

106TH CONGRESS
2D SESSION

S. 2831

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve conservation and management of sharks and establish a consistent national policy toward the practice of shark-finning.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2000

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

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve conservation and management of sharks and establish a consistent national policy toward the practice of shark-finning.

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 “Shark Conservation
5 Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) The life history characteristics of most
2 sharks, including slow growth, late sexual maturity,
3 and the production of few young, make them par-
4 ticularly vulnerable to overfishing and necessitate
5 careful management of shark fisheries.

6 (2) Many shark species that range widely would
7 be appropriate for domestic and international man-
8 agement approaches that govern other highly migra-
9 tory species.

10 (3) Most sharks are captured incidentally in
11 fisheries directed at other species for which fishing
12 could continue to remain economically viable after
13 less abundant or less economically-valuable shark
14 species are overfished.

15 (4) The lack of adequate data and information
16 on the status and range of highly migratory shark
17 populations, shark harvesting practices, the extent of
18 incidental catch or bycatch of sharks, and the trade
19 in shark products (including shark fins) undermines
20 effective international and national management of
21 shark populations.

22 (5) Shark-finning is the practice of removing
23 the fins of a shark and dumping its carcass back
24 into the ocean. Shark fins comprise approximately 5
25 percent of the weight of a shark, and disposing of

1 the carcass of a finned shark does not utilize, or
2 wastes, about 95 percent (by weight) of each shark.

3 (6) The global shark fin trade involves at least
4 125 countries, including the United States, and the
5 demand for shark fins and other shark products has
6 driven dramatic increases in shark fishing and shark
7 mortality around the world.

8 (7) The Magnuson-Stevens Fishery Conserva-
9 tion and Management Act states that it is the policy
10 of the Congress to avoid unnecessary waste of fish
11 and requires United States fishery conservation and
12 management measures to minimize bycatch and, to
13 the extent it is unavoidable, minimize the mortality
14 of such bycatch.

15 (8) The Agreement for the Implementation of
16 the Provisions of the United Nations Convention on
17 the Law of the Sea of 10 December, 1982, Relating
18 to the Conservation and Management of Straddling
19 Stocks and Highly Migratory Species requires states
20 to, inter alia, adopt measures to ensure long-term
21 sustainability of highly migratory fish stocks based
22 on the best scientific information available, to apply
23 the precautionary approach, and to minimize waste,
24 discards, and catch of non-target species.

1 (9) The Food and Agriculture Organization
2 Code of Conduct for Responsible Fisheries provides
3 that countries should adopt management measures
4 that minimize waste, discards, and catch of non-tar-
5 get species.

6 (10) The Food and Agriculture Organization's
7 International Plan of Action for the Conservation
8 and Management of Sharks—

9 (A) urges States to develop shark con-
10 servation plans that—

11 (i) minimize waste and discards from
12 shark catches (for example, requiring re-
13 tention of sharks from which fins are re-
14 moved); and

15 (ii) ensure that shark catches from di-
16 rected and non-directed fisheries are sus-
17 tainable; and

18 (B) calls for submission of such plans by
19 the year 2001.

20 (11) At present, while some sharks potentially
21 may be managed internationally under arrangements
22 for highly migratory species, they are not now sub-
23 ject to specific conservation and management meas-
24 ures by international or regional organization or ar-
25 rangements.

1 (12) The conservation program for sharks for
2 the United States exclusive economic zone varies
3 among management regions, particularly with re-
4 spect to the practice of shark finning, and should in-
5 clude quotas and a ban on shark-finning.

6 (13) The establishment of a prohibition on the
7 practice of shark-finning by United States flag ves-
8 sels and in waters subject to the jurisdiction of the
9 United States would not reduce shark-finning being
10 carried out by other international fishing fleets or
11 United States transshipment or landing of fins
12 taken by these fleets, or imports of processed fins.
13 Foreign fleets transship or land approximately 180
14 metric tons of shark fins annually (about 7 percent
15 of shark fins harvested in the Pacific) through
16 United States vessels or ports in the Pacific, alone.

