

105TH CONGRESS
1ST SESSION

H. R. 1658

To reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1997

Mr. SAXTON introduced the following bill; which was referred to the Committee on Resources

A BILL

To reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

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 “Atlantic Striped Bass
5 Conservation Act Amendments of 1997”.

6 **SEC. 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC**
7 **STRIPED BASS CONSERVATION ACT.**

8 The Atlantic Striped Bass Conservation Act (16
9 U.S.C. 1851 note) is amended to read as follows:

1 **“SECTION 1. SHORT TITLE.**

2 “This Act may be cited as the ‘Atlantic Striped Bass
3 Conservation Act’.

4 **“SEC. 2. FINDINGS AND PURPOSES.**

5 “(a) FINDINGS.—The Congress finds and declares
6 the following:

7 “(1) Atlantic striped bass are of historic com-
8 mercial and recreational importance and economic
9 benefit to the Atlantic coastal States and to the Na-
10 tion.

11 “(2) No single government entity has full man-
12 agement authority throughout the range of the At-
13 lantic striped bass.

14 “(3) The population of Atlantic striped bass
15 has historically been subject to large fluctuations.

16 “(4) It is in the national interest to implement
17 effective procedures and measures to provide for ef-
18 fective interjurisdictional conservation and manage-
19 ment of this species.

20 “(b) PURPOSE.—It is therefore declared to be the
21 purpose of the Congress in this Act to support and encour-
22 age the development, implementation, and enforcement of
23 effective interstate action regarding the conservation and
24 management of the Atlantic striped bass.

25 **“SEC. 3. DEFINITIONS.**

26 “As used in this Act—

1 “(1) the term ‘Magnuson Act’ means the Mag-
2 nuson-Stevens Fishery Conservation and Manage-
3 ment Act (16 U.S.C. 1801 et seq.).

4 “(2) The term ‘Atlantic striped bass’ means
5 members of stocks or populations of the species
6 *Morone saxatilis*, which ordinarily migrate seaward
7 of the waters described in paragraph (3)(A)(i).

8 “(3) The term ‘coastal waters’ means—

9 “(A) for each coastal State referred to in
10 paragraph (4)(A)—

11 “(i) all waters, whether salt or fresh,
12 of the coastal State shoreward of the base-
13 line from which the territorial sea of the
14 United States is measured; and

15 “(ii) the waters of the coastal State
16 seaward from the baseline referred to in
17 clause (i) to the inner boundary of the ex-
18 clusive economic zone;

19 “(B) for the District of Columbia, those
20 waters within its jurisdiction; and

21 “(C) for the Potomac River Fisheries Com-
22 mission, those waters of the Potomac River
23 within the boundaries established by the Poto-
24 mac River Compact of 1958.

25 “(4) The term ‘coastal State’ means—

1 “(A) Pennsylvania and each State of the
2 United States bordering on the Atlantic Ocean
3 north of the State of South Carolina;

4 “(B) the District of Columbia; and

5 “(C) the Potomac River Fisheries Commis-
6 sion established by the Potomac River Compact
7 of 1958.

8 “(5) The term ‘Commission’ means the Atlantic
9 States Marine Fisheries Commission established
10 under the interstate compact consented to and ap-
11 proved by the Congress in Public Laws 77–539 and
12 81–721.

13 “(6) The term ‘fishing’ means—

14 “(A) the catching, taking, or harvesting of
15 Atlantic striped bass, except when incidental to
16 harvesting that occurs in the course of commer-
17 cial or recreational fish catching activities di-
18 rected at a species other than Atlantic striped
19 bass;

20 “(B) the attempted catching, taking, or
21 harvesting of Atlantic striped bass; and

22 “(C) any operation at sea in support of, or
23 in preparation for, any activity described in
24 subparagraph (A) or (B).

1 The term does not include any scientific research au-
2 thORIZED by the Federal Government or by any State
3 government.

4 “(7) The term ‘moratorium area’ means the
5 coastal waters with respect to which a declaration
6 under section 5(a) applies.

7 “(8) The term ‘moratorium period’ means the
8 period beginning on the day on which moratorium is
9 declared under section 5(a) regarding a coastal
10 State and ending on the day on which the Commis-
11 sion notifies the Secretaries that that State has
12 taken appropriate remedial action with respect to
13 those matters that were the case of the moratorium
14 being declared.

15 “(9) The term ‘Plan’ means a plan for manag-
16 ing Atlantic striped bass, or an amendment to such
17 plan, that is prepared and adopted by the Commis-
18 sion.

19 “(10) The term ‘Secretary’ means the Secretary
20 of Commerce.

21 “(11) The term ‘Secretaries’ means the Sec-
22 retary of Commerce and the Secretary of the Inte-
23 rior.

