

Union Calendar No. 268

108TH CONGRESS
2^D SESSION

H. R. 2693

[Report No. 108-464]

To reauthorize the Marine Mammal Protection Act of 1972, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2003

Mr. GILCREST (for himself and Mr. POMBO) introduced the following bill;
which was referred to the Committee on Resources

APRIL 20, 2004

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 July 10, 2003]

A BILL

To reauthorize the Marine Mammal Protection Act of 1972,
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 “Marine Mammal Protec-*
5 *tion Act Amendments of 2004”.*

1 **SEC. 2. AMENDMENT REFERENCES.**

2 *Except as otherwise expressly provided, whenever in*
3 *this Act an amendment or repeal is expressed in terms of*
4 *an amendment to, or repeal of, a section or other provision,*
5 *the reference shall be considered to be made to such section*
6 *or other provision of the Marine Mammal Protection Act*
7 *of 1972 (16 U.S.C. 1361 et seq.).*

8 **SEC. 3. TECHNICAL CORRECTIONS.**

9 (a) *COMMITTEE REFERENCES.*—*The Marine Mammal*
10 *Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended*
11 *by striking “Committee on Merchant Marine and Fisheries”*
12 *each place it appears and inserting “Committee on Re-*
13 *sources”.*

14 (b) *OBSOLETE REFERENCE TO SECTION.*—*Section*
15 *118(c)(3)(A)(i) (16 U.S.C. 1387(c)(3)(A)(i)) is amended by*
16 *striking “, except that” and all that follows through “is*
17 *valid”.*

18 **SEC. 4. LIMITED AUTHORITY TO EXPORT MARINE MAMMAL**
19 **PRODUCTS.**

20 (a) *IN GENERAL.*—*Section 101(a)(6) (16 U.S.C.*
21 *1371(a)(6)) is amended by redesignating subparagraph (B)*
22 *as subparagraph (C), and by inserting after subparagraph*
23 *(A) the following:*

24 “(B) *A marine mammal product may be ex-*
25 *ported from the United States if the product—*

1 “(i) is legally possessed, and exported by, a
2 citizen of the United States for noncommercial
3 purposes in conjunction with travel outside the
4 United States and the product is imported into
5 the United States by the same person upon the
6 termination of travel;

7 “(ii) is legally possessed and exported as
8 part of a cultural exchange, by an Indian, Aleut,
9 or Eskimo residing in Alaska; or

10 “(iii) is owned by a Native inhabitant of
11 Russia, Canada, or Greenland and is exported
12 for noncommercial purposes—

13 “(I) in conjunction with, and upon the
14 completion of, travel within the United
15 States; or

16 “(II) as part of a cultural exchange
17 with an Indian, Aleut, or Eskimo residing
18 in Alaska.”.

19 (b) CONFORMING AMENDMENT.—Section
20 101(a)(6)(A)(i) (16 U.S.C. 1371(a)(6)(A)(i)) is amended by
21 inserting “for noncommercial purposes” after “United
22 States” the first place it appears.

1 **SEC. 5. MISCELLANEOUS AUTHORIZATIONS OF APPROPRIA-**
2 **TIONS.**

3 (a) *DEPARTMENT OF COMMERCE.—Section 116(a) (16*
4 *U.S.C. 1384(a)) is amended to read as follows:*

5 “(a) *DEPARTMENT OF COMMERCE.—(1) There are au-*
6 *thorized to be appropriated to the Department of Commerce,*
7 *for purposes of carrying out its functions and responsibil-*
8 *ities under this title (other than sections 117 and 118) and*
9 *title IV—*

10 “(A) \$23,728,000 for 2004;

11 “(B) \$24,378,000 for 2005;

12 “(C) \$25,028,000 for 2006;

13 “(D) \$25,678,000 for 2007; and

14 “(E) \$26,328,000 for 2008.

