

106TH CONGRESS  
1ST SESSION

# S. 1911

To conserve Atlantic highly migratory species of fish, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1999

Mr. BREAUX (for himself, Ms. SNOWE, Mr. HOLLINGS, Mr. SHELBY, Mr. KERRY, Mr. SESSIONS, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To conserve Atlantic highly migratory species of fish, 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 “Atlantic Highly Migra-  
5 tory Species Conservation Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) Highly migratory species of fish, including  
9 North Atlantic swordfish, species of Atlantic billfish,  
10 and Atlantic large coastal sharks, are overfished and

1 require greater conservation as confirmed by recent  
2 scientific assessments. In its most recent analysis,  
3 the Standing Committee on Research and Statistics  
4 (SCRS) of the International Commission for the  
5 Conservation of Atlantic Tunas (ICCAT) estimated  
6 that a number of key stocks of highly migratory spe-  
7 cies have less than the biomass needed to produce  
8 their respective maximum sustainable yields. The  
9 1999 SCRS stock assessment estimated that the  
10 North Atlantic swordfish stock was at 65 percent of  
11 the necessary biomass to produce maximum sustain-  
12 able yield (MSY). The 1997 SCRS stock assessment  
13 estimated that the Atlantic blue marlin stock was at  
14 24 percent and the Atlantic white marlin stock was  
15 at 23 percent of the necessary biomass to produce  
16 MSY. In its most recent stock assessment for Atlan-  
17 tic sailfish/spearfish, the SCRS estimated these  
18 stocks were at 62 percent of the necessary biomass  
19 to produce MSY. Also, the National Marine Fish-  
20 eries Service has identified North Atlantic swordfish,  
21 Atlantic blue marlin, Atlantic white marlin, Atlantic  
22 sailfish/spearfish, and other highly migratory species  
23 of fish as overfished.

24 (2) A reduction in the mortality of juvenile  
25 swordfish will contribute substantially to the rebuild-

1 ing of North Atlantic swordfish as confirmed by a  
2 1998 SCRS report that expressed “concern about  
3 the high catches (landings plus discards) of small  
4 swordfish” and “emphasized that gains in the yield  
5 could accrue if fishing mortality on small fish could  
6 be further reduced”.

7 (3) In 1998, ICCAT adopted a resolution di-  
8 recting the SCRS to develop options for rebuilding  
9 North Atlantic swordfish to levels that would  
10 produce the maximum sustainable yield, including  
11 alternative methods for reducing small fish mor-  
12 tality, for consideration at the ICCAT meeting in  
13 1999.

14 (4) Reducing the mortality of species of Atlan-  
15 tic billfish, including Atlantic blue marlin, Atlantic  
16 white marlin, and Atlantic sailfish/spearfish, will  
17 contribute substantially to the rebuilding of these  
18 stocks.

19 (5) In 1990, ICCAT encouraged its member  
20 states to take appropriate measures within their na-  
21 tional jurisdictions to protect small swordfish, in-  
22 cluding the establishment of time and area closures.

23 (6) Significant reductions in the mortality of ju-  
24 venile swordfish, species of Atlantic billfish, species  
25 of Atlantic large coastal sharks, and other highly mi-

1 migratory species of fish within the exclusive economic  
2 zone of the United States can be achieved by the de-  
3 sign and implementation of discrete, scientifically-  
4 based time-area closures for pelagic longline fishing.

5 (7) Conflicts between the commercial pelagic  
6 longline fishery and the recreational fishery for high-  
7 ly migratory species exist in certain areas of the  
8 U.S. Exclusive Economic Zone in the Atlantic Ocean  
9 and Gulf of Mexico and can be substantially reduced  
10 by the design and implementation of discrete, sci-  
11 entifically-based time-area closures for pelagic  
12 longline fishing.

13 (8) A credible, scientifically-based time-area clo-  
14 sure for pelagic longline fishing that would achieve  
15 reductions in the bycatch and mortality of overfished  
16 highly migratory species within the United States  
17 Exclusive Economic Zone will provide a model for  
18 applying the same conservation concept more broad-  
19 ly in international waters through ICCAT in further  
20 pursuit of the goal of rebuilding the stocks of these  
21 species.

22 (9) The time-area closures for pelagic longline  
23 fishing within the United States Exclusive Economic  
24 Zone that will contribute to achieving the conserva-  
25 tion objectives for swordfish, billfish, and large

1 coastal sharks in the Atlantic Ocean and Gulf of  
2 Mexico and that will reduce conflicts between com-  
3 mercial and recreational fishermen will result in sub-  
4 stantial adverse economic impacts on United States  
5 commercial fishermen who engage in pelagic longline  
6 fishing, as well as their families and communities.  
7 Such adverse economic impacts can be minimized by  
8 a fair and equitable buyout of the permits and li-  
9 censes of certain pelagic longline fishing vessels.

10 (10) The commercial fishermen who sustain  
11 substantial adverse economic impacts from such  
12 time-area closures and who should be eligible to par-  
13 ticipate in such a government buyout include those  
14 who, according to the National Marine Fisheries  
15 Service data, have—

16 (A) reported that at least 35 percent of  
17 their vessel's annual fishing sets were conducted  
18 in the proposed closed areas in any one year  
19 from 1992 through 1997;

20 (B) reported that they conducted at least  
21 25 pelagic longline gear sets during their quali-  
22 fying year;

23 (C) reported that at least 50 percent of  
24 their landings for the 1995-1997 period were  
25 comprised of pelagic longline target species, in-

1 including swordfish, tunas, mahi-mahi, escolar,  
2 and oceanic sharks; and

3 (D) qualified for a Directed Swordfish Ini-  
4 tial Limited Access Permit.

5 (11) There is a great need for the National Ma-  
6 rine Fisheries Service to conduct additional scientific  
7 research, in cooperation with pelagic longline fishing  
8 vessels, to identify the uses and configurations of pe-  
9 lagic longline fishing gear that are most effective in  
10 reducing bycatch.

