

105TH CONGRESS
1ST SESSION

H. R. 1658

IN THE SENATE OF THE UNITED STATES

JULY 9, 1997

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Atlantic Striped Bass
3 Conservation Act Amendments of 1997”.

4 **SEC. 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC**
5 **STRIPED BASS CONSERVATION ACT.**

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

8 **“SECTION 1. SHORT TITLE.**

9 “This Act may be cited as the ‘Atlantic Striped Bass
10 Conservation Act’.

11 **“SEC. 2. FINDINGS AND PURPOSES.**

12 “(a) FINDINGS.—The Congress finds and declares
13 the following:

14 “(1) Atlantic striped bass are of historic com-
15 mercial and recreational importance and economic
16 benefit to the Atlantic coastal States and to the Na-
17 tion.

18 “(2) No single government entity has full man-
19 agement authority throughout the range of the At-
20 lantic striped bass.

21 “(3) The population of Atlantic striped bass—

22 “(A) has been subject to large fluctuations
23 due to natural causes, fishing pressure, environ-
24 mental pollution, loss and alteration of habitat,
25 inadequacy of fisheries conservation and man-
26 agement practices, and other causes; and

1 “(B) risks potential depletion in the future
2 without effective monitoring and conservation
3 and management measures.

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

8 “(b) PURPOSE.—It is therefore declared to be the
9 purpose of the Congress in this Act to support and encour-
10 age the development, implementation, and enforcement of
11 effective interstate action regarding the conservation and
12 management of the Atlantic striped bass.

13 **“SEC. 3. DEFINITIONS.**

14 “As used in this Act—

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

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

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

23 “(A) for each coastal State referred to in
24 paragraph (4)(A)—

1 “(i) all waters, whether salt or fresh,
2 of the coastal State shoreward of the base-
3 line from which the territorial sea of the
4 United States is measured; and

5 “(ii) the waters of the coastal State
6 seaward from the baseline referred to in
7 clause (i) to the inner boundary of the ex-
8 clusive economic zone;

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

11 “(C) for the Potomac River Fisheries Com-
12 mission, those waters of the Potomac River
13 within the boundaries established by the Poto-
14 mac River Compact of 1958.

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

16 “(A) Pennsylvania and each State of the
17 United States bordering on the Atlantic Ocean
18 north of the State of South Carolina;

19 “(B) the District of Columbia; and

20 “(C) the Potomac River Fisheries Commis-
21 sion established by the Potomac River Compact
22 of 1958.

23 “(5) The term ‘Commission’ means the Atlantic
24 States Marine Fisheries Commission established
25 under the interstate compact consented to and ap-

1 proved by the Congress in Public Laws 77–539 and
2 81–721.

3 “(6) The term ‘exclusive economic zone’ has the
4 meaning given such term in section 3(6) of the Mag-
5 nuson Act (16 U.S.C. 1802(6)).

6 “(7) The term ‘fishing’ means—

7 “(A) the catching, taking, or harvesting of
8 Atlantic striped bass, except when incidental to
9 harvesting that occurs in the course of commer-
10 cial or recreational fish catching activities di-
11 rected at a species other than Atlantic striped
12 bass;

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

15 “(C) any operation at sea in support of, or
16 in preparation for, any activity described in
17 subparagraph (A) or (B).

18 The term does not include any scientific research au-
19 thorized by the Federal Government or by any State
20 government.

21 “(8) The term ‘moratorium area’ means the
22 coastal waters with respect to which a declaration
23 under section 5(a) applies.

24 “(9) The term ‘moratorium period’ means the
25 period beginning on the day on which moratorium is

1 declared under section 5(a) regarding a coastal
2 State and ending on the day on which the Commis-
3 sion notifies the Secretaries that that State has
4 taken appropriate remedial action with respect to
5 those matters that were the case of the moratorium
6 being declared.

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

11 “(11) The term ‘Secretary’ means the Secretary
12 of Commerce or a designee of the Secretary of the
13 Secretary of Commerce.

14 “(12) The term ‘Secretaries’ means the Sec-
15 retary of Commerce and the Secretary of the Inte-
16 rior or their designees.

17 **“SEC. 4. MONITORING OF IMPLEMENTATION AND EN-**
18 **FORCEMENT BY COASTAL STATES.**

19 “(a) DETERMINATION.—During December of each
20 fiscal year, and at any other time it deems necessary the
21 Commission shall determine—

22 “(1) whether each coastal State has adopted all
23 regulatory measures necessary to fully implement
24 the Plan in its coastal waters; and

1 “(2) whether the enforcement of the Plan by
2 each coastal State is satisfactory.