15 “(2) *There are authorized to be appropriated to the*
16 *Department of Commerce, for purposes of carrying out sec-*
17 *tions 117 and 118, \$20,000,000 for each of the fiscal years*
18 *2004 through 2008.”.*

19 (b) *DEPARTMENT OF THE INTERIOR.—Section 116(b)*
20 *(16 U.S.C. 1384(b)) is amended to read as follows:*

21 “(b) *DEPARTMENT OF THE INTERIOR.—There are au-*
22 *thorized to be appropriated to the Department of the Inte-*
23 *rior, for purposes of carrying out its functions and respon-*
24 *sibilities under this title—*

25 “(1) \$11,800,000 for 2004;

26 “(2) \$12,300,000 for 2005;

1 “(3) \$12,800,000 for 2006;

2 “(4) \$13,300,000 for 2007; and

3 “(5) \$13,800,000 for 2008.”.

4 (c) *COOPERATIVE AGREEMENTS IN ALASKA*.—Section
5 119(d) (16 U.S.C. 1388(d)) is amended by striking para-
6 graphs (1) and (2) and inserting the following:

7 “(1) \$2,000,000 to the Secretary of Commerce for
8 each of fiscal years 2004 through 2008; and

9 “(2) \$1,500,000 to the Secretary of the Interior
10 for each of fiscal years 2004 through 2008.”.

11 **SEC. 6. TAKE REDUCTION PLANS.**

12 (a) *IN GENERAL*.—Section 118 (16 U.S.C. 1387) is
13 amended as follows:

14 (1) In subsection (a) by striking “commercial”
15 each place it appears in paragraphs (1) and (5).

16 (2) In subsection (c)(1) by striking so much as
17 precedes subparagraph (B) and inserting the fol-
18 lowing:

19 “(c) *REGISTRATION AND AUTHORIZATION*.—(1) The
20 Secretary shall, within 90 days after the date of enactment
21 of the Marine Mammal Protection Act Amendments of
22 2004—

23 “(A) publish in the Federal Register for public
24 comment, for a period of not less than 90 days, any
25 necessary changes to the Secretary’s list of fisheries

1 *published under section 114(b)(1) in the Federal Reg-*
2 *ister on August 24, 1994 (along with an explanation*
3 *of such changes and a statement describing the marine*
4 *mammal stocks interacting with, and the approximate*
5 *number of vessels or persons actively involved in, each*
6 *such fishery), with respect to—*

7 *“(i) commercial and recreational fisheries*
8 *that have frequent incidental mortality and seri-*
9 *ous injury of marine mammals;*

10 *“(ii) commercial and recreational fisheries*
11 *that have occasional incidental mortality and se-*
12 *rious injury of marine mammals; or*

13 *“(iii) commercial fisheries that have a re-*
14 *mote likelihood of or no known incidental mor-*
15 *tality or serious injury of marine mammals;”.*

16 *(3) In subsection (c)(1) in subparagraphs (B)*
17 *and (C) by striking “commercial”.*

18 *(4) In subsection (c)(2)(A) by striking “commer-*
19 *cial”.*

20 *(5) In subsection (c)(3)(A) in the matter pre-*
21 *ceding clause (i) by striking “a commercial fishery”*
22 *and inserting “that fishery”.*

23 *(6) In subsection (c)(3)(E) by inserting “com-*
24 *mercial” after “any”.*

1 (7) *In subsection (c)(5)(B) by striking “commer-*
2 *cial”.*

3 (8) *In subsection (d)(1) in the matter preceding*
4 *subparagraph (A) by striking “commercial fishing op-*
5 *erations” and inserting “fishing operations in a fish-*
6 *ery listed under subsection (c)(1)(A)(i) or (ii)”.*

7 (9) *In subsection (d)(3) in the matter preceding*
8 *subparagraph (A) by striking “commercial fisheries”*
9 *and inserting “fisheries listed under subsection*
10 *(c)(1)(A)(i) or (ii)”.*

11 (10) *In subsection (d)(4) as follows:*

12 (A) *In the matter preceding subparagraph*
13 *(A) by striking “commercial fisheries” and in-*
14 *serting “fisheries listed under subsection*
15 *(c)(1)(A)(i) or (ii)”.*

