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IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Commerce, Science, and  
Transportation

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## AN ACT

To amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Marine Mammal Pro-  
3 tection Act Amendments of 2006”.

4 **SEC. 2. AMENDMENT REFERENCES.**

5 Except as otherwise expressly provided, whenever in  
6 this Act an amendment or repeal is expressed in terms  
7 of an amendment to, or repeal of, a section or other provi-  
8 sion, the reference shall be considered to be made to such  
9 section or other provision of the Marine Mammal Protec-  
10 tion Act of 1972 (16 U.S.C. 1361 et seq.).

11 **SEC. 3. TECHNICAL CORRECTIONS.**

12 (a) COMMITTEE REFERENCES.—The Marine Mam-  
13 mal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is  
14 amended by striking “Committee on Merchant Marine and  
15 Fisheries” each place it appears and inserting “Committee  
16 on Resources”.

17 (b) OBSOLETE REFERENCE TO SECTION.—Section  
18 118(c)(3)(A)(i) (16 U.S.C. 1387(c)(3)(A)(i)) is amended  
19 by striking “, except that” and all that follows through  
20 “is valid”.

21 **SEC. 4. LIMITED AUTHORITY TO EXPORT MARINE MAMMAL**  
22 **PRODUCTS.**

23 (a) IN GENERAL.—Section 101(a)(6) (16 U.S.C.  
24 1371(a)(6)) is amended by redesignating subparagraph  
25 (B) as subparagraph (C), and by inserting after subpara-  
26 graph (A) the following:

1           “(B) A marine mammal product may be ex-  
2           ported from the United States if the product—

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

9                   “(ii) is legally possessed, and exported by,  
10                  a person that is not a citizen of the United  
11                  States for noncommercial purposes;

12                  “(iii) is legally possessed and exported as  
13                  part of a cultural exchange, by an Indian,  
14                  Aleut, or Eskimo residing in Alaska; or

15                  “(iv) is owned by a Native inhabitant of  
16                  Russia, Canada, or Greenland and is exported  
17                  for noncommercial purposes—

18                         “(I) in conjunction with, and upon the  
19                         completion of, travel within the United  
20                         States; or

21                         “(II) as part of a cultural exchange  
22                         with an Indian, Aleut, or Eskimo residing  
23                         in Alaska.”.

24           (b)           CONFORMING           AMENDMENT.—Section  
25 101(a)(6)(A)(i) (16 U.S.C. 1371(a)(6)(A)(i)) is amended

1 by inserting “for noncommercial purposes” after “United  
2 States” the first place it appears.

3 **SEC. 5. CAPTIVE RELEASE PROHIBITION.**

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

5 (1) in paragraph (4) by striking “subsection  
6 104(c); and” and inserting “section 104(c);”;

7 (2) in paragraph (5) by striking the period and  
8 inserting “; and”; and

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

10 “(6) for any person that is subject to the juris-  
11 diction of the United States to release any captive  
12 marine mammal unless specifically authorized to do  
13 so under section 104(c)(3)(A), 104(c)(4)(A), or  
14 109(h), except that this paragraph shall not apply to  
15 the temporary release of any marine mammal that  
16 is maintained in captivity under section 7524 of title  
17 10, United States Code (including any progeny of a  
18 marine mammal maintained under that section).”.

19 **SEC. 6. ANNUAL REPORT REQUIREMENT.**

20 Section 103(f) (16 U.S.C. 1373(f)) is amended in the  
21 first sentence, by inserting “and notwithstanding Public  
22 Law 104–66” after “thereafter”.

23 **SEC. 7. PERMIT CLARIFICATIONS.**

24 (a) CLARIFICATIONS.—Section 104 (16 U.S.C. 1374)  
25 is amended as follows:

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

4           (2) Subsection (c)(9) is amended to read as fol-  
5           lows:

6           “(9)(A) No marine mammal may be exported—

7                   “(i) for the purpose of public display,  
8                   unless the Secretary of Agriculture evalu-  
9                   ates and verifies, and thereafter notifies  
10                  the Secretary, that the receiving facility  
11                  meets standards that are comparable to  
12                  the requirements that a person must meet  
13                  to receive a permit under this subsection  
14                  for that purpose; or

15                   “(ii) for the purpose of scientific re-  
16                   search or enhancing the survival or recov-  
17                   ery of a species or stock, unless the receiv-  
18                   ing facility meets standards that are com-  
19                   parable to the requirements that a person  
20                   must meet to receive a permit under this  
21                   subsection for that purpose.