11 **SEC. 3. PURPOSES.**

12 The purposes of this Act are—

13 (1) to contribute to the conservation and re-  
14 building of overfished stocks of highly migratory spe-  
15 cies, including North Atlantic swordfish, species of  
16 Atlantic billfish, and Atlantic large coastal sharks,  
17 through reductions in mortality and the protection  
18 of those nursery and spawning areas that may occur  
19 within the exclusive economic zone of the United  
20 States, to levels that will produce maximum sustain-  
21 able yield, in compliance with United States obliga-  
22 tions under the International Convention for the  
23 Conservation of Atlantic Tunas and consistent with  
24 National Standard (1) and section 304 of the Mag-  
25 nuson-Stevens Act;

1           (2) to minimize adverse socio-economic impacts  
2           on United States commercial fishermen and their  
3           families, small fishing business entities, and fishing  
4           communities consistent with National Standard (8)  
5           of the Magnuson-Stevens Act and the requirements  
6           of the Regulatory Flexibility Act, resulting from the  
7           conservation actions taken under this Act;

8           (3) to enhance both the socio-economic viability  
9           of the remaining United States pelagic longline fish-  
10          ing industry and recreational fishing opportunities  
11          for highly migratory species;

12          (4) to minimize bycatch, including regulatory  
13          discards, consistent with the Magnuson-Stevens Act  
14          and the international obligations of the United  
15          States;

16          (5) to support and encourage the United States  
17          Government's efforts to obtain international agree-  
18          ments that provide for effective fishery conservation  
19          and management consistent with the policies set  
20          forth in section 2(c) of the Magnuson-Stevens Act  
21          and to provide the necessary leadership for achieving  
22          greater international conservation of highly migra-  
23          tory species;

24          (6) to reduce conflicts within the exclusive eco-  
25          nomic zone of the United States between the pelagic

1 longline and recreational fisheries for highly migra-  
2 tory species; and

3 (7) to expand the scientific knowledge and un-  
4 derstanding of Atlantic highly migratory species and  
5 the fisheries of the United States.

6 **SEC. 4. POLICY.**

7 It is declared to be the policy of the Congress in this  
8 Act and the Atlantic Tunas Convention Act of 1975 that,  
9 consistent with the Magnuson-Stevens Act, all United  
10 States fishermen shall be treated fairly and equitably in  
11 achieving national and international fishery conservation  
12 and management objectives and obligations for highly mi-  
13 gratory species of the Atlantic Ocean and Gulf of Mexico.

14 **SEC. 5. DEFINITIONS.**

15 In this Act, the following definitions apply:

16 (1) **AFFECTED STATE.**—The term “affected  
17 State” means one of the following States: South  
18 Carolina, Georgia, Florida, Alabama, Mississippi,  
19 Louisiana, and Texas.

20 (2) **BILLFISH.**—The term “billfish” means blue  
21 marlin, spearfish, sailfish and white marlin.

22 (3) **BYCATCH.**—The term “bycatch” means fish  
23 which are harvested in a fishery, but which are not  
24 sold or kept for personal use, and includes economic  
25 discards and regulatory discards. The term does not

1 include fish released alive under a recreational catch  
2 and release fishery management program.

3 (4) ELIGIBLE PERMIT HOLDER.—The term “el-  
4 ible permit holder” means the person or group of  
5 persons who, on the date of enactment of this Act,  
6 holds the Directed Swordfish Limited Access Permit  
7 that was issued based on the landings of an eligible  
8 vessel.

9 (5) COMMERCIAL FISHING.—The term “com-  
10 mercial fishing” means fishing in which the fish har-  
11 vested, either in whole or in part, are intended to  
12 enter commerce or enter commerce through sale,  
13 barter, or trade.

14 (6) ELIGIBLE VESSEL.—The term “eligible ves-  
15 sel” means each vessel listed in section 7(a) of this  
16 Act.

17 (7) FISH.—The term “fish” means finfish, mol-  
18 lusks, crustaceans, and all other forms of marine  
19 animal and plant life other than marine mammals  
20 and birds.

21 (8) FISHING.—The term “fishing” means—

22 (A) the catching, taking, or harvesting of  
23 fish;

24 (B) the attempted catching, taking, or har-  
25 vesting of fish;

1 (C) any other activity which can reason-  
2 ably be expected to result in the catching, tak-  
3 ing, or harvesting of fish; or

4 (D) any operations at sea in support of, or  
5 in preparation for, any activity described in  
6 subparagraphs (A) through (C).

7 The term does not include any scientific research ac-  
8 tivity that is authorized by the Secretary.

9 (9) FISHING VESSEL.—The term “fishing ves-  
10 sel” means any vessel, boat, ship, or other craft  
11 which is used for, equipped to be used for, or of a  
12 type which is normally used for—

13 (A) fishing; or

14 (B) aiding or assisting one or more vessels  
15 at sea in the performance of any activity relat-  
16 ing to fishing, including but not limited to prep-  
17 aration, supply, storage, refrigeration, transpor-  
18 tation, or processing.

19 (10) GEODESIC.—The term “geodesic” means  
20 the shortest line between two points that lies on the  
21 surface of the Earth.

22 (11) HIGHLY MIGRATORY SPECIES.—The term  
23 “highly migratory species” means tuna species, bill-  
24 fish, oceanic sharks, and swordfish.

1           (12) MAGNUSON-STEVENSON ACT.—The term  
2 “Magnuson-Stevens Act” means the Magnuson-Ste-  
3 vens Fishery Conservation and Management Act (16  
4 U.S.C. 1801 et seq.).

5           (13) PELAGIC LONGLINE FISHING.—The term  
6 “pelagic longline fishing” means a method of fishing  
7 that uses any fishing gear consisting of a length of  
8 line suspended horizontally in the water above the  
9 bottom from lines attached to surface floats and to  
10 which gangions and hooks are attached.