16 (B) *In subparagraph (A) by striking “com-*
17 *mercial fisheries” and inserting “fisheries listed*
18 *under subsection (c)(1)(A)(i) or (ii)”.*

19 (C) *In subparagraph (B) by striking “com-*
20 *mercial fisheries” and inserting “fisheries listed*
21 *under subsection (c)(1)(A)(i) or (ii)”.*

22 (D) *In subparagraph (C) by striking “com-*
23 *mercial fisheries” and inserting “fisheries listed*
24 *under subsection (c)(1)(A)(i) or (ii)”.*

1 (11) *In subsection (d)(5) by striking “commer-*
2 *cial fishing operations” and inserting “fishing oper-*
3 *ations in fisheries listed under subsection (c)(1)(A)(i)*
4 *or (ii)”.*

5 (12) *In subsection (e) in the matter preceding*
6 *paragraph (1)—*

7 (A) *by striking “commercial” each place it*
8 *appears; and*

9 (B) *by striking “this Act” and inserting*
10 *“this section”.*

11 (13) *In subsection (f) by striking so much as pre-*
12 *cedes paragraph (2) and inserting the following:*

13 *“(f) TAKE REDUCTION PLANS.—(1) The Secretary*
14 *shall develop and implement a take reduction plan designed*
15 *to assist in the recovery or prevent the depletion of each*
16 *strategic stock which interacts with a fishery listed under*
17 *subsection (c)(1)(A)(i) or (ii), unless the Secretary deter-*
18 *mines, after notice and opportunity for public comment,*
19 *that the level of fishery related mortality and serious injury*
20 *is having a negligible impact on that stock. The Secretary*
21 *may develop and implement a take reduction plan for any*
22 *other marine mammal stocks which interact with a fishery*
23 *listed under subsection (c)(1)(A)(i) which the Secretary de-*
24 *termines, after notice and opportunity for public comment,*

1 *has a high level of mortality and serious injury across a*
2 *number of such marine mammal stocks.”.*

3 (14) *In subsection (f)(2)—*

4 (A) *by striking “6 months” and inserting*
5 *“9 months”; and*

6 (B) *by striking “commercial fishing oper-*
7 *ations” each place it appears and inserting*
8 *“fishing operations in fisheries listed under sub-*
9 *section (c)(1)(A)(i) or (ii)”.*

10 (15) *In subsection (f)(3) by striking “commer-*
11 *cial”.*

12 (16) *In subsection (f)(4)(B) by striking “com-*
13 *mercial fishing operations” and inserting “fishing op-*
14 *erations in fisheries listed under subsection*
15 *(c)(1)(A)(i) or (ii)”.*

16 (17) *In subsection (f)(5)—*

17 (A) *in subparagraph (A) by striking “6*
18 *months” and inserting “9 months”; and*

19 (B) *in subparagraphs (A) and (B) by strik-*
20 *ing “commercial” each place it appears.*

21 (18) *In subsection (f)(6)(A)—*

22 (A) *by striking “(not later than 30 days);”*
23 *and*

1 (B) in clause (ii) by striking “commercial
2 fisheries” and inserting “fisheries listed under
3 subsection (c)(1)(A)(i) or (ii)”.

4 (19) In subsection (f)(6)(C) in the second sen-
5 tence, by inserting before the period the following: “,
6 a representative of the office of General Counsel of the
7 National Oceanic and Atmospheric Administration, a
8 representative of the National Marine Fisheries Serv-
9 ice having responsibilities related to fisheries science,
10 a representative of the National Marine Fisheries
11 Service having responsibilities related to law enforce-
12 ment, and a representative of the appropriate Na-
13 tional Marine Fisheries Service Regional Adminis-
14 trator”.