22           “(B) The Secretary may not require or request,  
23           through comity or any other means, that any marine  
24           mammal or its progeny remain subject to the juris-  
25           diction of the United States when located in waters

1 or on lands that are subject to the jurisdiction of an-  
2 other country.”.

3 (3) Subsection (c)(10) is amended—

4 (A) in the first sentence by inserting “held  
5 within the lands and waters of the United  
6 States” after “marine mammals” each place it  
7 appears;

8 (B) by inserting after the first sentence  
9 the following: “The Secretary shall update the  
10 inventory on an annual basis.”; and

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

13 (b) REVIEW AND REPORT REGARDING INVEN-  
14 TORY.—

15 (1) REVIEW.—The Secretaries of Commerce  
16 and the Interior shall, by not later than 12 months  
17 after date of the enactment of this Act, jointly con-  
18 duct a review of the inventory maintained under sec-  
19 tion 104(c)(10) of the Marine Mammal Protection  
20 Act of 1972 (16 U.S.C. 1374(c)(10)), the use of the  
21 information in the inventory, and the costs, benefits,  
22 and issues associated with the development of an on-  
23 line inventory.

24 (2) CONSULTATION.—In conducting the review,  
25 the Secretary shall consult and solicit input from

1 persons who are required to provide information for  
2 the inventory.

3 (3) REPORT.—The Secretary shall submit a re-  
4 port to Committee on Resources of the House of  
5 Representatives and the Committee on Commerce,  
6 Science, and Transportation of the Senate on the  
7 findings of the review under this subsection. The re-  
8 port shall include the following:

9 (A) Recommendations on whether the in-  
10 ventory should be maintained by the Secretary  
11 or by another person under contract.

12 (B) How the Secretary would oversee  
13 maintenance of the inventory carried out under  
14 contract.

15 (C) How public access and access by Fed-  
16 eral agencies to the inventory can be main-  
17 tained if the inventory is maintained under con-  
18 tract.

19 (D) How the Secretary can minimize dupli-  
20 cation on the information the Secretary receives  
21 from public display facilities and reduce the  
22 paper work burden on those facilities.

23 (E) An estimate of the cost of maintaining  
24 the inventory.

1           (F) A description of how the Secretary will  
2           ensure the secure maintenance of the data in  
3           the inventory.

4           (G) An analysis of the potential that online  
5           availability of the information in the inventory  
6           could adversely affect the safety of the animals.

7           (c) **LIMITATION ON NOTIFICATION REQUIRE-**  
8 **MENTS.**—Section 104(c) (16 U.S.C. 1374(c)) is amended  
9 in paragraph (2)(E) in the first sentence, and in para-  
10 graph (8)(B)(i)(II), by inserting before the period at the  
11 end the following: “, except that if the transport is for  
12 purposes of public display and the transfer is between fa-  
13 cilities where the ownership and care of the marine mam-  
14 mal will be under the same license or registration issued  
15 under the Animal Welfare Act (7 U.S.C. 2131 et seq.)  
16 then only a notice of transport is required”.

17 **SEC. 8. FINES AND PENALTIES.**

18           (a) **FINES AND PENALTIES, GENERALLY.**—Section  
19 105 (16 U.S.C. 1375) is amended—

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

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



1 (b) VESSEL PENALTY.—Section 106(b) (16 U.S.C.  
2 1376(b)) is amended by striking “\$25,000” and inserting  
3 “\$35,000”.

4 **SEC. 9. MARINE MAMMAL GRANTS.**

5 Section 110(a) (16 U.S.C. 1380(a)) is amended to  
6 read as follows:

7 “(a) AUTHORIZATION OF ASSISTANCE; ANNUAL RE-  
8 PORT.—

9 “(1) AUTHORIZATION OF ASSISTANCE.—The  
10 Secretary may make grants, or provide financial as-  
11 sistance in such other form as the Secretary con-  
12 siders appropriate, to any Federal or State agency,  
13 public or private institution, or other person for the  
14 purpose of assisting such agency, institution, or per-  
15 son to undertake research in subjects that are rel-  
16 evant to the protection and conservation of marine  
17 mammals.