11           (14) PERSON.—The term “person” means any  
12 individual, corporation, partnership, association, or  
13 other entity (whether or not organized or existing  
14 under the laws of any State).

15           (15) RECREATIONAL FISHING.—The term “rec-  
16 reational fishing” means fishing for sport or pleas-  
17 ure.

18           (16) RECORD ADDRESS.—The term “record ad-  
19 dress” means the address of record for each permit  
20 holder and swordfish dealer as maintained in the  
21 National Marine Fisheries Service’s databases.

22           (17) SECRETARY.—The term “Secretary”  
23 means the Secretary of Commerce.

24           (18) SWORDFISH DEALER.—The term “sword-  
25 fish dealer” means any person who purchases, trades

1 for, or barter for the receipt of any Atlantic sword-  
2 fish (whether imported or domestic and regardless of  
3 origin) for any commercial purpose (including sell-  
4 ing, trading, or bartering such swordfish to others).

5 **SEC. 6. HIGHLY MIGRATORY SPECIES CONSERVATION**  
6 **ZONES.**

7 (a) ATLANTIC CONSERVATION ZONE FOR HIGHLY  
8 MIGRATORY SPECIES.—No person may engage in pelagic  
9 longline fishing in the Atlantic Conservation Zone For  
10 Highly Migratory Species, which is the area, seaward of  
11 the baseline from which the territorial sea is measured,  
12 that is enclosed by a series of geodesics connecting in suc-  
13 cession the points at the following coordinates:

14 (1) 26 degrees 30 minutes north latitude, 82  
15 degrees 0 minutes west longitude;

16 (2) 24 degrees 0 minutes north latitude, 82 de-  
17 grees 0 minutes west longitude;

18 (3) 24 degrees 0 minutes north latitude, 81 de-  
19 grees 08 minutes west longitude;

20 (4) seaward extension of the Exclusive Eco-  
21 nomic Zone;

22 (5) 28 degrees 17 minutes north latitude, 79  
23 degrees 0 minutes west longitude;

24 (6) 31 degrees 0 minutes north latitude, 78 de-  
25 grees 0 minutes west longitude;

1           (7) 32 degrees 0 minutes north latitude, 78 de-  
2           grees 0 minutes west longitude;

3           (8) 32 degrees 0 minutes north latitude, 77 de-  
4           grees 0 minutes west longitude;

5           (9) 33 degrees 0 minutes north latitude, 77 de-  
6           grees 0 minutes west longitude;

7           (10) 33 degrees 0 minutes north latitude, 78  
8           degrees 0 minutes west longitude; and

9           (11) 33 degrees 51 minutes north latitude, 78  
10          degrees 33 minutes west longitude.

11          (b) GULF OF MEXICO CONSERVATION ZONE FOR  
12          SWORDFISH.—Every year, during the period of January  
13          1 through Memorial Day, no person may engage in pelagic  
14          longline fishing in the Gulf Of Mexico Conservation Zone  
15          For Swordfish, which is the area enclosed by a series of  
16          geodesics connecting in succession the points at the fol-  
17          lowing coordinates:

18                 (1) 30 degrees 0 minutes north latitude, 87 de-  
19                 grees 30 minutes west longitude;

20                 (2) 30 degrees 0 minutes north latitude, 86 de-  
21                 grees 0 minutes west longitude;

22                 (3) 29 degrees 0 minutes north latitude, 86 de-  
23                 grees 0 minutes west longitude; and

24                 (4) 29 degrees 0 minutes north latitude, 87 de-  
25                 grees 30 minutes west longitude.

1           (c) GULF OF MEXICO CONSERVATION ZONE FOR  
2 HIGHLY MIGRATORY SPECIES.—During the period that  
3 begins on the first Memorial Day after the date of enact-  
4 ment of this Act and continues through Labor Day of the  
5 same calendar year, and during the period of Memorial  
6 Day through Labor Day in each of the next four calendar  
7 years, no person may engage in pelagic longline fishing  
8 in the Gulf Of Mexico Conservation Zone For Highly Mi-  
9 gratory Species, which is the area, seaward of the baseline  
10 from which the territorial sea is measured, that is enclosed  
11 by a series of geodesics connecting in succession the points  
12 at the following coordinates:

13           (1) 26 degrees 0 minutes north latitude, 97 de-  
14           grees 10 minutes west longitude (at approximately  
15           the border between the United States and Mexico);

16           (2) 26 degrees 0 minutes north latitude, 96 de-  
17           grees 0 minutes west longitude;

18           (3) 27 degrees 30 minutes north latitude, 94  
19           degrees 30 minutes west longitude;

20           (4) 27 degrees 30 minutes north latitude, 90  
21           degrees 0 minutes west longitude;

22           (5) 28 degrees 0 minutes north latitude, 90 de-  
23           grees 0 minutes west longitude;

24           (6) 28 degrees 0 minutes north latitude, 89 de-  
25           grees 30 minutes west longitude;



1           (2) AMANDA KAY, United States official  
2           number 691398.

3           (3) BEAU, United States official number  
4           647878.

5           (4) BETTE BOOP, United States official num-  
6           ber 673527.

7           (5) BETTY B, United States official number  
8           689987.

9           (6) BIGEYE, United States official number  
10          628300.

11          (7) BLACK JACK ONE, United States official  
12          number 592219.

13          (8) BONNEY ANNE, United States official  
14          number 666686.

15          (9) BUCKAROO, United States official number  
16          576503.

17          (10) CANDACE, United States official number  
18          673556.

19          (11) CAPT. BOB, United States official num-  
20          ber 929813.

21          (12) CAROL ANN, United States official num-  
22          ber 609121.

23          (13) CHARLESTON STAR, United States of-  
24          ficial number 591301.

1           (14) CHRISTOPHER JOE, United States offi-  
2           cial number 608436.

3           (15) CHRISTY, United States official number  
4           933833.