15 (20) In subsection (f)(7)—

16 (A) in subparagraph (A)(i) by striking “6
17 months” and inserting “9 months”;

18 (B) in subparagraph (B)(i)—

19 (i) by striking “not later than 60
20 days” and inserting “not later than 120
21 days”; and

22 (ii) by adding at the end the following:
23 “Before publishing any plan that is dif-
24 ferent than the draft plan proposed by a
25 take reduction team, the Secretary shall re-

1 *convene the team and explain to the team*
2 *the differences between the published plan*
3 *and the draft plan proposed by the team.”;*

4 *and*

5 *(C) in subparagraph (B)(ii)—*

6 *(i) by striking “6 months” and insert-*
7 *ing “9 months”; and*

8 *(ii) by striking “not later than 8*
9 *months” and inserting “not later than 11*
10 *months”.*

11 *(21) In subsection (f)(7)(C) by striking “Not*
12 *later than 60 days” and inserting “Not later than 90*
13 *days”.*

14 *(22) In subsection (f)(7)(D) by striking “com-*
15 *mercial”.*

16 *(23) In subsection (f)(8)—*

17 *(A) in subparagraph (C) by striking “Not*
18 *later than 60 days” and inserting “Not later*
19 *than 180 days”; and*

20 *(B) by striking “commercial” each place it*
21 *appears.*

22 *(24) In subsection (f)(9) as follows:*

23 *(A) In subparagraph (A) by striking “com-*
24 *mercial fisheries or restrict commercial fisheries”*

1 *and inserting “fisheries listed under subsection*
2 *(c)(1)(A)(i) or (ii) or restrict such fisheries”.*

3 *(B) In subparagraphs (B) and (C) by strik-*
4 *ing “commercial” each place it appears.*

5 *(C) In subparagraph (D) by striking “com-*
6 *mercial fishing operations” and inserting “par-*
7 *ticipation in a fishery listed under subsection*
8 *(c)(1)(A)(i) or (ii)”.*

9 *(25) In subsection (g)(1) by striking “commer-*
10 *cial fisheries” and inserting “fisheries listed under*
11 *subsection (c)(1)(A)(i) or (ii)”.*

12 *(26) In subsection (g)(3)(B) by striking “com-*
13 *mercial”.*

14 *(27) In subsection (g)(4) by striking “commer-*
15 *cial fishery” and inserting “fishery listed under sub-*
16 *section (c)(1)(A)(i) or (ii)”.*

17 *(28) In subsection (j) by inserting “including ob-*
18 *server, research, and education and outreach pro-*
19 *grams,” after “For purposes of carrying out this sec-*
20 *tion,”.*

21 *(29) By amending subsection (d)(1)(C) to read*
22 *as follows:*

23 *“(C) identify current fishery regulations and*
24 *changes in fishing methods or technology that may*

1 *increase or decrease incidental mortality and serious*
2 *injury.”.*

3 (30) *In subsection (f)(2) in the last sentence by*
4 *inserting “conservation benefits of” before “State or*
5 *regional fishery management plans.”.*

6 (31) *By amending subsection (f)(4)(A) to read as*
7 *follows:*

8 “(A) *a review of the information in the final*
9 *stock assessment published under section 117(b), any*
10 *substantial new information, a review of the con-*
11 *servation benefits from current State and regional*
12 *fishery management regulations;”.*

13 (b) *STOCK ASSESSMENTS.—Section 117(a)(4) is*
14 *amended—*

15 (1) *by striking “and” at the end of subpara-*
16 *graph (C);*

17 (2) *by inserting “and” at the end of subpara-*
18 *graph (D); and*

19 (3) *by adding at the end the following:*

20 “(E) *potential conservation benefits pro-*
21 *vided by State and regional fishery management*
22 *regulations;”.*

23 (c) *CONFORMING AMENDMENT.—Section 101(a)(5)(E)*
24 *(16 U.S.C. 1371(a)(5)(E)) is amended by inserting “or rec-*
25 *reational” after “commercial” each place it appears.*

1 **SEC. 7. PINNIPED RESEARCH.**

2 *Section 120 (16 U.S.C. 1389) is amended by adding*
3 *at the end the following:*