17 (14) Shark-finning and trade in fins harvested
18 in this manner must be addressed comprehensively
19 at both the national and international levels. Shark
20 finning must be prohibited in the United States,
21 and, as a global leader in fisheries conservation and
22 shark management, the United States should lead
23 efforts at the United Nations and through regional
24 agreements, such as the International Convention
25 for the Conservation of Atlantic Tunas and the Mul-

1 tilateral High Level Conference on the Conservation
2 and Management of Highly Migratory Species and
3 new shark-specific regional management bodies or
4 agreements, to achieve coordinated international
5 management of sharks, including an international
6 ban on shark-finning on the high seas and in the ex-
7 clusive economic zones of all nations.

8 **SEC. 3. PROHIBITION ON SHARK-FINNING AND THE LAND-**
9 **ING OF SHARK FINS TAKEN BY SHARK-FIN-**
10 **NING.**

11 (a) IN GENERAL.—Section 307 of the Magnuson-Ste-
12 vens Fishery Conservation and Management Act (16
13 U.S.C. 1857) is amended—

14 (1) by inserting “(a) IN GENERAL.—” before
15 “it is unlawful—”;

16 (2) by striking “or” after the semicolon in sub-
17 paragraph (N);

18 (3) by striking the period in subparagraph (O)
19 and inserting a semicolon and “or”; and

20 (4) by adding at the end the following:

21 “(P) to engage in shark-finning, or to land
22 the fins of a shark that were taken by shark-
23 finning. There is a rebuttable presumption that
24 shark fins landed from a fishing vessel or found

1 on board a fishing vessel were taken by shark-
2 finning.”.

3 (b) DEFINITION ADDED TO ACT.—Section 3 of the
4 Magnuson-Stevens Fishery Conservation and Manage-
5 ment Act (16 U.S.C. 1802) is amended—

6 (1) by redesignating paragraphs (35) through
7 (45), and any reference to any such paragraph else-
8 where in that Act, as paragraphs (36) through (46);
9 and

10 (2) by inserting after paragraph (34) the fol-
11 lowing:

12 “(35) The term ‘shark-finning’ means the tak-
13 ing of a shark, removing the fin or fins (whether or
14 not including the tail) of a shark, and returning the
15 remainder of the shark to the sea.”.

16 **SEC. 4. REGULATIONS.**

17 No later than 90 days after the date of enactment
18 of this Act, the Secretary of Commerce shall promulgate
19 regulations implementing the prohibition set forth in sec-
20 tion 307(1)(P) of the Magnuson-Stevens Fishery Con-
21 servation and Management Act (16 U.S.C. 1857(1)(P))
22 that—

23 (1) establish shark fin landing requirements
24 that consider species identification needs, shark
25 processing methods, and the nature and availability

1 of markets for shark products in the region in which
2 the shark fins are landed;

3 (2) contain procedures governing release of
4 sharks caught but not retained by a fishing vessel
5 that will ensure maximum probability of survival of
6 sharks after release;

7 (3) contain documentation and other require-
8 ments necessary to assure the timely and adequate
9 collection of data to support shark stock assess-
10 ments, conservation, and enforcement efforts; and

11 (4) set forth the facts and circumstances under
12 which a person may rebut the presumption estab-
13 lished in section 307(1)(P) of the Magnuson-Stevens
14 Fishery Conservation and Management Act (16
15 U.S.C. 1857(b), including the use of documentation
16 provided through applicable fisheries observer pro-
17 grams and dockside inspection.

18 **SEC. 5. INTERNATIONAL NEGOTIATIONS.**

19 The Secretary of Commerce, acting through the Sec-
20 retary of State, shall—

21 (1) notify other nations whose vessels engage in
22 fishing on sharks, as soon as possible, about the im-
23 port certification procedures and regulations under
24 section 6 of this Act, as well as the international co-
25 operation and assistance provisions of section 10;

1 (2) initiate discussions as soon as possible for
2 purpose of developing bilateral or multilateral agree-
3 ments with other nations for the prohibition on fin-
4 ning of sharks;

5 (3) initiate discussions as soon as possible with
6 all foreign governments which are engaged in, or
7 which have persons or companies engaged in shark-
8 finning or in commercial fishing operations that the
9 Secretary of Commerce determines may affect ad-
10 versely such species of sharks, for the purpose of en-
11 tering into bilateral and multilateral treaties with
12 such countries to protect such species;

13 (4) seek agreements calling for an international
14 ban on shark-finning and other fishing practices ad-
15 versely affecting these species through the United
16 Nations, the Food and Agriculture Organization's
17 Committee on Fisheries, and appropriate regional
18 fishery management bodies; and

19 (5) initiate the amendment of any existing
20 international treaty for the protection and conserva-
21 tion of species of sharks to which the United States
22 is a party in order to make such treaty consistent
23 with the purposes and policies of this section.

