

111TH CONGRESS
2^D SESSION

S. 3594

To amend the Magnuson-Stevens Fishery Conservation and Management Act to mitigate the economic impact of the transition to sustainable fisheries on fishing communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2010

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to mitigate the economic impact of the transition to sustainable fisheries on fishing communities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fishery Conservation
5 Transition Act”.

6 **SEC. 2. TRANSITION TO SUSTAINABLE FISHERIES.**

7 (a) IN GENERAL.—Within 180 days after the close
8 of fishing year 2010 (within the meaning given that term

1 in the Magnuson-Stevens Fishery conservation and Man-
2 agement Act (16 U.S.C. 1802 et seq.), the Secretary of
3 Commerce shall determine, with respect to each fishery
4 for which a fishery management plan that meets the re-
5 quirements of section 303(a)(15) of that Act (16 U.S.C.
6 1853(a)(15)) is in effect that contains a complete prohibi-
7 tion on the retention of stocks subject to overfishing with-
8 in the fishery for the entire fishing season, whether the
9 prohibition is sufficient to prevent or end overfishing for
10 the stocks, or stocks undergoing overfishing, to which it
11 applies.

12 (b) REMEDIAL ACTION.—If the Secretary determines
13 that the prohibition contained in such a fishery manage-
14 ment plan is not sufficient to prevent or end overfishing
15 for the stocks to which it applies, the Secretary may au-
16 thorize retention of fish that are not undergoing over-
17 fishing within that fishery, notwithstanding that discard
18 mortality of stocks for which retention is prohibited may
19 be inconsistent with provisions on ending or preventing
20 overfishing, if, within 90 days after a determination by
21 the Secretary under subsection (a), the Regional Fishery
22 Management Council with jurisdiction over the fishery im-
23 plements—

24 (1) measures to minimize bycatch and bycatch
25 mortality to the extent practicable;

1 (2) an enhanced data collection requirement,
2 such as an electronic logbook data collection system,
3 for recreational, for hire, and commercial fishers;

4 (3) a program of on-board observers for char-
5 ter, for-hire, and commercial fishers that will mon-
6 itor and collect data on bycatch and bycatch mor-
7 tality in multispecies fisheries with prohibitions on
8 retention on one or more species in the fisheries; and

9 (4) in coordination with the Secretary, other
10 measures to ensure accountability of the fishery, in-
11 cluding those that will substantially contribute to ad-
12 dressing data gaps in stock assessments.

13 (c) **ADDITIONAL REQUIREMENTS.**—The Secretary
14 shall take such action as may be necessary to ensure that,
15 with respect to any stock subject to overfishing in a fishery
16 to which a determination under subsection (b) applies—

17 (1) a monitoring and research program to mon-
18 itor the recovery of the affected stocks of fish is im-
19 plemented for the fishery within 1 year after the
20 date of enactment of this Act;

21 (2) a stock assessment for the overfished spe-
22 cies within the affected stocks of fish is initiated,
23 taking into account relevant life history of the stock,
24 within 6 months after the date on which the Sec-
25 retary makes such a determination; and

1 (3) the Regional Fishery Management Council
2 with jurisdiction over the affected fishery submits a
3 report to Congress and the Secretary detailing a
4 long-term plan for reducing discard mortality of the
5 affected stocks of fish to which a determination
6 under subsection (a) applies within 2 years after the
7 date of enactment of this Act.

8 (d) FURTHER ACTION REQUIRED.—If the Secretary
9 determines that—

10 (1) the Regional Fishery Management Council
11 with jurisdiction over a fishery has complied with
12 the requirements of paragraphs (b) and (c), and

13 (2) the fishery management plan’s prohibition
14 on the retention of stocks subject to overfishing con-
15 tinues to be insufficient to prevent or end over-
16 fishing for those stocks,

17 the Secretary shall take such action as may be necessary
18 to end overfishing for the stocks to which the prohibition
19 applies before the end of fishery year 2015.

20 **SEC. 3. ECONOMIC ASSISTANCE PROGRAM.**

21 (a) IN GENERAL.—Section 208 of the Magnuson-Ste-
22 vens Fishery Conservation and Management Reauthoriza-
23 tion Act of 2006 (16 U.S.C. 1891b) is amended—

24 (1) by striking “and” after the semicolon in
25 subsection (b)(6);

1 (2) by striking “materia.” in subsection (b)(7)
2 and inserting “materia; and”;

3 (3) by adding at the end of subsection (b) the
4 following:

5 “(8) the economic assistance program under
6 subsection (f).”;

7 (4) by striking “and” after the semicolon in
8 subsection (c)(2)(A);

9 (5) by striking “section.” in subsection
10 (c)(2)(B) and inserting “section; and”;

11 (6) by adding at the end of subsection (c)(2)
12 the following:

13 “(C) fees collected under permit programs
14 for a fishery significantly affected by a prohibi-
15 tion on the retention of stocks to end or prevent
16 overfishing.”; and

17 (7) by adding at the end thereof the following:

18 “(f) ECONOMIC ASSISTANCE PROGRAM.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish an economic assistance program to assist rec-
21 reational and commercial fishery participants, fish-
22 ing industries, and fishing communities significantly
23 affected by a prohibition on the retention of stocks
24 to end or prevent overfishing or rebuild overfished

1 stocks and use amounts in the Fund to provide such
2 assistance.