18 “(2) REPORTS.—

19 “(A) REPORTS BY SECRETARY.—The Sec-  
20 retary shall include a description of the results  
21 of research carried out with assistance under  
22 this section in the annual report required under  
23 section 103(f).

24 “(B) REPORTS BY FEDERAL AGENCIES.—

25 The head of each Federal agency that conducts

1 and provides funds for research on marine  
2 mammals shall report annually to the Com-  
3 mittee on Resources of the House of Represent-  
4 atives and the Committee on Commerce,  
5 Science, and Transportation of the Senate on  
6 funding provided and research conducted re-  
7 garding marine mammals during the preceding  
8 year.

9 “(3) CONTRIBUTIONS.—For purposes of car-  
10 rying out this section, the Secretary may accept, so-  
11 licit, receive, hold, administer, and use gifts, devises,  
12 and bequests.”.

13 **SEC. 10. FISHERIES GEAR DEVELOPMENT.**

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

15 (1) Subsection (a) is amended to read as fol-  
16 lows:

17 “(a) FISHING GEAR DEVELOPMENT PROGRAM.—

18 “(1) IN GENERAL.—The Secretary of Com-  
19 merce (in this section referred to as the ‘Secretary’)  
20 shall—

21 “(A) carry out a program for the purpose  
22 of devising improved fishing gear and methods  
23 so as to reduce to the maximum extent prac-  
24 ticable the incidental taking of marine mam-  
25 mals in connection with fishing operations; and

1           “(B) make every practicable effort to de-  
2           velop, evaluate, and make available to owners  
3           and operators of fishing vessels such gear and  
4           fishing method improvements as quickly as pos-  
5           sible.

6           “(2) COORDINATION WITH OTHER COUN-  
7           TRIES.—The Secretary may coordinate with other  
8           countries to foster gear technology transfer initia-  
9           tives to reduce to the maximum extent practicable  
10          the incidental mortality and serious injury of marine  
11          mammals throughout the full extent of their range.”.

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

13          “(e) GEAR IMPROVEMENT MINI-GRANT PROGRAM.—

14                 “(1) IN GENERAL.—Subject to the availability  
15                 of appropriations, the Secretary may establish a  
16                 grant program to provide financial assistance for de-  
17                 veloping, manufacturing, testing, or designing new  
18                 types of fishing gear designed to reduce to the max-  
19                 imum extent practicable the incidental taking (in-  
20                 cluding incidental mortality and serious injury) of  
21                 marine mammals.

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

1           “(3) GRANT APPLICATIONS.—To receive a  
2 grant under this section, an applicant must submit  
3 an application in such form and manner as the Sec-  
4 retary may prescribe.

5           “(4) CONSULTATION REGARDING CRITERIA.—  
6 The Secretary shall consult with the Secretary of the  
7 Interior and the Marine Mammal Commission re-  
8 garding the development of criteria for the awarding  
9 of grants under this subsection.

10           “(5) ADMINISTRATIVE COSTS.—Of amounts  
11 available each fiscal year to carry out this sub-  
12 section, the Secretary may expend not more than  
13 \$40,000 to pay the administrative expenses nec-  
14 essary to carry out this subsection.

15           “(6) CONTRIBUTIONS.—For purposes of car-  
16 rying out this section, the Secretary may accept, so-  
17 licit, receive, hold, administer, and use gifts, devises,  
18 and bequests.”.

19 **SEC. 11. CONFORMING AMENDMENT.**

20           Subsection (c) of the Dolphin Protection Consumer  
21 Information Act (16 U.S.C. 1385) is amended in para-  
22 graph (2) by striking “160 degrees west longitude” and  
23 inserting “150 degrees west longitude”.