3 “(b) SATISFACTORY STATE ENFORCEMENT.—For
4 purposes of subsection (a)(2), enforcement by a coastal
5 State shall not be considered satisfactory by the Commis-
6 sion if, in its view, the enforcement is being carried out
7 in such a manner that the implementation of the Plan
8 within the coastal waters of the State is being, or will like-
9 ly be, substantially and adversely affected.

10 “(c) NOTIFICATION OF SECRETARIES.—The Com-
11 mission shall immediately notify the Secretaries of each
12 negative determination made by it under subsection (a).

13 **“SEC. 5. MORATORIUM.**

14 “(a) SECRETARIAL ACTION AFTER NOTIFICATION.—
15 Upon receiving notice from the Commission under section
16 4(c) of a negative determination regarding a coastal State,
17 the Secretaries shall determine jointly, within thirty days,
18 whether that coastal State is in compliance with the Plan
19 and, if the State is not in compliance, the Secretaries shall
20 declare jointly a moratorium on fishing for Atlantic
21 striped bass within the coastal waters of that coastal
22 State. In making such a determination, the Secretaries
23 shall carefully consider and review the comments of the
24 Commission and that coastal State in question.

1 “(b) PROHIBITED ACTS DURING MORATORIUM.—

2 During a moratorium period, it is unlawful for any per-
3 son—

4 “(1) to engage in fishing within the moratorium
5 area;

6 “(2) to land, or attempt to land, Atlantic
7 striped bass that are caught, taken, or harvested in
8 violation of paragraph (1);

9 “(3) to land lawfully harvested Atlantic striped
10 bass within the boundaries of a coastal State when
11 a moratorium declared under subsection (a) applies
12 to that State; or

13 “(4) to fail to return to the water Atlantic
14 striped bass to which the moratorium applies that
15 are caught incidental to harvesting that occurs in
16 the course of commercial or recreational fish catch-
17 ing activities, regardless of the physical condition of
18 the striped bass when caught.

19 “(c) CIVIL PENALTIES.—

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

25 “(2) CIVIL FORFEITURES.—

1 “(A) IN GENERAL.—Any vessel (including
2 its gear, equipment, appurtenances, stores, and
3 cargo) used, and any fish (or the fair market
4 value thereof) taken or retained, in any manner,
5 in connection with, or as the result of, the com-
6 mission of any act that is unlawful under sub-
7 section (b) shall be subject to forfeiture to the
8 United States as provided in section 310 of the
9 Magnuson Act (16 U.S.C. 1860).

10 “(B) DISPOSAL OF FISH.—Any fish seized
11 pursuant to this Act may be disposed of pursu-
12 ant to the order of a court of competent juris-
13 diction, or, if perishable, in a manner prescribed
14 in regulations.

15 “(d) ENFORCEMENT.—A person authorized by the
16 Secretary or the Secretary of the department in which the
17 Coast Guard is operating may take any action to enforce
18 a moratorium declared under subsection (a) that an officer
19 authorized by the Secretary under section 311(b) of the
20 Magnuson Act (16 U.S.C. 1861(b)) may take to enforce
21 that Act (16 U.S.C. 1801 et seq.). The Secretary may,
22 by agreement, on a reimbursable basis or otherwise, utilize
23 the personnel, services, equipment (including aircraft and
24 vessels), and facilities of any other Federal department or

1 agency and of any agency of a State in carrying out that
2 enforcement.

3 “(e) REGULATIONS.—The Secretary may issue regu-
4 lations to implement this section.

5 **“SEC. 6. CONTINUING STUDIES OF STRIPED BASS POPU-
6 LATIONS.**

7 “(a) IN GENERAL.—For the purposes of carrying out
8 this Act, the Secretaries shall conduct continuing, com-
9 prehensive studies of Atlantic striped bass stocks. These
10 studies shall include, but shall not be limited to, the follow-
11 ing:

12 “(1) Annual stock assessments, using fishery-
13 dependent and fishery-independent data, for the pur-
14 poses of extending the long-term population record
15 generated by the annual striped bass study con-
16 ducted by the Secretaries before 1994 and under-
17 standing the population dynamics of Atlantic striped
18 bass.

19 “(2) Investigations of the causes of fluctuations
20 in Atlantic striped bass populations.

21 “(3) Investigations of the effects of water qual-
22 ity, land use, and other environmental factors on the
23 recruitment, spawning potential, mortality, and
24 abundance of Atlantic striped bass populations, in-
25 cluding the Delaware River population.

