

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

SEPTEMBER 2, 1997

Ordered, that when reported, the bill be referred to the Committee on Environment and Public Works for a period not to exceed 20 session days to report or be automatically discharged and placed on the calendar

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,*

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 “(A) has been subject to large fluctuations
16 due to natural causes, fishing pressure, environ-
17 mental pollution, loss and alteration of habitat,
18 inadequacy of fisheries conservation and man-
19 agement practices, and other causes; and

20 “(B) risks potential depletion in the future
21 without effective monitoring and conservation
22 and management measures.

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

1 “(b) PURPOSE.—It is therefore declared to be the
2 purpose of the Congress in this Act to support and encour-
3 age the development, implementation, and enforcement of
4 effective interstate action regarding the conservation and
5 management of the Atlantic striped bass.

6 **“SEC. 3. DEFINITIONS.**

7 “As used in this Act—

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

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

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

16 “(A) for each coastal State referred to in
17 paragraph (4)(A)—

18 “(i) all waters, whether salt or fresh,
19 of the coastal State shoreward of the base-
20 line from which the territorial sea of the
21 United States is measured; and

22 “(ii) the waters of the coastal State
23 seaward from the baseline referred to in
24 clause (i) to the inner boundary of the ex-
25 clusive economic zone;

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

3 “(C) for the Potomac River Fisheries Com-
4 mission, those waters of the Potomac River
5 within the boundaries established by the Poto-
6 mac River Compact of 1958.

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

8 “(A) Pennsylvania and each State of the
9 United States bordering on the Atlantic Ocean
10 north of the State of South Carolina;

11 “(B) the District of Columbia; and

12 “(C) the Potomac River Fisheries Commis-
13 sion established by the Potomac River Compact
14 of 1958.

15 “(5) The term ‘Commission’ means the Atlantic
16 States Marine Fisheries Commission established
17 under the interstate compact consented to and ap-
18 proved by the Congress in Public Laws 77–539 and
19 81–721.

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

23 “(7) The term ‘fishing’ means—

24 “(A) the catching, taking, or harvesting of
25 Atlantic striped bass, except when incidental to

1 harvesting that occurs in the course of commer-
2 cial or recreational fish catching activities di-
3 rected at a species other than Atlantic striped
4 bass;

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

7 “(C) any operation at sea in support of, or
8 in preparation for, any activity described in
9 subparagraph (A) or (B).

10 The term does not include any scientific research au-
11 thorized by the Federal Government or by any State
12 government.

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

16 “(9) The term ‘moratorium period’ means the
17 period beginning on the day on which moratorium is
18 declared under section 5(a) regarding a coastal
19 State and ending on the day on which the Commis-
20 sion notifies the Secretaries that that State has
21 taken appropriate remedial action with respect to
22 those matters that were the case of the moratorium
23 being declared.

24 “(10) The term ‘Plan’ means a plan for manag-
25 ing Atlantic striped bass, or an amendment to such

1 plan, that is prepared and adopted by the Commis-
2 sion.

3 “(11) The term ‘Secretary’ means the Secretary
4 of Commerce or a designee of the Secretary of the
5 Secretary of Commerce.

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

9 **“SEC. 4. MONITORING OF IMPLEMENTATION AND EN-
10 FORCEMENT BY COASTAL STATES.**

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

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

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

19 “(b) SATISFACTORY STATE ENFORCEMENT.—For
20 purposes of subsection (a)(2), enforcement by a coastal
21 State shall not be considered satisfactory by the Commis-
22 sion if, in its view, the enforcement is being carried out
23 in such a manner that the implementation of the Plan
24 within the coastal waters of the State is being, or will like-
25 ly be, substantially and adversely affected.

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

4 **“SEC. 5. MORATORIUM.**

5 “(a) SECRETARIAL ACTION AFTER NOTIFICATION.—
6 Upon receiving notice from the Commission under section
7 4(c) of a negative determination regarding a coastal State,
8 the Secretaries shall determine jointly, within thirty days,
9 whether that coastal State is in compliance with the Plan
10 and, if the State is not in compliance, the Secretaries shall
11 declare jointly a moratorium on fishing for Atlantic
12 striped bass within the coastal waters of that coastal
13 State. In making such a determination, the Secretaries
14 shall carefully consider and review the comments of the
15 Commission and that coastal State in question.