4 *“(k) RESEARCH ON NONLETHAL REMOVAL AND CON-*
5 *TROL.—(1) The Secretary shall conduct research on the*
6 *nonlethal removal and control of nuisance pinnipeds. The*
7 *research shall include a review of measures that have been*
8 *taken to effect such removal and control, the effectiveness*
9 *of these measures, and the development of new technologies*
10 *to deter nuisance pinnipeds.*

11 *“(2) The Secretary shall include, among the individ-*
12 *uals that develop the research program under this sub-*
13 *section, representatives of the commercial and recreational*
14 *fishing industries.*

15 *“(3) The Secretary is encouraged, where appropriate,*
16 *to use independent marine mammal research institutions*
17 *in developing and in conducting the research program.*

18 *“(4) The Secretary shall, by December 31 of each year,*
19 *submit an annual report on the results of research under*
20 *this subsection to the Committee on Resources of the House*
21 *of Representatives and the Committee on Commerce,*
22 *Science, and Transportation of the Senate.”.*

23 **SEC. 8. MARINE MAMMAL COMMISSION.**

24 *(a) NUMBER OF EMPLOYEES.—Section 206(5) (16*
25 *U.S.C. 1406(5)) is amended by striking “; except that no*

1 *fewer than 11 employees must be employed under para-*
 2 *graph (1) at any time”.*

3 (b) *ADMINISTRATION.*—Section 206(4) (16 U.S.C.
 4 1406(4)) is amended by striking “(but at rates for individ-
 5 uals not to exceed \$100 per diem)”.

6 (c) *AUTHORIZATION OF APPROPRIATIONS.*—Section
 7 207 (16 U.S.C. 1407) is amended to read as follows:

8 **“SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

9 *“There are authorized to be appropriated to the Ma-*
 10 *rine Mammal Commission for purposes of carrying out this*
 11 *title—*

12 *“(1) \$2,000,000 for fiscal year 2004;*

13 *“(2) \$2,050,000 for fiscal year 2005;*

14 *“(3) \$2,100,000 for fiscal year 2006;*

15 *“(4) \$2,150,000 for fiscal year 2007; and*

16 *“(5) \$2,200,000 for fiscal year 2008.”.*

17 **SEC. 9. SCRIMSHAW EXEMPTION.**

18 *Any valid certificate of exemption referred to in section*
 19 *18 of Public Law 103–238 (16 U.S.C. 1539 note) that was*
 20 *valid under that section on April 29, 1999, shall be valid*
 21 *during the 8-year period beginning October 31, 1999.*

22 **SEC. 10. POLAR BEAR PERMITS.**

23 *Section 104 (16 U.S.C. 1374) is amended—*

24 *(1) in subsection (c)(5)(D)—*

1 (A) by striking “the date of enactment of
2 the Marine Mammal Protection Act Amendments
3 of 1994” and inserting “February 18, 1997”;
4 and

5 (B) by striking “, expeditiously after the ex-
6 piration of the applicable 30 day period under
7 subsection (d)(2),”;

8 (2) in subsection (d)(2) by inserting before the
9 period at the end of the first sentence the following:
10 “, except for an application for a permit to import
11 polar bear parts under subsection (c)(5)”;

12 (3) in subsection (d)(5) by inserting before the
13 period at the end of the last sentence the following: “if
14 a notice of application was required to be published
15 pursuant to paragraph (2) with respect to the per-
16 mit”; and

17 (4) in subsection (c)(5) by adding at the end the
18 following:

19 “(E) The Secretary shall make available to the public
20 on a semiannual basis information concerning the permits
21 issued or denied under this paragraph.”.