3 “(2) CRITERIA FOR ASSISTANCE.—In the ad-
4 ministration of the program, the Secretary shall de-
5 velop criteria for prioritizing economic assistance re-
6 quests, including consideration of the conservation
7 and management history of the fishery, the sustain-
8 ability of conservation and management approaches,
9 the magnitude of the economic impact of the reten-
10 tion prohibition, and community and social impacts.

11 “(3) APPLICATION PROCESS.—The Secretary
12 shall develop an application process to determine eli-
13 gibility for economic assistance under the program
14 and shall consult with States whose recreational and
15 commercial fishery participants, fishing industries,
16 or fishing communities have been affected by the
17 prohibition. Any person or community seeking as-
18 sistance under the program shall submit an applica-
19 tion at such time, in such manner, and containing
20 such information and assurances as the Secretary
21 may require.

22 “(4) STATE MATCHING FUNDS.—The Federal
23 share of assistance provided under the program to
24 recreational and commercial fishery participants,
25 fishing industries, or fishing communities may not

1 exceed 75 percent. Before granting assistance under
2 the program, the Secretary shall consult with the
3 State in which the recipient is located and request
4 that the State provide matching funds. The Sec-
5 retary may waive, in whole or in part, the matching
6 requirement under this paragraph.”.

7 **SEC. 4. AUTHORITY TO ACT.**

8 (a) CLARIFICATION OF EMERGENCY AUTHORITY.—
9 Section 305(c) of the Magnuson-Stevens Fishery Con-
10 servation and Management Act (16 U.S.C. 1855(c)) is
11 amended by adding at the end the following:

12 “(4) For purposes of this section, an emergency is
13 a situation that results from recent, unforeseen, or re-
14 cently discovered circumstances that present serious con-
15 servation or management problems in the fishery, includ-
16 ing ecological, economic, social, or public health interests.
17 An emergency may include increasing or decreasing a
18 catch limit, or modifying a time or area closure or reten-
19 tion prohibition in response to new science or stock assess-
20 ment information, but only if such action is needed to ad-
21 dress serious conservation or management problems in the
22 fishery.”.

1 **SEC. 5. FISHERY STUDIES AND REPORTS.**

2 STATUS OF FISHERY REPORT.—Section 304(e) of
3 the Magnuson-Stevens Fishery Conservation and Manage-
4 ment Act (16 U.S.C. 1854(e)) is amended—

5 (1) by inserting “(A)” before “The Secretary”;

6 (2) by redesignating subparagraphs (A) and
7 (B) as clauses (i) and (ii); and

8 (3) by adding at the end the following:

9 “(B) In the review, the Secretary shall consider—

10 “(i) a stock assessment conducted pursuant to
11 subsection (c);

12 “(ii) an analysis of the local, regional, and na-
13 tional social and economic impacts on fishing com-
14 munities and industries directly and indirectly re-
15 lated to the fishery; and

16 “(iii) fishery management measures to enhance
17 the sustainability of stocks of fish that are over-
18 fished, and an evaluation of alternative management
19 approaches that may be implemented to enhance
20 such sustainability.

21 “(C) Stock assessment updates for each stock of fish
22 that is overfished or undergoing overfishing shall be con-
23 ducted at 2 year intervals, and a full stock assessment
24 pursuant to subsection (c) shall be conducted no less fre-
25 quently than once every 5 years.

1 “(D) The Secretary shall include a summary of re-
2 views conducted under subparagraph (A) in the report re-
3 quired by paragraph (1) of this subsection. To the extent
4 possible, the Secretary shall include in the report rec-
5 ommendations for actions that could be taken to encour-
6 age the sustainable management of stocks of fish listed
7 in the Fish Stocks Sustainability Index.”.

8 (b) ASSESSMENT OF CURRENT MANAGEMENT MEAS-
9 URES.—

10 (1) IN GENERAL.—The Secretary of Commerce
11 shall conduct a study, in cooperation with the Na-
12 tional Academy of Sciences, to determine if current
13 fishery management measures for stocks in a multi-
14 species fishery yield the most productive use of ma-
15 rine resources while effectively conserving sustain-
16 able populations and a healthy marine ecosystem.
17 The study shall include—

18 (A) the identification of the statutory and
19 regulatory impediments to achieving the max-
20 imum sustainable yield from the entire fishery;

21 (B) the identification of fishery inde-
22 pendent environmental stressors on the fishery;

23 (C) the economic value derived from the
24 yield in the fishery; and

1 (D) alternative fishery management meas-
2 ures and technologies which would result in in-
3 creased economic and harvest yields consistent
4 with sound conservation.

5 (2) REPORT.—Within 180 days after the date
6 of enactment of this Act, the Secretary shall trans-
7 mit a report to the Senate Committee on Commerce,
8 Science, and Transportation and the House of Rep-
9 resentatives Committee on Natural Resources con-
10 taining the Secretary's findings, conclusions, and
11 recommendations.

12 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to the Sec-
14 retary of Commerce such sums as may be necessary to
15 carry out the provisions of this Act and the amendments
16 made by this Act.

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