1 **SEC. 12. TAKE REDUCTION PLANS.**

2 (a) IN GENERAL.—Section 118 (16 U.S.C. 1387) is  
3 amended as follows:

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

6 (2) In subsection (c)(1) by striking so much as  
7 precedes subparagraph (B) and inserting the fol-  
8 lowing:

9 “(c) REGISTRATION AND AUTHORIZATION.—(1) The  
10 Secretary shall, within 90 days after the date of enactment  
11 of the Marine Mammal Protection Act Amendments of  
12 2006—

13 “(A) publish in the Federal Register for public  
14 comment, for a period of not less than 90 days, any  
15 necessary changes to the Secretary’s list of fisheries  
16 published under section 114(b)(1) in the Federal  
17 Register on August 24, 1994 (along with an expla-  
18 nation of such changes and a statement describing  
19 the marine mammal stocks interacting with, and the  
20 approximate number of vessels or persons actively  
21 involved in, each such fishery), with respect to—

22 “(i) commercial and recreational fisheries  
23 that have frequent incidental mortality and seri-  
24 ous injury of marine mammals;

1           “(ii) commercial and recreational fisheries  
2           that have occasional incidental mortality and  
3           serious injury of marine mammals; or

4           “(iii) commercial fisheries that have a re-  
5           mote likelihood of or no known incidental mor-  
6           tality or serious injury of marine mammals;”.

7           (3) In subsection (c)(1) in subparagraphs (B)  
8           and (C) by striking “commercial”.

9           (4) In subsection (c)(2)(A) by striking “com-  
10          mercial”.

11          (5) In subsection (c)(3)(A) in the matter pre-  
12          ceding clause (i) by striking “a commercial fishery”  
13          and inserting “that fishery”.

14          (6) In subsection (c)(3)(E) by inserting “com-  
15          mercial” after “any”.

16          (7) In subsection (c)(5)(B) by striking “com-  
17          mercial”.

18          (8) In subsection (d)(1) in the matter preceding  
19          subparagraph (A) by striking “commercial fishing  
20          operations” and inserting “fishing operations in a  
21          fishery listed under subsection (c)(1)(A)(i) or (ii)”.

22          (9) In subsection (d)(3) in the matter preceding  
23          subparagraph (A) by striking “commercial fisheries”  
24          and inserting “fisheries listed under subsection  
25          (c)(1)(A)(i) or (ii)”.

1 (10) In subsection (d)(4) as follows:

2 (A) In the matter preceding subparagraph  
3 (A) by striking “commercial fisheries” and in-  
4 serting “fisheries listed under subsection  
5 (c)(1)(A)(i) or (ii)”.

6 (B) In subparagraph (A) by striking “com-  
7 mercial fisheries” and inserting “fisheries listed  
8 under subsection (c)(1)(A)(i) or (ii)”.

9 (C) In subparagraph (B) by striking “com-  
10 mercial fisheries” and inserting “fisheries listed  
11 under subsection (c)(1)(A)(i) or (ii)”.

12 (D) In subparagraph (C) by striking “com-  
13 mercial fisheries” and inserting “fisheries listed  
14 under subsection (c)(1)(A)(i) or (ii)”.

15 (11) In subsection (d)(5) by striking “commer-  
16 cial fishing operations” and inserting “fishing oper-  
17 ations in fisheries listed under subsection  
18 (c)(1)(A)(i) or (ii)”.

19 (12) In subsection (e) in the matter preceding  
20 paragraph (1)—

21 (A) by striking “commercial” each place it  
22 appears; and

23 (B) by striking “this Act” and inserting  
24 “this section”.

1           (13) In subsection (f) by striking so much as  
2 precedes paragraph (2) and inserting the following:

3           “(f) TAKE REDUCTION PLANS.—(1) The Secretary  
4 shall develop and implement a take reduction plan de-  
5 signed to assist in the recovery or prevent the depletion  
6 of each strategic stock which interacts with a fishery listed  
7 under subsection (c)(1)(A)(i) or (ii), unless the Secretary  
8 determines, after notice and opportunity for public com-  
9 ment, that the level of fishery related mortality and seri-  
10 ous injury is having a negligible impact on that stock. The  
11 Secretary may develop and implement a take reduction  
12 plan for any other marine mammal stocks which interact  
13 with a fishery listed under subsection (c)(1)(A)(i) which  
14 the Secretary determines, after notice and opportunity for  
15 public comment, has a high level of mortality and serious  
16 injury across a number of such marine mammal stocks.”.

17           (14) In subsection (f)(2)—

18                   (A) by striking “6 months” and inserting  
19 “9 months”; and

20                   (B) by striking “commercial fishing oper-  
21 ations” each place it appears and inserting  
22 “fishing operations in fisheries listed under sub-  
23 section (c)(1)(A)(i) or (ii)”.