22 **SEC. 11. CAPTIVE RELEASE PROHIBITION.**

23 Section 102(a) (16 U.S.C. 1372(a)) is amended—

24 (1) in paragraph (4) by striking “subsection
25 104(c); and” and inserting “section 104(c);”;

1 (2) *in paragraph (5) by striking the period and*
 2 *inserting “; and”; and*

3 (3) *by adding at the end the following:*

4 “*(6) for any person that is subject to the juris-*
 5 *isdiction of the United States to release any captive*
 6 *marine mammal unless specifically authorized to do*
 7 *so under section 104(c)(3)(A), 104(c)(4)(A), or*
 8 *109(h).”.*

9 **SEC. 12. STRANDING AND ENTANGLEMENT RESPONSE.**

10 (a) *COLLECTION AND UPDATING OF INFORMATION.—*
 11 *Section 402(b)(1)(A) (16 U.S.C. 1421a(b)(1)(A)) is amend-*
 12 *ed by inserting “or entangled” after “stranded”.*

13 (b) *ENTANGLEMENT RESPONSE AGREEMENTS.—*

14 (1) *IN GENERAL.—Section 403 (16 U.S.C.*
 15 *1421b) is amended—*

16 (A) *by amending the section heading to*
 17 *read as follows:*

18 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**
 19 **AGREEMENTS.”;**

20 *and*

21 (B) *in subsection (a) by inserting “or en-*
 22 *tanglement” before the period.*

23 (2) *CLERICAL AMENDMENT.—The table of con-*
 24 *tents at the end of the first section is amended by*

1 *striking the item relating to section 403 and inserting*
2 *the following:*

 “Sec. 403. *Stranding or entanglement response agreements.*”.

3 (c) *LIABILITY.*—Section 406(a) (16 U.S.C. 1421e(a))
4 *is amended by inserting “or entanglement” after “strand-*
5 *ing”.*

6 (d) *ENTANGLEMENT DEFINED.*—

7 (1) *IN GENERAL.*—Section 410 (16 U.S.C.
8 *1421h) is amended—*

9 (A) *by redesignating paragraphs (1)*
10 *through (6) in order as paragraphs (2) through*
11 *(7); and*

12 (B) *by inserting before paragraph (2) (as so*
13 *redesignated) the following:*

14 “(1) *The term ‘entanglement’ means an event in*
15 *the wild in which a living or dead marine mammal*
16 *has gear, rope, line, net, or other material wrapped*
17 *around or attached to it and is—*

18 (A) *on a beach or shore of the United*
19 *States; or*

20 (B) *in waters under the jurisdiction of the*
21 *United States.”.*

22 (2) *CONFORMING AMENDMENT.*—Section
23 *408(a)(2)(B)(i) (16 U.S.C. 1421f–1(a)(2)(B)(i)) is*
24 *amended by striking “section 410(6)” and inserting*
25 *“section 410(7)”.*

1 (e) *AUTHORIZATIONS OF APPROPRIATIONS.*—

2 (1) *GRANT PROGRAM.*—Section 408(h) (16
3 U.S.C. 1421f–1(h)) is amended by striking “fiscal
4 years 2001 through 2003” and inserting “fiscal years
5 2004 through 2008”.

6 (2) *FUND.*—Section 409(3) (16 U.S.C. 1421g(3))
7 is amended by striking “\$500,000 for fiscal year
8 1993” and inserting “\$125,000 for each of fiscal years
9 2004 through 2008”.

10 (f) Section 408 (16 U.S.C. 1421f–1), is amended—

11 (1) by adding at the end of subsection (a)(1) the
12 following: “All funds available to implement this sec-
13 tion shall be distributed to eligible stranding network
14 participants for the three purposes set forth in this
15 paragraph, except as provided in subsection (f).”; and

16 (2) by amending subsection (f) to read as follows:

17 “(f) *ADMINISTRATIVE COSTS AND EXPENSES.*—Of the
18 amounts available each fiscal year to carry out this section,
19 the Secretary shall not expend more than 6 percent or
20 \$80,000, whichever is greater, to pay the administrative
21 costs and administrative expenses to implement the grant
22 program provided for in subsection (a)(1). Any funds re-
23 tained by the Secretary shall be used only for such adminis-
24 trative costs and expenses and any such funds that are not
25 expended by the Secretary at the end of each fiscal year

1 *shall be expended as grants pursuant to the grant program*
2 *established by subsection (a)(1).”*

3 **SEC. 13. DEFINITION OF HARASSMENT.**

4 *Section 3(18) is amended to read as follows:*

5 *“(18)(A) The term ‘harassment’ means any act*
6 *that—*

7 *“(i) injures or has the potential to injure a*
8 *marine mammal or marine mammal stock in the*
9 *wild;*

