal waters) under subparagraph (C)(ii).

“(E) Termination of Regulation within a State.—If the Secretary, pursuant to a determination under subparagraph (C)(ii), assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which the
Secretary assumed such regulation no longer prevail, the Secretary shall promptly terminate such regulation.”.