16 “(b) PROHIBITED ACTS DURING MORATORIUM.—
17 During a moratorium period, it is unlawful for any per-
18 son—

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

21 “(2) to land, or attempt to land, Atlantic
22 striped bass that are caught, taken, or harvested in
23 violation of paragraph (1);

24 “(3) to land lawfully harvested Atlantic striped
25 bass within the boundaries of a coastal State when

1 a moratorium declared under subsection (a) applies
2 to that State; or

3 “(4) to fail to return to the water Atlantic
4 striped bass to which the moratorium applies that
5 are caught incidental to harvesting that occurs in
6 the course of commercial or recreational fish catch-
7 ing activities, regardless of the physical condition of
8 the striped bass when caught.

9 “(c) CIVIL PENALTIES.—

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

15 “(2) CIVIL FORFEITURES.—

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

1 studies shall include, but shall not be limited to, the follow-
2 ing:

3 “(1) Annual stock assessments, using fishery-
4 dependent and fishery-independent data, for the pur-
5 poses of extending the long-term population record
6 generated by the annual striped bass study con-
7 ducted by the Secretaries before 1994 and under-
8 standing the population dynamics of Atlantic striped
9 bass.

10 “(2) Investigations of the causes of fluctuations
11 in Atlantic striped bass populations.

12 “(3) Investigations of the effects of water qual-
13 ity, land use, and other environmental factors on the
14 recruitment, spawning potential, mortality, and
15 abundance of Atlantic striped bass populations, in-
16 cluding the Delaware River population.

17 “(4) Investigations of—

18 “(A) the interactions between Atlantic
19 striped bass and other fish, including bluefish,
20 menhaden, mackerel, and other forage fish or
21 possible competitors, stock assessments of these
22 species, to the extent appropriate; and

23 “(B) the effects of interspecies predation
24 and competition on the recruitment, spawning

1 potential mortality, and abundance of Atlantic
2 striped bass.

3 “(b) REPORTS.—The Secretaries shall make biennial
4 reports to the Congress and to the Commission concerning
5 the progress and findings of studies conducted under sub-
6 section (a) and shall make those reports public. Such re-
7 ports shall, to the extent appropriate, contain rec-
8 ommendations of actions which could be taken to encour-
9 age the sustainable management of Atlantic striped bass.

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

12 “(a) AUTHORIZATION.—For each of fiscal years
13 1998, 1999, and 2000, there are authorized to be appro-
14 priated to carry out this Act—

15 “(1) \$800,000 to the Secretary of Commerce;
16 and

17 “(2) \$250,000 to the Secretary of the Interior.

18 “(b) COOPERATIVE AGREEMENTS.—The Secretaries
19 may enter into cooperative agreements with the Atlantic
20 States Marine Fisheries Commission or with States, for
21 the purpose of using amounts appropriated pursuant to
22 this section to provide financial assistance for carrying out
23 the purposes of this Act.

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

3 “(a) STANDARDS AND PROCEDURES.—In order to
4 ensure the opportunity for public participation in the prep-
5 aration 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
8 the 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
14 of enactment of the Atlantic Striped Bass Conservation
15 Act 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 regula-
20 tions governing fishing for Atlantic striped bass in the ex-
21 clusive 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);

25 “(2) compatible with the Plan and each Federal
26 moratorium in effect on fishing for Atlantic striped

1 bass within the coastal waters of a coastal State;
2 and

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

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

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

1 **SEC. 3. REPEALS.**

2 (a) ANADROMOUS FISH CONSERVATION ACT.—Sec-
3 tion 7 of the Anadromous Fish Conservation Act (16
4 U.S.C. 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
11 Albermarle Sound-Roanoke River Basin striped bass
12 stock, is repealed.

13 (c) REGULATION OF FISHING IN EXCLUSIVE ECO-
14 NOMIC ZONE.—Section 6 of the Act entitled “An Act to
15 authorize appropriations to carry out the Atlantic Striped
16 Bass Conservation Act for fiscal years 1989 through
17 1991, and for other purposes”, approved November 3,
18 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.