24           (15) In subsection (f)(3) by striking “commer-  
25 cial”.



1           (16) In subsection (f)(4)(B) by striking “com-  
2           mercial fishing operations” and inserting “fishing  
3           operations in fisheries listed under subsection  
4           (c)(1)(A)(i) or (ii)”.

5           (17) In subsection (f)(5)—

6                   (A) in subparagraph (A) by striking “6  
7                   months” and inserting “9 months”; and

8                   (B) in subparagraphs (A) and (B) by  
9                   striking “commercial” each place it appears.

10          (18) In subsection (f)(6)(A)—

11                   (A) by striking “(not later than 30 days)”;

12                   and

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

16          (19) In subsection (f)(6)(C) in the second sen-  
17           tence, by inserting before “, and others” the fol-  
18           lowing: “, where appropriate a representative of the  
19           office of General Counsel of the National Oceanic  
20           and Atmospheric Administration, a representative of  
21           the National Marine Fisheries Service having re-  
22           sponsibilities related to fisheries science, a represent-  
23           ative of the National Marine Fisheries Service hav-  
24           ing responsibilities related to law enforcement, and

1 a representative of the appropriate National Marine  
2 Fisheries Service Regional Administrator”.

3 (20) In subsection (f)(7)—

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

6 (B) in subparagraph (B)(i)—

7 (i) by striking “not later than 60  
8 days” and inserting “not later than 120  
9 days”; and

10 (ii) by adding at the end the fol-  
11 lowing: “Before publishing any plan that is  
12 different than the draft plan proposed by  
13 a take reduction team, the Secretary shall  
14 reconvene the team and explain to the  
15 team the differences between the published  
16 plan and the draft plan proposed by the  
17 team.”; and

18 (C) in subparagraph (B)(ii)—

19 (i) by striking “6 months” and insert-  
20 ing “9 months”; and

21 (ii) by striking “not later than 8  
22 months” and inserting “not later than 11  
23 months”.

1           (21) In subsection (f)(7)(C) by striking “Not  
2 later than 60 days” and inserting “Not later than  
3 90 days”.

4           (22) In subsection (f)(7)(D) by striking “com-  
5 mercial”.

6           (23) In subsection (f)(8)—

7                 (A) in subparagraph (C) by striking “Not  
8 later than 60 days” and inserting “Not later  
9 than 180 days”; and

10                (B) by striking “commercial” each place it  
11 appears.

12           (24) In subsection (f)(9) as follows:

13                 (A) In subparagraph (A) by striking “com-  
14 mercial fisheries or restrict commercial fish-  
15 eries” and inserting “fisheries listed under sub-  
16 section (c)(1)(A)(i) or (ii) or restrict such fish-  
17 eries”.

18                 (B) In subparagraphs (B) and (C) by  
19 striking “commercial” each place it appears.

20                 (C) In subparagraph (D) by striking “com-  
21 mercial fishing operations” and inserting “par-  
22 ticipation in a fishery listed under subsection  
23 (c)(1)(A)(i) or (ii)”.

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

4           (26) In subsection (g)(3)(B) by striking “com-  
5           mercial”.

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

9           (28) In subsection (j) by inserting “including  
10          observer, research, and education and outreach pro-  
11          grams,” after “For purposes of carrying out this  
12          section,”.

13          (29) By amending subsection (d)(1)(C) to read  
14          as follows:

15               “(C) identify current fishery regulations and  
16               changes in fishing methods or technology that may  
17               increase or decrease incidental mortality and serious  
18               injury.”.

19          (30) In subsection (f)(2) in the last sentence by  
20          inserting “conservation benefits of” before “State or  
21          regional fishery management plans.”.

22          (31) By amending subsection (f)(4)(A) to read  
23          as follows:

24               “(A) a review of the information in the final  
25               stock assessment published under section 117(b),

1 any substantial new information, a review of the  
2 conservation benefits from current State and re-  
3 gional fishery management regulations;”.

4 (b) STOCK ASSESSMENTS.—Section 117(a)(4) is  
5 amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (C);

8 (2) by inserting “and” at the end of subpara-  
9 graph (D); and

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

11 “(E) potential conservation benefits pro-  
12 vided by State and regional fishery manage-  
13 ment regulations;”.

