

108TH CONGRESS
2D SESSION

S. 2244

To protect the public's ability to fish for sport, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2004

Mrs. HUTCHISON (for herself and Mr. BREAU) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To protect the public's ability to fish for sport, 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 bill may be cited as the “Freedom to Fish Act”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) Recreational fishing is traditionally the
8 most popular outdoor sport with more than
9 50,000,000 participants of all ages, in all regions of
10 the country.

1 (2) Recreational anglers makes a substantial
2 contribution to local, State, and national economies
3 and infuse \$116,000,000,000 annually into the na-
4 tional economy.

5 (3) In the United States, more than 1,200,000
6 jobs are related to recreational fishing, a number
7 that is approximately 1 percent of the entire civilian
8 workforce in the United States. In communities that
9 rely on seasonal tourism, the expenditures of rec-
10 reational anglers result in substantial benefits to the
11 local economies and small businesses in those com-
12 munities.

13 (4) Recreational anglers have long dem-
14 onstrated a conservation ethic. In addition to pay-
15 ment of Federal excise taxes on fishing equipment,
16 motorboats and fuel, as well as license fees, rec-
17 reational anglers contribute more than \$500,000,000
18 annually to State fisheries conservation management
19 programs and projects.

20 (5) It is a long standing policy of the Federal
21 Government to allow public access to public lands
22 and waters for recreational purposes in a manner
23 that is consistent with principals of sound conserva-
24 tion. This policy is reflected in the National Forest
25 Management Act of 1976, the Wilderness Act, the

1 Wild and Scenic Rivers Act, and the National Parks
2 and Recreation Act of 1978.

3 (6) In most instances, recreational fishery re-
4 sources can be maintained without restricting public
5 access to fishing areas through a variety of manage-
6 ment measures including take limits, minimum size
7 requirements, catch and release requirements, gear
8 adaptations, and closed seasons.

9 (7) A clear policy is required to demonstrate to
10 recreational anglers that recreational fishing can be
11 managed without unnecessarily prohibiting such
12 fishing.

13 (8) A comprehensive policy on the implementa-
14 tion, use, and monitoring of marine protected areas
15 is required to maintain the optimum balance be-
16 tween recreational fishing and sustaining rec-
17 reational fishery resources.

18 **SEC. 3. POLICY.**

19 It is the policy of the United States to promote sound
20 conservation of fishery resources by ensuring that—

21 (1) Federal regulations promote access to fish-
22 ing areas by recreational anglers to the maximum
23 extent practicable;

24 (2) recreational anglers are actively involved in
25 the formulation of any regulatory procedure that

1 contemplates imposing restrictions on access to a
2 fishing area; and

3 (3) limitations on access to fishing areas by rec-
4 reational anglers are not imposed unless such limita-
5 tions are scientifically necessary to provide for the
6 conservation of a fishery resource.

7 **SEC. 4. MAGNUSON-STEVENSON FISHERY CONSERVATION AND**
8 **MANAGEMENT ACT AMENDMENTS.**

9 (a) **LIMITATION ON CLOSURES.**—Section 303(a) of
10 the Magnuson-Stevens Fishery Conservation and Manage-
11 ment Act (16 U.S.C. 1853(a)) is amended by adding at
12 the end the following:

13 “(15) not establish geographic areas where rec-
14 reational fishing is prohibited unless—

15 “(A) clear indication exists that rec-
16 reational fishing in such area is the cause of a
17 specific conservation problem in the fishery;

18 “(B) no alternative conservation measures
19 related to recreational fishing, such as gear re-
20 strictions, quotas, or closed seasons will ade-
21 quately provide for conservation and manage-
22 ment of the fishery;

23 “(C) the management plan—

24 “(i) provides for specific measurable
25 criteria to assess whether the prohibition

1 provides conservation benefits to the fish-
 2 ery; and

3 “(ii) requires a periodic review to as-
 4 sess the continued need for the prohibition
 5 not less than once every 3 years;

6 “(D) the best available scientific informa-
 7 tion supports the need to close the area to rec-
 8 reational fishing; and

9 “(E) the prohibition is terminated as soon
 10 as the condition in subparagraph (A) that was
 11 the basis of the prohibition no longer exists.”.

12 (b) TECHNICAL AMENDMENTS.—Such section is fur-
 13 ther amended—

14 (1) in paragraph (13), by striking “and” after
 15 the semicolon; and

16 (2) in paragraph (14), by striking “fishery.”
 17 and inserting “fishery; and”.

18 **SEC. 5. NATIONAL MARINE SANCTUARIES ACT AMEND-**
 19 **MENT.**

20 Section 304(a)(5) of the National Marine Sanctuaries
 21 Act (16 U.S.C. 1434(a)(5)) is amended to read as follows:

22 “(5) FISHING REGULATIONS.—

23 “(A) IN GENERAL.—The Secretary shall
 24 provide the appropriate Regional Fishery Man-
 25 agement Council with the opportunity to pre-

1 pare, and to revise from time to time, draft reg-
2 ulations for fishing within the exclusive eco-
3 nomic zone as the Council may deem necessary
4 to implement the proposed designation.

5 “(B) RELATIONSHIP TO MAGNUSON.—
6 Draft regulations prepared by the Council
7 under subparagraph (A) shall be made in ac-
8 cordance with the standards and procedures of
9 the Magnuson Act.

10 “(C) REGULATION WITHIN A STATE.—
11 Such regulations may regulate a fishery within
12 the boundaries of a State (other than the
13 State’s internal waters) if—

14 “(i) the Governor of the State ap-
15 proves such regulation; or

16 “(ii) the Secretary determines, after
17 notice and an opportunity for a hearing in
18 accordance with section 554 of title 5,
19 United States Code, that the State has
20 taken any action, or omitted to take any
21 action, the results of which will substan-
22 tially and adversely affect the fulfillment of
23 the purposes and policies of this Act and
24 the goals and objectives of the proposed
25 designation.

1 “(D) NOTIFICATION AND HEARING.—If
2 the Secretary makes a determination under
3 subparagraph (C)(ii) to regulate a fishery with-
4 in the boundaries of such State (other than
5 State’s internal waters)—

6 “(i) the Secretary shall promptly no-
7 tify the State and the appropriate Council
8 of such determination;

9 “(ii) the State may request that a
10 hearing be held pursuant to section 554 of
11 title 5, United States Code; and

12 “(iii) the Secretary shall conduct a
13 hearing requested under clause (ii) prior to
14 taking any action to regulate a fishery
15 within the boundaries of such State (other
16 than the State’s internal waters) under
17 subparagraph (C)(ii).

18 “(E) TERMINATION OF REGULATION
19 WITHIN A STATE.—If the Secretary, pursuant
20 to a determination under subparagraph (C)(ii),
21 assumes responsibility for the regulation of any
22 fishery, the State involved may at any time
23 thereafter apply to the Secretary for reinstatement
24 of its authority over such fishery. If the
25 Secretary finds that the reasons for which the

1 Secretary assumed such regulation no longer
2 prevail, the Secretary shall promptly terminate
3 such regulation.”.

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