10 *“(ii) disturbs or has the potential to disturb*
11 *a marine mammal or marine mammal stock in*
12 *the wild by causing disruption of biologically*
13 *significant behaviors, including, but not limited*
14 *to, surfacing, migration, breeding, care of young,*
15 *predator avoidance, defense, or feeding to a point*
16 *where such behavioral patterns are significantly*
17 *altered; or*

18 *“(iii) is directed toward a specific indi-*
19 *vidual, group, or stock of marine mammals in*
20 *the wild that is likely to disturb the individual,*
21 *group, or stock of marine mammals by dis-*
22 *rupting behavior, including, but not limited to,*
23 *surfacing, migration, breeding, care of young,*
24 *predator avoidance, defense, or feeding.*

1 “(B) The term ‘Level A harassment’ means har-
2 assment described in subparagraph (A)(i).

3 “(C) The term ‘Level B harassment’ means har-
4 assment described in subparagraph (A) (ii) or (iii).”.

5 **SEC. 14. INCIDENTAL TAKINGS OF MARINE MAMMALS.**

6 Section 101(a)(5) (16 U.S.C. 1371(a)(5)) is amend-
7 ed—

8 (1) in subparagraph (A) by striking “of small
9 numbers”;

10 (2) in subparagraph (D)(i) by striking “of small
11 numbers”; and

12 **SEC. 15. TUNA-DOLPHIN PROVISIONS.**

13 Subsection (c) of the Dolphin Protection Consumer In-
14 formation Act (16 U.S.C. 1385) is amended in paragraph
15 (2) by striking “160 degrees west longitude” and inserting
16 “150 degrees west longitude”.

17 **SEC. 16. PERMIT CLARIFICATIONS.**

18 Section 104 (16 U.S.C. 1374) is amended as follows:

19 (1) Subsection (c)(7) is amended by inserting
20 “notwithstanding any other provision of law” after
21 “requesting the permit”.

22 (2) Subsection (c)(9) is amended—

23 (A) by inserting “the Secretary of Agri-
24 culture determines, and then certifies to the Sec-
25 retary, that” after “unless”; and

1 (B) by adding at the end the following:
2 “The Secretary may not require or request,
3 through comity or any other means, that any
4 marine mammal remain subject to the jurisdic-
5 tion of the United States when that marine
6 mammal or its progeny is located in waters or
7 on lands subject to the jurisdiction of another
8 country.”.

9 (3) Subsection (c)(10) is amended—

10 (A) in the first sentence by inserting “held
11 within the lands and waters of the United
12 States” after “marine mammals” each place it
13 appears;

14 (B) in the second sentence by inserting “,
15 which shall be updated on an annual basis,”
16 after “inventory”; and

17 (C) in subparagraph (D) by inserting
18 “ownership, or other” after “date of”.

19 **SEC. 17. FISHERIES GEAR DEVELOPMENT.**

20 Section 111 (16 U.S.C. 1381) is amended as follows:

21 (1) Subsection (a) is amended to read as follows:

22 “(a) **RESEARCH AND DEVELOPMENT PROGRAM.**—

23 “(1) **IN GENERAL.**—The Secretary of Commerce
24 (in this section referred to as the ‘Secretary’) shall—

1 “(A) carry out a program of research and
2 development for the purpose of devising improved
3 fishing methods and gear so as to reduce to the
4 maximum extent practicable the incidental tak-
5 ing of marine mammals in connection with fish-
6 ing operations; and

7 “(B) make every practicable effort to de-
8 velop, evaluate, and make available to owners
9 and operators of fishing vessels such gear and
10 fishing method improvements as quickly as pos-
11 sible.

12 “(2) COORDINATION WITH OTHER COUNTRIES.—
13 The Secretary may coordinate with other countries to
14 foster gear technology transfer initiatives to reduce to
15 the maximum extent practicable the incidental mor-
16 tality and serious injury of marine mammals
17 throughout the full extent of their range.”.