5           (16) CLAYTON REED, United States official  
6           number 683286.

7           (17) CORAL LADY, United States official  
8           number 649372.

9           (18) DAKOTA, United States official number  
10          956008.

11          (19) ERICA-LYNN, United States official  
12          number 611243.

13          (20) EXPLORER, United States official num-  
14          ber 643055.

15          (21) FATHER & SON, United States official  
16          number 611056.

17          (22) GINA D, United States official number  
18          602788.

19          (23) GRAND CRU, United States official num-  
20          ber 508393.

21          (24) HAPPY NIGHT TONIGHT, United  
22          States official number 632057.

23          (25) ITALIAN STALLION, United States offi-  
24          cial number 603239.

1           (26) JACQUELINE L., United States official  
2           number 551612.

3           (27) JANICE ANN, United States official  
4           number 646506.

5           (28) JOAN MARIE, United States official  
6           number 599408.

7           (29) JOSHUA NICOLE, United States official  
8           number 912738.

9           (30) JUST RIGHT, United States official  
10          number 692184.

11          (31) KELLY ANN, United States official num-  
12          ber 633432.

13          (32) KRISTIN LEE, United States official  
14          number 656259.

15          (33) LADY LAURA, State of Florida registra-  
16          tion number FL2054GY.

17          (34) LINDSEY JEANETTE, United States of-  
18          ficial number 618472.

19          (35) LINNEA C, United States official number  
20          665962.

21          (36) LISA ANN, United States official number  
22          659897.

23          (37) LORI MARIE, United States official num-  
24          ber 674417.

1           (38) MAR JACK, United States official num-  
2           ber 640008.

3           (39) MARION FRANCES, United States offi-  
4           cial number 541694.

5           (40) MARY ANN, United States official num-  
6           ber 596805.

7           (41) MGB, United States official number  
8           656564.

9           (42) MISS DANIELLE, United States official  
10          number 697038.

11          (43) MISS MANDY, United States official  
12          number 636385.

13          (44) MISS MELISSA, United States official  
14          number 593587.

15          (45) MISS SUZANNE, United States official  
16          number 510728.

17          (46) MISS TAKE, United States official num-  
18          ber 667970.

19          (47) MISS-SHELL, United States official  
20          number 637883.

21          (48) OUTLAW, United States official number  
22          643282.

23          (49) PEACEFUL LADY, United States official  
24          number 918933.

1 (50) PROUD MARY ELLEN, United States  
2 official number 615810.

3 (51) PROVIDER, United States official num-  
4 ber 602041.

5 (52) PROVIDER II, United States official  
6 number 648979.

7 (53) R&R, United States official number  
8 945535.

9 (54) RAW DAWG, United States official num-  
10 ber 677230.

11 (55) REBECCA PAGE, United States official  
12 number 684131.

13 (56) REBEL LADY, United States official  
14 number 628471.

15 (57) ROYAL LADY, United States official  
16 number 615626.

17 (58) RUTH-ANNE, United States official num-  
18 ber 598591.

19 (59) SEA ANGEL, United States official num-  
20 ber 926754.

21 (60) SEVEN ARROWS, United States official  
22 number 611304.

23 (61) SHERRIE ANN II, State of Florida reg-  
24 istration number FL3716JU.

1           (62) SOUTHERN GALE, United States offi-  
2           cial number 588452.

3           (63) STRAIGHT FLUSH, United States offi-  
4           cial number 663691.

5           (64) SUSAN II, United States official number  
6           594618.

7           (65) SYLVIA JEAN, United States official  
8           number 609788.

9           (66) TRI LINER, United States official num-  
10          ber 624323.

11          (67) TRIPLE THREAT, United States official  
12          number 646718.

13          (68) UNCLOUDY DAY, United States official  
14          number 950979.

15          (b) INELIGIBILITY DUE TO PERMIT OR VESSEL  
16 TRANSFER AFTER NOVEMBER 10, 1999.—A vessel listed  
17 under subsection (a) shall not be eligible if the vessel or  
18 any Federal fishing permit or license applicable to that  
19 vessel is transferred to a different person after November  
20 10, 1999.

21          (c) COMPENSATION NOTIFICATION.—No later than  
22 the 15th calendar day after the date of enactment of this  
23 Act, the Secretary shall, by certified mail return receipt  
24 requested, addressed to each permit holder at its record  
25 address, notify each permit holder of—

1 (1) the compensation provisions of this Act; and

2 (2) any other compensation instructions or  
3 guidance that the Secretary may (but not by regula-  
4 tion or further notice of any other kind) establish.

5 (d) COMPENSATION AMOUNT.—The compensation  
6 amount shall include, a permit package payment of  
7 \$125,000 per eligible permit holder plus, either—

8 (1) zero for any eligible permit holder that did  
9 not report any landings of highly migratory species  
10 by the associated eligible vessel to the National Ma-  
11 rine Fisheries Service for the period beginning on  
12 January 1, 1999, and ending on October 1, 1999;  
13 or

14 (2) for every other eligible permit holder, a  
15 landing payment that the Secretary determines in  
16 accordance with subsection (e).

17 (e) LANDING PAYMENT DETERMINATION.—The Sec-  
18 retary's determinations of all landing payments shall be  
19 final and in accordance with the following:

20 (1) BASIS.—The basis for each landing pay-  
21 ment shall be the gross ex-vessel value of all fish (re-  
22 gardless of species) landed by the eligible vessel dur-  
23 ing any one calendar year in the period beginning  
24 with the calendar year 1992 and ending with cal-  
25 endar year 1998.

1           (2) MAXIMUM AMOUNT.—The amount of each  
2 landing payment shall be 100 percent of such basis  
3 not to exceed \$325,000.

