

Union Calendar No. 103

105TH CONGRESS
1ST Session

H. R. 1658

[Report No. 105-169]

A BILL

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

JULY 8, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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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

JULY 8, 1997

Additional sponsors: Mr. PALLONE and Mr. DELAHUNT

JULY 8, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 16, 1997]

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,*

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 the*
13 *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 Atlan-*
20 *tic 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 effec-
6 tive interjurisdictional conservation and management
7 of this species.

8 “(b) PURPOSE.—It is therefore declared to be the pur-
9 pose of the Congress in this Act to support and encourage
10 the development, implementation, and enforcement of effec-
11 tive interstate action regarding the conservation and man-
12 agement of the Atlantic striped bass.

13 **“SEC. 3. DEFINITIONS.**

14 “As used in this Act—

15 “(1) the term ‘Magnuson Act’ means the Magnu-
16 son-Stevens Fishery Conservation and Management
17 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, of
2 the coastal State shoreward of the baseline
3 from which the territorial sea of the United
4 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 wa-
10 ters within its jurisdiction; and

11 “(C) for the Potomac River Fisheries Com-
12 mission, those waters of the Potomac River with-
13 in the boundaries established by the Potomac
14 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 har-*
14 *vesting 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 State*
2 *and ending on the day on which the Commission no-*
3 *tifies the Secretaries that that State has taken appro-*
4 *prate remedial action with respect to those matters*
5 *that were the case of the moratorium being declared.*

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

10 *“(11) The term ‘Secretary’ means the Secretary*
11 *of Commerce or a designee of the Secretary of the Sec-*
12 *retary of Commerce.*

13 *“(12) The term ‘Secretaries’ means the Secretary*
14 *of Commerce and the Secretary of the Interior or their*
15 *designees.*

16 **“SEC. 4. MONITORING OF IMPLEMENTATION AND ENFORCE-**
17 **MENT BY COASTAL STATES.**

18 *“(a) DETERMINATION.—During December of each fis-*
19 *cal year, and at any other time it deems necessary the Com-*
20 *mission shall determine—*

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

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

1 “(b) *SATISFACTORY STATE ENFORCEMENT.*—For pur-
2 poses of subsection (a)(2), enforcement by a coastal State
3 shall not be considered satisfactory by the Commission if,
4 in its view, the enforcement is being carried out in such
5 a manner that the implementation of the Plan within the
6 coastal waters of the State is being, or will likely be, sub-
7 stantially and adversely affected.

8 “(c) *NOTIFICATION OF SECRETARIES.*—The Commis-
9 sion shall immediately notify the Secretaries of each nega-
10 tive determination made by it under subsection (a).

11 **“SEC. 5. MORATORIUM.**

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

23 “(b) *PROHIBITED ACTS DURING MORATORIUM.*—Dur-
24 ing a moratorium period, it is unlawful for any person—

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

3 “(2) to land, or attempt to land, Atlantic striped
4 bass that are caught, taken, or harvested in violation
5 of paragraph (1);

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

10 “(4) to fail to return to the water Atlantic
11 striped bass to which the moratorium applies that are
12 caught incidental to harvesting that occurs in the
13 course of commercial or recreational fish catching ac-
14 tivities, regardless of the physical condition of the
15 striped bass when caught.

16 “(c) CIVIL PENALTIES.—

17 “(1) CIVIL PENALTY.—Any person who commits
18 any act that is unlawful under subsection (b) shall be
19 liable to the United States for a civil penalty as pro-
20 vided by section 308 of the Magnuson Act (16 U.S.C.
21 1858).