18 (2) By adding at the end the following:

19 “(e) GEAR RESEARCH MINI-GRANT PROGRAM.—

20 “(1) IN GENERAL.—Subject to the availability of
21 appropriations, the Secretary may establish a grant
22 program to provide financial assistance for devel-
23 oping, manufacturing, testing, or designing new types
24 of fishing gear designed to reduce to the maximum ex-
25 tent practicable the incidental taking (including inci-

1 *dental mortality and serious injury) of marine mam-*
2 *mals.*

3 “(2) *GRANT AMOUNT AND PURPOSES.*—*The*
4 *amount of a grant under this subsection may not ex-*
5 *ceed \$20,000.*

6 “(3) *GRANT APPLICATIONS.*—*To receive a grant*
7 *under this section, an applicant must submit an ap-*
8 *plication in such form and manner as the Secretary*
9 *may prescribe.*

10 “(4) *CONSULTATION REGARDING CRITERIA.*—*The*
11 *Secretary shall consult with the Secretary of the Inte-*
12 *rior and the Marine Mammal Commission regarding*
13 *the development of criteria for the awarding of grants*
14 *under this subsection.*

15 “(5) *ADMINISTRATIVE COSTS.*—*Of amounts*
16 *available each fiscal year to carry out this subsection,*
17 *the Secretary may expend not more than \$40,000 to*
18 *pay the administrative expenses necessary to carry*
19 *out this subsection.*

20 “(6) *CONTRIBUTIONS.*—*For purposes of carrying*
21 *out this section, the Secretary may accept, solicit, re-*
22 *ceive, hold, administer, and use gifts, devises, and be-*
23 *quests.”.*

24 **SEC. 18. MARINE MAMMAL RESEARCH GRANTS.**

25 *Section 110 (16 U.S.C. 1380) is amended—*

1 (1) *by amending subsection (a) to read as fol-*
2 *lows:*

3 “(a) *AUTHORIZATION OF ASSISTANCE; ANNUAL RE-*
4 *PORT.—*

5 “(1) *AUTHORIZATION OF ASSISTANCE.—The Sec-*
6 *retary may make grants, or provide financial assist-*
7 *ance in such other form as the Secretary considers ap-*
8 *propriate, to any Federal or State agency, public or*
9 *private institution, or other person for the purpose of*
10 *assisting such agency, institution, or person to under-*
11 *take research in subjects that are relevant to the pro-*
12 *tection and conservation of marine mammals, and the*
13 *ecosystems upon which they depend, including, but*
14 *not limited to, the Bering/Chukchi Sea ecosystem and*
15 *the California coastal marine ecosystem.*

16 “(2) *INCLUSION OF INFORMATION IN REPORTS.—*
17 *The Secretary shall include a description of the an-*
18 *nuual results of research carried out with assistance*
19 *under this section in the report required under section*
20 *103(f).*

21 “(3) *CONTRIBUTIONS.—For purposes of carrying*
22 *out this section, the Secretary may accept, solicit, re-*
23 *ceive, hold, administer, and use gifts, devises, and be-*
24 *quests.”; and*

25 (2) *by striking subsections (c) and (d).*

1 **SEC. 19. FINES AND PENALTIES.**

2 (a) *FINES AND PENALTIES, GENERALLY.*—Section 105
3 (16 U.S.C. 1375) is amended—

4 (1) in subsection (a)(1) by striking “\$10,000”
5 and inserting “\$20,000”; and

6 (2) in subsection (b) by striking “\$20,000” and
7 inserting “\$30,000”.

8 (b) *VESSEL PENALTY.*—Section 106(b) (16 U.S.C.
9 1376(b)) is amended by striking “\$25,000” and inserting
10 “\$35,000”.

Union Calendar No. 268

108TH CONGRESS
2^D SESSION

H. R. 2693

[Report No. 108-464]

A BILL

To reauthorize the Marine Mammal Protection Act
of 1972, and for other purposes.

APRIL 20, 2004

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