4           (3) HOLDER TO ADVISE SECRETARY.—No later  
5 than the 75th calendar day after the date of enact-  
6 ment of this Act each permit holder who desires to  
7 be compensated under this Act shall—

8                   (A) advise the Secretary which single cal-  
9 endar year from 1992 through 1998 the permit  
10 holder chooses as the basis for the permit hold-  
11 er's landing payment; and

12                   (B) submit to the Secretary the permit  
13 holder's documentation for the gross ex-vessel  
14 value of all fish (regardless of species) landed  
15 by the eligible vessel during the basis year cho-  
16 sen; or

17                   (C) advise the Secretary that the permit  
18 holder does not possess adequate documentation  
19 and, consequently elects to have the Secretary  
20 calculate a default landing payment.

21           (4) DOCUMENTATION.—Documentation under  
22 paragraph (3)(C) shall be in the form of trip tickets  
23 (or other landing documentation issued by the first  
24 ex-vessel fish buyer or buyers) for the eligible vessel  
25 that clearly establishes on their face the identity and

1 location of the first fish buyer, the vessel from whom  
2 the fish was bought, the date the fish was bought,  
3 how many pounds of each species of fish was  
4 bought, and how much per pound the landing vessel  
5 was paid for each species of fish bought (no other  
6 documentation shall be acceptable)

7 (5) CALCULATION OF AMOUNT.—If the permit  
8 holder submits adequate documentation the Sec-  
9 retary shall use it to calculate the landing payment.  
10 If the permit holder elects to have the Secretary cal-  
11 culate a default landing payment (or submits inad-  
12 equate documentation), the Secretary shall calculate  
13 a default payment by applying average ex-vessel  
14 prices (where possible, for each month of landing  
15 and state or area of landing as maintained in the  
16 National Marine Fisheries Service’s databases) to  
17 each pound of species of fish landed by the permit  
18 holder’s eligible vessel during the basis year that the  
19 permit holder chooses.

20 (f) COMPENSATION OFFER.—No later than the 135th  
21 calendar day after the date of enactment of this Act, the  
22 Secretary shall, by certified mail return receipt requested,  
23 addressed to each eligible permit holder at its record ad-  
24 dress, offer each eligible permit holder compensation for  
25 an amount determined in accordance with this section.

1 The Secretary's offer shall be final and not subject to ne-  
2 gotiation or counteroffer.

3 (g) COMPENSATION OFFER ACCEPTANCE.—

4 (1) IN GENERAL.—Each eligible permit holder  
5 who desires to be compensated in accordance with  
6 this Act must accept the Secretary's compensation  
7 offer no later than the 165th calendar day after the  
8 date of enactment of this Act.

9 (2) REQUIREMENTS.—The acceptance—

10 (A) must be in writing signed by the per-  
11 mit holder or permit holder's duly authorized  
12 representative and delivered to the Chief, Fi-  
13 nancial Services Division, National Marine  
14 Fisheries Service, 1315 East-West Highway,  
15 Silver Spring, MD 20910–3282, and include di-  
16 rect wire transfer instructions;

17 (B) shall constitute the permit holder's ir-  
18 revocable consent for all other restrictions that  
19 this Act permanently requires with respect to  
20 the eligible vessel and all such restrictions shall  
21 immediately be in effect; and

22 (C) shall be accompanied by all commercial  
23 fishing permits and licenses held by the permit  
24 holder that are applicable to the eligible vessel.

25 (3) FORM OF DELIVERY.—

1           (A) If the acceptance is mailed, it must be  
2           mailed by certified mail return receipt re-  
3           quested. The Secretary shall consider the date  
4           of acceptance to be the date on which it was  
5           mailed.

6           (B) If the acceptance is delivered by any  
7           other means, the Secretary shall consider the  
8           date of acceptance to be the date on which the  
9           Secretary first received the acceptance. The  
10          Secretary's determinations regarding the timeli-  
11          ness of the acceptance shall be final.

12          (h) COMPENSATION PAYMENT.—No later than the  
13          195th calendar day after the date of enactment of this  
14          Act, the Secretary shall, in accordance with this section,  
15          pay compensation in full to each permit holder whose ac-  
16          ceptance of the Secretary's offer was timely.

17          (i) FEDERAL LOAN.—Under the authority of sections  
18          1111 and 1112 of title XI of the Merchant Marine Act,  
19          1936 (46 U.S.C. App. 1279f and 1279g), the Secretary  
20          shall provide up to \$10,000,000 through a direct loan obli-  
21          gation for any payments authorized under this section that  
22          are not fully paid for by funds appropriated under sub-  
23          section (j) of this section. For purposes of such sections  
24          1111 and 1112, these payments shall be treated as pay-  
25          ments under a fishing capacity reduction program estab-

1 lished under section 312 of the Magnuson-Stevens Act (16  
2 U.S.C. 1861a). Notwithstanding subsection (b)(4) of such  
3 section 1111, the debt obligation under this subsection  
4 shall have a maturity of 30 years.

5 (j) AUTHORIZATION OF APPROPRIATIONS.—There  
6 shall be authorized to be appropriated \$100,000 for the  
7 costs required by the Federal Credit Reform Act for the  
8 \$10,000,000 direct loan authorized under this section and  
9 \$15,000,000 for the balance of the compensation pay-  
10 ments authorized under this Act.

11 **SEC. 8. RESTRICTIONS ON VESSELS.**

12 (a) IN GENERAL.—

13 (1) All commercial fishing permits or licenses  
14 held by an eligible permit holder accepting com-  
15 pensation under section 7 shall be revoked upon re-  
16 ceipt by the Secretary of the letter of acceptance  
17 under section 7(g).

18 (2) For each eligible vessel for which an eligible  
19 permit holder whose commercial fishing permits and  
20 licenses have been revoked and who accepted a land-  
21 ing payment, such vessel shall never again be used  
22 by any person anywhere in the world (regardless of  
23 the national status of such person) for commercial  
24 fishing.