1 **SEC. 6. REPORT TO CONGRESS.**

2 The Secretary of Commerce, in consultation with the
3 Secretary of State, shall provide to Congress, by not later
4 than 1 year after the date of enactment of this Act, and
5 every year thereafter, a full report which—

6 (1) includes a list of nations whose vessels
7 conduct shark-finning or commercial fishing op-
8 erations which adversely affect shark species;

9 (2) describes the efforts taken by nations
10 to carry out this title, listed under subsection
11 (1), and evaluates the progress of those efforts;

12 (3) includes a determination as to whether
13 the importation into the United States of
14 sharks or shark products (including fins) is ad-
15 versely affecting the effectiveness of national
16 and international measures for the conservation
17 of sharks;

18 (4) sets forth a plan of action for ensuring
19 the conclusion and entry into force of inter-
20 national measures for the conservation of
21 sharks; and

22 (5) includes recommendations for measures
23 to ensure that United States actions are con-
24 sistent with national, international, and regional
25 obligations relating to highly migratory shark
26 populations, including those listed under the

1 Convention on International Trade in Endan-
2 gered Species of Wild Flora and Fauna.

3 **SEC. 7. IMPORT CERTIFICATION.**

4 (a) IN GENERAL.—The Secretary of Commerce shall
5 establish a procedure, consistent with the provisions of
6 subchapter II of chapter 5 of title 5, United States Code,
7 and including notice and an opportunity for comment by
8 the governments of nations listed by the Secretary under
9 paragraph (1) of section 6, for determining whether
10 governments—

11 (1) have adopted regulatory programs gov-
12 erning shark-finning and other harvesting practices
13 adversely affecting sharks that are comparable, tak-
14 ing into account different conditions, to those of the
15 United States;

16 (2) have established management plans gov-
17 erning release of species of sharks caught but not re-
18 tained by fishing vessels that ensure maximum prob-
19 ability of survival after release; and

20 (3) have established a management plan con-
21 taining requirements that will assist in gathering
22 species-specific data to support international and re-
23 gional shark stock assessments and conservation en-
24 forcement efforts.

25 (b) CERTIFICATION PROCEDURE.—

1 (1) IN GENERAL.—The Secretary shall deter-
2 mine, on the basis of the procedure under subsection
3 (a), and certify to the Congress not later than 90
4 days after promulgation of the regulations under
5 section 4, and annually thereafter whether the gov-
6 ernment of each harvesting nation—

7 (A) has provided documentary evidence of
8 the adoption of a regulatory program governing
9 shark-finning and the conservation of sharks
10 that is comparable, taking into account dif-
11 ferent conditions, to that of the United States;

12 (B) has established a management plan
13 governing release of species of sharks caught
14 but not retained by a fishing vessel that will en-
15 sure maximum probability of survival of after
16 release; and

17 (C) has established a management plan
18 containing requirements that will assist in gath-
19 ering species-specific data to support inter-
20 national and regional shark stock assessments
21 and conservation enforcement efforts.

22 (2) ALTERNATIVE PROCEDURE.—The Secretary
23 shall establish a procedure for certification, on a
24 shipment-by-shipment, shipper-by-shipper, or other
25 basis of imports of sharks or products (including

1 fins) from a vessel of a harvesting nation not cer-
2 tified under paragraph (1) if the Secretary deter-
3 mines that such imports were harvested by practices
4 that—

5 (A) do not adversely affect sharks;

6 (B) include release of species of sharks
7 caught but not retained by such vessel in a
8 manner that ensures maximum probability of
9 survival after release;

10 (C) include the gathering of species-spe-
11 cific data that can be used to support inter-
12 national and regional shark stock assessments
13 and conservation efforts; or

14 (D) are consistent with harvesting prac-
15 tices comparable, taking into account the cir-
16 cumstances, to those of the United States.