1 “(4) Investigations of—

2 “(A) the interactions between Atlantic
3 striped bass and other fish, including bluefish,
4 menhaden, mackerel, and other forage fish or
5 possible competitors, stock assessments of these
6 species, to the extent appropriate; and

7 “(B) the effects of interspecies predation
8 and competition on the recruitment, spawning
9 potential mortality, and abundance of Atlantic
10 striped bass.

11 “(b) REPORTS.—The Secretaries shall make biennial
12 reports to the Congress and to the Commission concerning
13 the progress and findings of studies conducted under sub-
14 section (a) and shall make those reports public. Such re-
15 ports shall, to the extent appropriate, contain rec-
16 ommendations of actions which could be taken to encour-
17 age the sustainable management of Atlantic striped bass.

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

20 “(a) AUTHORIZATION.—For each of fiscal years
21 1998, 1999, and 2000, there are authorized to be appro-
22 priated to carry out this Act—

23 “(1) \$800,000 to the Secretary of Commerce;
24 and

25 “(2) \$250,000 to the Secretary of the Interior.

1 “(b) COOPERATIVE AGREEMENTS.—The Secretaries
2 may enter into cooperative agreements with the Atlantic
3 States Marine Fisheries Commission or with States, for
4 the purpose of using amounts appropriated pursuant to
5 this section to provide financial assistance for carrying out
6 the purposes of this Act.

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

9 “(a) STANDARDS AND PROCEDURES.—In order to
10 ensure the opportunity for public participation in the prep-
11 aration of management plans and amendments to manage-
12 ment plans for Atlantic striped bass, the Commission shall
13 prepare such plans and amendments in accordance with
14 the standards and procedures established under section
15 805(a)(2) of the Atlantic Coastal Fisheries Cooperative
16 Management Act.

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

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

24 “(a) REGULATION OF FISHING IN EXCLUSIVE ECO-
25 NOMIC ZONE.—The Secretary shall promulgate regula-

1 tions governing fishing for Atlantic striped bass in the ex-
2 clusive economic zone that the Secretary determines are—

3 “(1) consistent with the national standards set
4 forth in section 301 of the Magnuson Act (16 U.S.C.
5 1851);

6 “(2) compatible with the Plan and each Federal
7 moratorium in effect on fishing for Atlantic striped
8 bass within the coastal waters of a coastal State;
9 and

10 “(3) sufficient to assure the long-term con-
11 servation of Atlantic striped bass populations.

12 “(b) CONSULTATION; PERIODIC REVIEW OF REGU-
13 LATIONS.—In preparing regulations under subsection (a),
14 the Secretary shall consult with the Atlantic States Marine
15 Fisheries Commission, the appropriate Regional Fishery
16 Management Councils, and each affected Federal, State,
17 and local government entity. The Secretary shall periodi-
18 cally review regulations promulgated under subsection (a),
19 and if necessary to ensure their continued consistency with
20 the requirements of subsection (a), shall amend those reg-
21 ulations.

22 “(c) APPLICABILITY OF MAGNUSON ACT PROVI-
23 SIONS.—The provisions of sections 307, 308, 309, 310,
24 and 311 of the Magnuson Act (16 U.S.C. 1857, 1858,
25 1859, 1860, and 1861) regarding prohibited acts, civil

1 penalties, criminal offenses, civil forfeitures, and enforce-
2 ment shall apply with respect to regulations and any plan
3 issued under subsection (a) of this section as if such regu-
4 lations or plan were issued under the Magnuson Act.”.

5 **SEC. 3. REPEALS.**

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

9 (b) ALBEMARLE SOUND-ROANOKE RIVER BASIN.—
10 Section 5 of the Act entitled “An Act to authorize appro-
11 priations to carry out the Atlantic Striped Bass Conserva-
12 tion Act for fiscal years 1989 through 1991, and for other
13 purposes”, approved November 3, 1988 (16 U.S.C. 1851
14 note; 102 Stat. 2984), relating to studies of the
15 Albermarle Sound-Roanoke River Basin striped bass
16 stock, is repealed.

17 (c) REGULATION OF FISHING IN EXCLUSIVE ECO-
18 NOMIC ZONE.—Section 6 of the Act entitled “An Act to
19 authorize appropriations to carry out the Atlantic Striped
20 Bass Conservation Act for fiscal years 1989 through
21 1991, and for other purposes”, approved November 3,
22 1988 (102 Stat. 2986; 16 U.S.C. 1851 note) is repealed.

Passed the House of Representatives July 8, 1997.

Attest:

ROBIN H. CARLE,

Clerk.