1 **“SEC. 4. COMMISSION FUNCTIONS.**

2 “(a) MONITORING OF IMPLEMENTATION AND EN-
3 FORCEMENT.—

4 “(1) IN GENERAL.—During December of each
5 fiscal year, and at any other time it deems necessary
6 the Commission shall determine—

7 “(A) whether each coastal State has adopt-
8 ed all regulatory measures necessary to fully
9 implement the Plan in its coastal waters; and

10 “(B) whether the enforcement of the Plan
11 by each coastal State is satisfactory.

12 “(2) SATISFACTORY STATE ENFORCEMENT.—

13 For purposes of paragraph (1)(B), enforcement by a
14 coastal State shall not be considered satisfactory by
15 the Commission if, in its view, the enforcement is
16 being carried out in such a manner that the imple-
17 mentation of the Plan within the coastal waters of
18 the State is being, or will likely be, substantially and
19 adversely affected.

20 “(3) NOTIFICATION OF SECRETARIES.—The
21 Commission shall immediately notify the Secretaries
22 of each negative determination made by it under this
23 subsection.

24 **“SEC. 5. MORATORIUM.**

25 “(a) SECRETARIAL ACTION AFTER NOTIFICATION.—

26 Upon receiving notice from the Commission under section

1 4 that a coastal State has not taken the actions described
2 in that section, the Secretaries shall determine jointly,
3 within thirty days, whether that coastal State is in compli-
4 ance with the Plan and, if the State is not in compliance,
5 the Secretaries shall declare jointly a moratorium on fish-
6 ing for Atlantic striped bass within the coastal waters of
7 that coastal State. In making such a determination, the
8 Secretaries shall carefully consider and review the com-
9 ments of the Commission and that coastal State in ques-
10 tion.

11 “(b) PROHIBITED ACTS DURING MORATORIUM.—
12 During a moratorium period, it is unlawful for any per-
13 son—

14 “(1) to engage in fishing within the moratorium
15 area;

16 “(2) to land, or attempt to land, Atlantic
17 striped bass that are caught, taken, or harvested in
18 violation of paragraph (1);

19 “(3) to land lawfully harvested Atlantic striped
20 bass within the boundaries of a coastal State when
21 a moratorium declared under subsection (a) applies
22 to that State; or

23 “(4) to fail to return to the water Atlantic
24 striped bass to which the moratorium applies that
25 are caught incidental to harvesting that occurs in

1 the course of commercial or recreational fish catch-
2 ing activities, regardless of the physical condition of
3 the striped bass when caught.

4 “(c) CIVIL PENALTIES.—

5 “(1) CIVIL PENALTY.—Any person who com-
6 mits any act that is unlawful under subsection (b)
7 shall be liable to the United States for a civil penalty
8 as provided by section 308 of the Magnuson Act (16
9 U.S.C. 1858).

10 “(2) CIVIL FORFEITURES.—

11 “(A) IN GENERAL.—Any vessel (including
12 its gear, equipment, appurtenances, stores, and
13 cargo) used, and any fish (or the fair market
14 value thereof) taken or retained, in any manner,
15 in connection with, or as the result of, the com-
16 mission of any act that is unlawful under sub-
17 section (b) shall be subject to forfeiture to the
18 United States as provided in section 310 of the
19 Magnuson Act (16 U.S.C. 1860).

20 “(B) DISPOSAL OF FISH.—Any fish seized
21 pursuant to this Act may be disposed of pursu-
22 ant to the order of a court of competent juris-
23 diction, or, if perishable, in a manner prescribed
24 in regulations.

1 ducted by the Secretaries before 1994 and under-
2 standing the population dynamics of Atlantic striped
3 bass.

4 “(2) Investigations of the causes of fluctuations
5 in Atlantic striped bass populations.

6 “(3) Investigations of the effects of water qual-
7 ity, land use, and other environmental factors on the
8 recruitment, spawning potential, mortality, and
9 abundance of Atlantic striped bass populations, in-
10 cluding the Delaware River population.

11 “(4) Investigations of—

12 “(A) the interactions between Atlantic
13 striped bass and other fish, including bluefish,
14 menhaden, mackerel, and other forage fish or
15 possible competitors, stock assessments of these
16 species, to the extent appropriate; and

17 “(B) the effects of interspecies predation
18 and competition on the recruitment, spawning
19 potential mortality, and abundance of Atlantic
20 striped bass.

21 “(5) Investigations of actions necessary to
22 maintain indefinitely a large, healthy, and self-sup-
23 porting population of Atlantic striped bass.