1 (b) INELIGIBILITY FOR FISHERIES ENDORSE-  
 2 MENT.—Section 12108(d) of title 46, United States Code,  
 3 is amended by inserting “, or a vessel whose commercial  
 4 fishing permits and licenses have been revoked under sec-  
 5 tion 8(a)(2) of the Atlantic Highly Migratory Species Con-  
 6 servation Act of 1999,” before “is not eligible”.

7 (c) TRANSFER TO FOREIGN OWNERSHIP OR REG-  
 8 ISTRY PROHIBITED.—

9 (1) PROHIBITED TRANSFER.—No person may—

10 (A) sell, lease, charter, deliver, or in any  
 11 manner transfer, or agree to sell, lease, charter,  
 12 deliver, or in any manner transfer, to a person  
 13 not a citizen of the United States, any interest  
 14 in or control of a vessel whose commercial fish-  
 15 ing permits and licenses have been revoked; or

16 (B) place that vessel under foreign registry  
 17 or operate that vessel under the authority of a  
 18 foreign country.

19 (2) VOID EFFECT.—Any charter, sale, or trans-  
 20 fer of a vessel, or interest in or control of that ves-  
 21 sel, in violation of this subsection is void.

22 (d) PENALTIES.—

23 (1) CRIMINAL PENALTY.—Any person that  
 24 knowingly charters, sells, or transfers a vessel (or in-  
 25 terest in or control of that vessel) in violation of this

1 section, or knowingly uses that vessel for commercial  
2 fishing in violation of this section, or knowingly sub-  
3 mits false documentation for the landing payment  
4 under section 7 shall be fined under title 18, United  
5 States Code, imprisoned for not more than 5 years,  
6 or both.

7 (2) FORFEITURE.—A vessel (including its fish-  
8 ing gear, furniture, appurtenances, stores, and  
9 cargo) may be seized by, and forfeited to, the United  
10 States Government if—

11 (A)(i) the vessel is placed under foreign  
12 registry or operated under the authority of a  
13 foreign country in violation of this section;

14 (ii) a person knowingly charters, sells, or  
15 transfers a vessel, or interest or control in that  
16 vessel, in violation of this section;

17 (B) the vessel is used for commercial fish-  
18 ing in violation of this section

19 (C) the permit holder submits false docu-  
20 mentation for the landing payment under sec-  
21 tion 7.

22 (3) CIVIL PENALTY.—A person that charters,  
23 sells, or transfers a vessel (or an interest in or con-  
24 trol of a vessel) in violation of this section, uses a  
25 vessel for commercial fishing in violation of this sec-

1       tion, or submits false documentation for the landing  
2       payment under section 7 is liable to the United  
3       States Government for a civil penalty of not more  
4       than \$10,000 for each violation.

5       (e) VESSEL IDENTIFICATION SYSTEM.—The Sec-  
6       retary of Transportation shall ensure that, for each vessel  
7       whose commercial fishing permits and licenses have been  
8       revoked, information is recorded and maintained in the  
9       vessel identification system established under chapter 125  
10      of title 46, United States Code, stating that the vessel is  
11      forbidden under this Act from engaging in commercial  
12      fishing anywhere in the world, that the vessel is not eligi-  
13      ble for any commercial fishing permit or license (regard-  
14      less of whether the permit or license is issued by the Fed-  
15      eral Government, or a State government or political sub-  
16      division thereof), and that use of the vessel in any com-  
17      mercial fishing operation may result in Federal civil and  
18      criminal penalties and forfeiture of the vessel and its cargo  
19      and equipment.

20      **SEC. 9. REPAYMENT OF DIRECT LOAN.**

21      (a) IN GENERAL.—There is established a fishery con-  
22      servation fee system, to be administered by the Secretary,  
23      for repayment of the direct loan made under section 7(f),  
24      with the commercial share to be repaid under subsection  
25      (b) of this section and the recreational share to be repaid

1 under subsection (c) of this section. Fees under this sec-  
2 tion are established notwithstanding the requirements of  
3 section 304 or 312 of the Magnuson-Stevens Act (16  
4 U.S.C. 1854 and 1861a).

5 (b) COMMERCIAL SHARE.—

6 (1) DESCRIPTION.—The commercial share of  
7 the fishery conservation fee system shall be 50 per-  
8 cent of the original principal amount of the loan plus  
9 all interest accruing on that 50 percent of the prin-  
10 cipal amount.

11 (2) METHOD OF PAYMENT.—The Secretary  
12 shall, for the repayment of the commercial share of  
13 the loan obligation, plus associated interest, estab-  
14 lish a fee, which—

15 (A) shall be an amount determined by the  
16 Secretary to be sufficient to amortize the com-  
17 mercial share over the loan term of 30 years,  
18 not to exceed five cents, for each pound of all  
19 Atlantic swordfish sold by swordfish dealers;

20 (B) shall be collected beginning on the  
21 365th day after the date of enactment of this  
22 Act and continue without interruption, regard-  
23 less of the loan's maturity until such commer-  
24 cial share is fully paid; and

1           (C) shall be deducted by the swordfish  
2 dealer from all proceeds received from the sale  
3 by the dealer of all Atlantic swordfish and ac-  
4 counted for and forwarded by the dealer to the  
5 Secretary in the following manner:

6           (i) The fee for all proceeds received  
7 during each month shall be forwarded by  
8 not later than the 15th calendar day of  
9 each month immediately following the  
10 month for which the fees were collected  
11 and fee payments shall be late if not re-  
12 ceived at the lock box by the 20th calendar  
13 day of each such immediately following  
14 month.

15           (ii) All fees forwarded shall include a  
16 settlement sheet that establishes the total  
17 proceeds received during the previous  
18 month, the total pounds of all Atlantic  
19 swordfish sold upon which such receipts  
20 were based, and the total fee forwarded.

21           (iii) All fees shall be forwarded to a  
22 lock box account that the Secretary shall  
23 designate by a letter to each swordfish  
24 dealer holding a swordfish dealer's permit  
25 at its record address.