14 (c) CONFORMING AMENDMENT.—Section  
15 101(a)(5)(E) (16 U.S.C. 1371(a)(5)(E)) is amended by  
16 inserting “or recreational” after “commercial” each place  
17 it appears.

18 **SEC. 13. PINNIPED CONTROL PROGRAM.**

19 Section 120 (16 U.S.C. 1389) is amended by adding  
20 at the end the following:

21 “(k) NONLETHAL REMOVAL AND CONTROL.—(1)  
22 The Secretary shall conduct a program on the nonlethal  
23 removal and control of nuisance pinnipeds. The program  
24 shall include a review of measures that have been taken  
25 to effect such removal and control, the effectiveness of

1 these measures, and the development of new technologies  
2 to deter nuisance pinnipeds.

3 “(2) The Secretary shall include, among the individ-  
4 uals that develop the program under this subsection, rep-  
5 resentatives of the commercial and recreational fishing in-  
6 dustries and, as appropriate, individuals with scientific  
7 proficiency, technical credentials, and expertise.

8 “(3) The Secretary is encouraged, where appropriate,  
9 to use independent marine mammal research institutions  
10 in developing and in conducting the program.

11 “(4) The Secretary shall, by December 31 of each  
12 year, submit an annual report on the results of research  
13 under this subsection to the Committee on Resources of  
14 the House of Representatives and the Committee on Com-  
15 merce, Science, and Transportation of the Senate.

16 “(1) QUALIFIED NONLETHAL CONTROL PROJECTS.—

17 “(1) IN GENERAL.—The Secretary may, to the  
18 extent amounts are available to carry out this sub-  
19 section, provide a grant to any eligible applicant to  
20 carry out a qualified nonlethal control project in ac-  
21 cordance with this subsection.

22 “(2) APPLICATIONS.—The Secretary shall—

23 “(A) publish guidelines for and solicit ap-  
24 plications for grants under this subsection not

1 later than 6 months after the date of enactment  
2 of this subsection; and

3 “(B) receive, review, evaluate, and approve  
4 applications for grants under this subsection.

5 “(3) ELIGIBLE APPLICANT.—To be an eligible  
6 applicant for purposes of paragraph (1), an appli-  
7 cant must—

8 “(A) be a State, local government, or  
9 interstate or regional agency; and

10 “(B) have adequate personnel, funding,  
11 and authority to carry out and monitor or  
12 maintain a nonlethal control of nuisance  
13 pinnipeds project.

14 “(4) QUALIFIED CONTROL PROJECT.—To be a  
15 qualified control project under this subsection, a  
16 project must—

17 “(A) by humane and nonlethal means, re-  
18 move, deter, and control nuisance pinnipeds in  
19 areas where they are a recurrent and persistent  
20 threat to public health and safety; and

21 “(B) encourage public notice, education,  
22 and outreach on project activities in the af-  
23 fected community.

24 “(5) GRANT DURATION.—Each grant under  
25 this subsection shall be to provide funding for the

1 Federal share of the cost of a project carried out  
2 with the grant for up to 2 fiscal years.

3 “(6) REPORTING BY GRANTEE.—

4 “(A) IN GENERAL.—A grantee carrying  
5 out a control project with a grant under this  
6 subsection shall report to the Secretary at the  
7 expiration of the grant.

8 “(B) REPORT CONTENTS.—Each report  
9 under this subsection shall include specific in-  
10 formation on the methods and techniques used  
11 to control nuisance pinniped species in the  
12 project area, and on the ensuing results.

13 “(7) COST SHARING.—

14 “(A) FEDERAL SHARE.—Except as pro-  
15 vided in paragraphs (2) and (3), the Federal  
16 share of the cost of a project carried out with  
17 a grant under this subsection shall not exceed  
18 75 percent of such cost.

19 “(B) APPLICATION OF IN-KIND CONTRIBU-  
20 TIONS.—The Secretary may apply to the non-  
21 Federal share of costs of a control project car-  
22 ried out with a grant under this subsection the  
23 fair market value of services or any other form  
24 of in-kind contribution to the project made by  
25 non-Federal interests that the Secretary deter-



1 mines to be an appropriate contribution equiva-  
2 lent to the monetary amount required for the  
3 non-Federal share of the activity.