24 “(b) REPORTS.—The Secretary shall make biennial
25 reports to the Congress and to the Commission concerning

1 the progress and findings of studies conducted under sub-
2 section (a) and shall make those reports public. Such re-
3 ports shall, to the extent appropriate, contain rec-
4 ommendations of actions which could be taken to encour-
5 age the sustainable management of Atlantic striped bass.

6 **“SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERA-
7 TIVE AGREEMENTS.**

8 “(a) AUTHORIZATION.—For each of fiscal years
9 1998, 1999, and 2000, there are authorized to be appro-
10 priated \$800,000 to carry out this Act.

11 “(b) COOPERATIVE AGREEMENTS.—The Secretaries
12 may enter into cooperative agreements with the Atlantic
13 States Marine Fisheries Commission or with States, for
14 the purpose of using amounts appropriated pursuant to
15 this section to provide financial assistance for carrying out
16 the purposes of this Act.

17 **“SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF MAN-
18 AGEMENT PLANS AND AMENDMENTS.**

19 “(a) STANDARDS AND PROCEDURES.—In order to
20 ensure the opportunity for public participation in the prep-
21 aration of management plans and amendments to manage-
22 ment plans for Atlantic striped bass, the Commission shall
23 prepare such plans and amendments in accordance with
24 the standards and procedures established under section

1 805(a)(2) of the Atlantic Coastal Fisheries Cooperative
2 Management Act.

3 “(b) APPLICATION.—Subsection (a) shall apply to
4 management plans and amendments adopted by the Com-
5 mission after the 6-month period beginning on the date
6 of enactment of the Atlantic Striped Bass Conservation
7 Act Amendments of 1997.

8 **“SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE**
9 **ECONOMIC ZONE.**

10 “(a) REGULATION OF FISHING IN EXCLUSIVE ECO-
11 NOMIC ZONE.—The Secretary shall promulgate regula-
12 tions governing fishing for Atlantic striped bass in the ex-
13 clusive economic zone that the Secretary determines to be
14 consistent with the national standards set forth in section
15 301 of the Magnuson Act (16 U.S.C. 1851) and necessary
16 and appropriate to—

17 “(1) ensure the effectiveness of State regula-
18 tions or a Federal moratorium on fishing for Atlan-
19 tic striped bass within the coastal waters of a coastal
20 State; and

21 “(2) achieve conservation and management
22 goals for the Atlantic striped bass resource.

23 “(b) CONSULTATION; PERIODIC REVIEW OF REGU-
24 LATIONS.—In preparing regulations under subsection (a),
25 the Secretary shall consult with the Atlantic States Marine

1 Fisheries Commission, the appropriate Regional Fishery
2 Management Councils, and each affected Federal, State,
3 and local government entity. The Secretary shall periodi-
4 cally review regulations promulgated under subsection (a),
5 and if necessary to ensure their continued consistency with
6 the requirements of subsection (a), shall amend those reg-
7 ulations.

8 “(c) APPLICABILITY OF MAGNUSON ACT PROVI-
9 SIONS.—The provisions of sections 307, 308, 309, 310,
10 and 311 of the Magnuson Act (16 U.S.C. 1857, 1858,
11 1859, 1860, and 1861) regarding prohibited acts, civil
12 penalties, criminal offenses, civil forfeitures, and enforce-
13 ment shall apply with respect to regulations and any plan
14 issued under subsection (a) of this section as if such regu-
15 lations or plan were issued under the Magnuson Act.

16 “(d) DEFINITION.—As used in this section, the term
17 ‘exclusive economic zone’ has the meaning given such term
18 in section 3(6) of the Magnuson Act (16 U.S.C.
19 1802(6)).”.

20 **SEC. 3. REPEALS.**

21 “(a) ANADROMOUS FISH CONSERVATION ACT.—Sec-
22 tion 7 of the Anadromous Fish Conservation Act (16
23 U.S.C. 757g) is repealed.

24 “(b) ALBEMARLE SOUND-ROANOKE RIVER BASIN.—
25 Section 5 of the Act entitled “An Act to authorize appro-

1 priations to carry out the Atlantic Striped Bass Conserva-
2 tion Act for fiscal years 1989 through 1991, and for other
3 purposes”, approved November 3, 1988 (16 U.S.C. 1851
4 note; 102 Stat. 2984), relating to studies of the
5 Albermarle Sound-Roanoke River Basin striped bass
6 stock, is repealed.

7 “(c) REGULATION OF FISHING IN EXCLUSIVE ECO-
8 NOMIC ZONE.—Section 6 of the Act entitled “An Act to
9 authorize appropriations to carry out the Striped Bass
10 Conservation Act for fiscal years 1989 through 1991, and
11 for other purposes”, approved October 17, 1991 (102
12 Stat. 2986; 16 U.S.C. 1851 note) is repealed.

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