1 (iv) All fee matters shall be in accord-  
2 ance with such other conditions as the Sec-  
3 retary shall establish, and amend from  
4 time to time by a letter (but not by regula-  
5 tion or any other form of notice) sent to  
6 each swordfish dealer holding a swordfish  
7 dealer's permit at its record address.

8 (3) DUTY OF PROMPT NOTIFICATION.—The  
9 Secretary shall immediately notify swordfish dealers  
10 and swordfish limited access permit holders when  
11 the commercial share has been fully repaid and the  
12 collection requirement terminates. This shall be ac-  
13 complished by the Secretary's letter sent to each  
14 swordfish dealer, holding a swordfish dealer's permit  
15 and each swordfish limited access permit holder at  
16 its record address.

17 (4) AUDIT.—The Secretary may at reasonable  
18 times and places conduct audits of swordfish dealer's  
19 books and records to determine compliance with this  
20 section. Swordfish dealers shall furnish such books  
21 and records as the Secretary may reasonably require  
22 for the conduct of such audits.

23 (5) PENALTY INTEREST ON LATE FEE PAY-  
24 MENTS.—Swordfish dealers shall pay penalty inter-  
25 est equal to one and one-half percent the full

1 amount of each late fee payment for each month, or  
2 portion thereof, in which a late fee payment remains  
3 unpaid.

4 (6) ENFORCEMENT.—The Secretary shall col-  
5 lect all unpaid fees by such manner as the Secretary  
6 considers appropriate, including bringing collection  
7 enforcement actions at law and attaching and liqui-  
8 dating swordfish dealers' assets.

9 (7) CONTINUING OBLIGATION.—Notwith-  
10 standing that the commercial share of the loan is  
11 not paid in full by the loan's maturity date, the fee  
12 shall continue without interruption until such time  
13 as the commercial share is paid in full.

14 (c) RECREATIONAL SHARE.—

15 (1) DESCRIPTION.—The recreational share of  
16 the fishery conservation fee system shall be 50 per-  
17 cent of the original principal amount of the loan plus  
18 all interest accruing on 50 percent of the principal  
19 amount.

20 (2) METHODS OF PAYMENT.—The recreational  
21 share of the loan obligation, plus associated interest,  
22 shall be repaid through payment by affected States  
23 under paragraph (3), and by the sale of fishery con-  
24 servation permits issued under paragraph (4).

1           (3) PAYMENT BY AFFECTED STATE.—A vessel  
2 registered in an affected State will not be required  
3 to purchase a Federal fishery conservation permit if  
4 the State, no later than the 240th calendar day after  
5 the date of enactment of this Act, makes a binding,  
6 legally enforceable agreement with the United States  
7 Government to pay fully, within 4 years after the  
8 date of enactment of this Act, the State's rec-  
9 reational share allocation, plus associated interest.  
10 The allocations for each affected State shall not ex-  
11 ceed 40 percent for any affected States and will be  
12 based on the State's percentage of the total length  
13 of coastline adjacent to any area closed under sec-  
14 tion 6 and the total number of marine anglers for  
15 all 7 States. Such allocations are as follows:

16                   (A) South Carolina—9.4 percent;

17                   (B) Georgia—4.3 percent;

18                   (C) Florida—40.0 percent;

19                   (D) Alabama—3.2 percent;

20                   (E) Mississippi—2.6 percent;

21                   (F) Louisiana—14.6 percent; and

22                   (G) Texas—19.9 percent.

23           (4) FISHERY CONSERVATION PERMITS.—

24                   (A) ISSUANCE AND SALE.—On or about  
25 one year after the date of enactment of this Act

1 and thereafter until the recreational share is  
2 fully repaid, the Secretary shall issue for \$25  
3 each an annual fishery conservation permit to  
4 vessels over 18 feet in length wishing to engage  
5 in recreational fishing for highly migratory spe-  
6 cies in any area closed under section 6. For ves-  
7 sels registered in a State electing to pay the  
8 recreational share, the Secretary shall issue the  
9 permit free of charge.

10 (B) MEANS OF SALE OR ISSUANCE.—The  
11 Secretary—

12 (i) may, to the extent practicable, au-  
13 thorize the permits to be issued or sold by  
14 a variety of persons, including state agen-  
15 cies, retail dealers, and through convenient  
16 means, including the Internet and toll-free  
17 telephone numbers; and

18 (ii) may establish procedures for such  
19 persons to account for and forward the  
20 proceeds of sale to the Secretary.

21 (C) EXCEPTION.—The Secretary may not  
22 issue such permits after the repayment of the  
23 recreational share of the loan obligation.

24 (D) VESSELS REGISTERED IN AFFECTED  
25 STATES.—Vessels registered in affected States

1           agreeing to pay the recreational share shall ob-  
2           tain a fishery conservation permit from the Sec-  
3           retary or the affected State where the vessel is  
4           registered.

5           (5) PROHIBITION.—After the 240th day after  
6           the date of enactment of this Act until the rec-  
7           reational share is fully repaid under this Act, no per-  
8           son may engage in recreational fishing for highly mi-  
9           gratory species in any closed area from a vessel of  
10          18 feet or more in length, unless the vessel has been  
11          issued a valid fishery conservation permit. Such per-  
12          mit must be retained on the vessel. It shall be a re-  
13          buttable presumption that any 18 foot or larger rec-  
14          reational vessel with gear aboard capable of catching  
15          HMS species shall be presumed to be fishing for  
16          HMS species. Once the recreational share has been  
17          fully repaid this prohibition shall be null and void.