17 (c) UNCERTIFIED IMPORTS.—It is unlawful to import
18 sharks or products (including fins) more than 90 days
19 after promulgation of the regulations under section 4 if
20 such sharks or products were harvested by a vessel of a
21 harvesting nation not certified under subsection (b)(1) un-
22 less that vessel is certified under subsection (b)(2).

23 (d) REINSTATEMENT OF UNCERTIFIED COUNTRY
24 STATUS.—If the Secretary fails to make the annual cer-
25 tification required by subsection (b)(1) with respect to a

1 country previously certified under that subsection, and ex-
2 cept as provided in subsection (b)(2), then subsection (c)
3 shall apply to imports of sharks or products (including
4 fins) harvested by vessels of that nation beginning 90 days
5 after the date in any year on which the Secretary fails
6 to make the scheduled annual certification required by
7 subsection (b).

8 **SEC. 8. SHARK-FINNING DEFINED.**

9 For the purposes of this Act, the term “shark-fin-
10 ning” means the taking of a shark, removing the fin or
11 fins (whether or not including the tail), and returning the
12 remainder of the shark to the sea.

13 **SEC. 9. RESEARCH.**

14 The Secretary of Commerce shall establish a research
15 program for Pacific and Atlantic sharks to engage in the
16 following data collection and research:

17 (1) The collection of data to support stock as-
18 sessments of highly-migratory shark populations
19 subject to incidental or directed harvesting by com-
20 mercial vessels, giving priority to species according
21 to vulnerability of the species to fishing gear and
22 fishing mortality, and its population status.

23 (2) Research to identify fishing gear and prac-
24 tices that prevent or minimize incidental catch of
25 sharks in commercial and recreational fishing.

1 (3) Research on fishing methods that will en-
2 sure maximum likelihood of survival of captured
3 sharks after release.

4 (4) Research on methods for releasing sharks
5 from fishing gear that minimize risk of injury to
6 fishing vessel operators and crews.

7 (5) Research on methods to maximize the utili-
8 zation of, and funding to develop the market for,
9 sharks not taken in violation of a fishing manage-
10 ment plan approved under section 303 or of section
11 307(1)(P) of the Magnuson-Stevens Fishery Con-
12 servation and Management Act (16 U.S.C. 1853,
13 1857(1)(P)); and

14 (6) Research on the international shark fin
15 trade.

16 **SEC. 10. WESTERN PACIFIC LONGLINE FISHERIES COOPER-**
17 **ATIVE RESEARCH PROGRAM.**

18 The National Marine Fisheries Service, in consulta-
19 tion with the Western Pacific Fisheries Management
20 Council, shall initiate a cooperative research program with
21 the commercial longlining industry to carry out activities
22 consistent with this Act, including research described in
23 section 8 of this Act. The service may initiate such shark
24 cooperative research programs upon the request of any
25 other fishery management council.

1 **SEC. 11. INTERNATIONAL COOPERATION AND ASSISTANCE.**

2 To the greatest extent possible consistent with exist-
3 ing authority and the availability of funds, the Secretary
4 of Commerce shall—

5 (1) provide appropriate technological and other
6 assistance to nations listed under paragraph (6) of
7 section 5 and regional or international organizations
8 of which those nations are members to assist those
9 nations in qualifying for certification under section
10 6(b)(1);

11 (2) undertake, where appropriate, cooperative
12 research activities on species statistics and improved
13 harvesting techniques, with those nations or organi-
14 zations;

15 (3) encourage and facilitate the transfer of ap-
16 propriate technology to those nations or organiza-
17 tions to assist those nations in qualifying for certifi-
18 cation under section 6(b)(1); and

19 (4) provide assistance to those nations or orga-
20 nizations in designing and implementing appropriate
21 shark harvesting plans.

22 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to the Sec-
24 retary of Commerce for fiscal years 2001 through 2005
25 such sums as are necessary to carry out this Act.

○