22 “(2) CIVIL FORFEITURES.—

23 “(A) IN GENERAL.—Any vessel (including
24 its gear, equipment, appurtenances, stores, and
25 cargo) used, and any fish (or the fair market

1 *value thereof) taken or retained, in any manner,*
2 *in connection with, or as the result of, the com-*
3 *mission of any act that is unlawful under sub-*
4 *section (b) shall be subject to forfeiture to the*
5 *United States as provided in section 310 of the*
6 *Magnuson Act (16 U.S.C. 1860).*

7 “(B) *DISPOSAL OF FISH.*—*Any fish seized*
8 *pursuant to this Act may be disposed of pursu-*
9 *ant to the order of a court of competent jurisdic-*
10 *tion, or, if perishable, in a manner prescribed in*
11 *regulations.*

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

24 “(e) *REGULATIONS.*—*The Secretary may issue regula-*
25 *tions to implement this section.*

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

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

8 *“(1) Annual stock assessments, using fishery-de-*
9 *pendent and fishery-independent data, for the pur-*
10 *poses of extending the long-term population record*
11 *generated by the annual striped bass study conducted*
12 *by the Secretaries before 1994 and understanding the*
13 *population dynamics of Atlantic striped bass.*

14 *“(2) Investigations of the causes of fluctuations*
15 *in Atlantic striped bass populations.*

16 *“(3) Investigations of the effects of water quality,*
17 *land use, and other environmental factors on the re-*
18 *ruitment, spawning potential, mortality, and abun-*
19 *dance of Atlantic striped bass populations, including*
20 *the Delaware River population.*

21 *“(4) Investigations of—*

22 *“(A) the interactions between Atlantic*
23 *striped bass and other fish, including bluefish,*
24 *menhaden, mackerel, and other forage fish or*
25 *possible competitors, stock assessments of these*
26 *species, to the extent appropriate; and*

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

3 “(a) *STANDARDS AND PROCEDURES.*—In order to en-
4 *sure the opportunity for public participation in the prepa-*
5 *ration of management plans and amendments to manage-*
6 *ment plans for Atlantic striped bass, the Commission shall*
7 *prepare such plans and amendments in accordance with the*
8 *standards and procedures established under section*
9 *805(a)(2) of the Atlantic Coastal Fisheries Cooperative*
10 *Management Act.*

11 “(b) *APPLICATION.*—Subsection (a) shall apply to
12 *management plans and amendments adopted by the Com-*
13 *mission after the 6-month period beginning on the date of*
14 *enactment of the Atlantic Striped Bass Conservation Act*
15 *Amendments of 1997.*

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

18 “(a) *REGULATION OF FISHING IN EXCLUSIVE ECO-*
19 *NOMIC ZONE.*—The Secretary shall promulgate regulations
20 *governing fishing for Atlantic striped bass in the exclusive*
21 *economic zone that the Secretary determines are—*

22 “(1) *consistent with the national standards set*
23 *forth in section 301 of the Magnuson Act (16 U.S.C.*
24 *1851);*

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

4 “(3) sufficient to assure the long-term conserva-
5 tion of Atlantic striped bass populations.

6 “(b) *CONSULTATION; PERIODIC REVIEW OF REGULA-*
7 *TIONS.—In preparing regulations under subsection (a), the*
8 *Secretary shall consult with the Atlantic States Marine*
9 *Fisheries Commission, the appropriate Regional Fishery*
10 *Management Councils, and each affected Federal, State,*
11 *and local government entity. The Secretary shall periodi-*
12 *cally review regulations promulgated under subsection (a),*
13 *and if necessary to ensure their continued consistency with*
14 *the requirements of subsection (a), shall amend those regula-*
15 *tions.*

16 “(c) *APPLICABILITY OF MAGNUSON ACT PROVI-*
17 *SIONS.—The provisions of sections 307, 308, 309, 310, and*
18 *311 of the Magnuson Act (16 U.S.C. 1857, 1858, 1859,*
19 *1860, and 1861) regarding prohibited acts, civil penalties,*
20 *criminal offenses, civil forfeitures, and enforcement shall*
21 *apply with respect to regulations and any plan issued*
22 *under subsection (a) of this section as if such regulations*
23 *or plan were issued under the Magnuson Act.”.*

1 **SEC. 3. REPEALS.**

2 (a) *ANADROMOUS FISH CONSERVATION ACT.*—Section
3 7 of the *Anadromous Fish Conservation Act* (16 U.S.C.
4 757g) is repealed.

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

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