18          (6) DUTY OF PROMPT NOTIFICATION.—The  
19          Secretary shall immediately notify the Coast Guard,  
20          the heads of the agencies of the affected States that  
21          have responsibility for marine fishery law enforce-  
22          ment, retail dealers and others who sell fishery con-  
23          servation permits under this subsection, and the  
24          public when: payment of the recreational share be-  
25          gins, and the recreational share has been fully re-



1 most effective in reducing billfish bycatch mortality in the  
2 pelagic longline fisheries of the Gulf of Mexico and in the  
3 exclusive economic zone north of the Atlantic Conservation  
4 Zone established under section 6. The program shall also  
5 include provision for observers to be placed on pelagic  
6 longline fishing vessels for the purposes of monitoring the  
7 fishery and participating in the research program.

8 (b) PROGRAM DESIGN.—The Program design shall  
9 be developed through a scientific workshop organized and  
10 convened by the Southeast Fisheries Science Center of the  
11 National Marine Fisheries Service. Knowledgeable mem-  
12 bers of the pelagic longline fishing sector and the rec-  
13 reational billfish sector, along with scientists associated  
14 with each such industry, shall be invited to participate on  
15 the workshop design team. The Center shall make its best  
16 efforts to ensure that each such sector is fairly represented  
17 on the design team. The program design shall be sub-  
18 mitted to the Secretary no later than the 120th calendar  
19 day after the date of enactment of this Act and shall in-  
20 clude a scientifically-based recommendation for the level  
21 of observer coverage on pelagic longline fishing vessels  
22 that is necessary to monitor the fishery effectively and  
23 participate in the research program.

24 (c) MONITOR AND REPORT.—The Secretary is di-  
25 rected to aggressively monitor the mid-Atlantic bight dur-

1 ing the months of June, July, and August to determine  
2 if there has been a substantial net increase in the number  
3 of vessels or effort from the remaining pelagic longline  
4 fleet and whether that net increase is causing significant  
5 negative impact on the recreational billfish catch. In the  
6 event the Secretary so finds, the Secretary shall imme-  
7 diately report the finding to the Committee on Commerce,  
8 Science and Transportation of the Senate and the Com-  
9 mittee on Resources of the House of Representatives along  
10 with his recommendations to address the impact.

11 (d) REPORT TO CONGRESS.—No later than the 90th  
12 calendar day after the third year of closure of the Gulf  
13 Of Mexico Conservation Zone For Highly Migratory Spe-  
14 cies under section 6(c), the Secretary shall submit a report  
15 on the Program's determinations to the Committee on  
16 Commerce, Science, and Transportation of the Senate and  
17 the Committee on Resources of the House of Representa-  
18 tives. The report shall include any recommendations for  
19 legislation that may be appropriate prior to the expiration  
20 of the closure of the Gulf Of Mexico Conservation Zone  
21 For Highly Migratory Species.

22 **SEC. 12. INTERIM REGULATIONS.**

23 (a) INTERIM REGULATIONS.—The Secretary may not  
24 propose, approve, or implement before a date that is either  
25 one year after the date on which the Secretary submits

1 the report to Congress on the results of the Billfish By-  
2 catch Mortality Reduction Research Program under sec-  
3 tion 11(c) or 4 years after the date of enactment of this  
4 Act, whichever is later, any rules or regulations that have  
5 the effect of establishing any time-area closures for pelagic  
6 longline fishing in the Atlantic by United States fishing  
7 vessels that are in addition to, or otherwise expand, those  
8 time-area closures established under this Act.

9 (b) EXCEPTION.—The prohibition set forth in sub-  
10 section (a) shall not apply—

11 (1) to rules or regulations necessary to imple-  
12 ment any future recommendation of ICCAT or Act  
13 of Congress;

14 (2) to strictly technical and conforming correc-  
15 tions to those time-area closures established under  
16 this Act that the Secretary finds are necessary for  
17 public safety and enforcement of this Act; or

18 (3) if the Secretary, after consultation with the  
19 Commissioners appointed under the Atlantic Tunas  
20 Convention Act of 1975, finds that—

21 (A) fishing by United States pelagic  
22 longline fishing vessels is causing an emergency  
23 with respect to the conservation of an Atlantic  
24 highly migratory species of fish;

1           (B) such emergency can not or will not be  
2           addressed by the International Commission for  
3           the Conservation of Atlantic Tunas in a timely  
4           manner; and

5           (C) time-area closures for pelagic longline  
6           fishing in the Atlantic by United States fishing  
7           vessels that are in addition to, or otherwise ex-  
8           pand, those time-area closures established  
9           under this Act are necessary to address such  
10          emergency and there are no other practicable  
11          means available to address such emergency.

12 **SEC. 13. VESSEL MONITORING DEVICE.**

13          (a) IN GENERAL.— After the 165th day of enactment  
14          of this Act, no pelagic longline vessel shall operate within  
15          the Atlantic HMS fishery without a vessel monitoring de-  
16          vice approved by the Secretary.

17          (b) NOT REQUIRED TO CARRY MONITORING DE-  
18          VICE.—No vessel accepting the buyout under section 7 will  
19          be required to carry a vessel monitoring device.

20          (c) COSTS.—Any costs attributable to the purchase  
21          and installation of vessel monitoring devices on any pelagic  
22          longline vessel fishing in the Atlantic HMS fishery that  
23          is required to carry such a device under this section shall  
24          be the responsibility of the Secretary.

1 **SEC. 14. NULLIFICATION.**

2       In the event Congress fails to appropriate funds ade-  
3 quate to complete the buyout under section 7 then no pro-  
4 vision of this Act shall be effective. In the event Congress  
5 fails to appropriate funds adequate to place vessel moni-  
6 toring devices on vessels, then the requirement to carry  
7 such devices shall have no effect.

8 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

9       There are authorized to be appropriated to the Sec-  
10 retary \$250,000 per year as the cost of carrying out the  
11 compensation program; \$2,250,000 for vessel monitoring  
12 devices; \$3,000,000 for research; plus such other sums as  
13 may be necessary for carrying out all other functions in  
14 the Act. In addition, there are authorized to be appro-  
15 priated to the Secretary not more than \$400,000 for the  
16 Southeast Fisheries Science Center to conduct additional  
17 research on billfish and swordfish.

○