4 “(C) DERIVATION OF NON-FEDERAL  
5 SHARE.—The non-Federal share of the cost of  
6 a control project carried out with a grant under  
7 this subsection may not be derived from a Fed-  
8 eral grant program or other Federal funds.

9 “(8) CLARIFICATION.—Nothing in this sub-  
10 section shall be interpreted as suspending or waiving  
11 any requirement under any other provision of this  
12 Act.”.

13 **SEC. 14. MARINE MAMMAL COMMISSION.**

14 (a) NUMBER OF EMPLOYEES.—Section 206(5) (16  
15 U.S.C. 1406(5)) is amended by striking “; except that no  
16 fewer than 11 employees must be employed under para-  
17 graph (1) at any time”.

18 (b) ADMINISTRATION.—Section 206 (16 U.S.C.  
19 1406) is amended—

20 (1) in paragraph (4) by striking “(but at rates  
21 for individuals not to exceed \$100 per diem)”; and

22 (2) in paragraph (5) by striking “Financial”  
23 and all that follows through the end of that sen-  
24 tence.

1 **SEC. 15. STRANDING AND ENTANGLEMENT RESPONSE.**

2 (a) COLLECTION AND UPDATING OF INFORMA-  
3 TION.—Section 402(b)(1)(A) (16 U.S.C. 1421a(b)(1)(A))  
4 is amended by inserting “or entangled” after “stranded”.

5 (b) ENTANGLEMENT RESPONSE AGREEMENTS.—

6 (1) IN GENERAL.—Section 403 (16 U.S.C.  
7 1421b) is amended—

8 (A) by amending the section heading to  
9 read as follows:

10 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**  
11 **AGREEMENTS.”; and**

12 (B) in subsection (a) by inserting “or en-  
13 tanglement” before the period.

14 (2) CLERICAL AMENDMENT.—The table of con-  
15 tents at the end of the first section is amended by  
16 striking the item relating to section 403 and insert-  
17 ing the following:

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

18 (c) LIABILITY.—Section 406(a) (16 U.S.C. 1421e(a))  
19 is amended by inserting “or entanglement” after “strand-  
20 ing”.

21 (d) ENTANGLEMENT DEFINED.—

22 (1) IN GENERAL.—Section 410 (16 U.S.C.  
23 1421h) is amended—

1 (A) by redesignating paragraphs (1)  
2 through (6) in order as paragraphs (2) through  
3 (7); and

4 (B) by inserting before paragraph (2) (as  
5 so redesignated) the following:

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

10 “(A) on a beach or shore of the United  
11 States; or

12 “(B) in waters under the jurisdiction of  
13 the United States.”.

14 (2) CONFORMING AMENDMENT.—Section  
15 408(a)(2)(B)(i) (16 U.S.C. 1421f–1(a)(2)(B)(i)) is  
16 amended by striking “section 410(6)” and inserting  
17 “section 410(7)”.

18 (e) JOHN H. PRESCOTT MARINE MAMMAL RESCUE  
19 ASSISTANCE GRANT PROGRAM.—

20 (1) AUTHORIZATION OF APPROPRIATIONS FOR  
21 GRANT PROGRAM.—Section 408(h) (16 U.S.C.  
22 1421f–1(h)) is amended by striking “\$5,000,000 for  
23 each of fiscal years 2001 through 2003” and insert-  
24 ing “\$5,000,000 for each of fiscal years 2007  
25 through 2010”.

1           (2) ADMINISTRATIVE COSTS AND EXPENSES.—

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

3                   (A) by adding at the end of subsection

4                   (a)(1) the following: “All funds available to im-

5                   plement this section shall be distributed to eligi-

6                   ble stranding network participants for the pur-

7                   poses set forth in this paragraph and paragraph

8                   (2), except as provided in subsection (f).”; and

9                   (B) by amending subsection (f) to read as

10                  follows:

11                  “(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of

12                  the amounts available each fiscal year to carry out this

13                  section, the Secretary may expend not more than 5 per-

14                  cent or \$80,000, whichever is greater, to pay the adminis-

15                  trative costs and administrative expenses to implement the

16                  grant program under subsection (a). Any such funds re-

17                  tained by the Secretary for a fiscal year for such costs

18                  and expenses that are not used for such costs and ex-

19                  penses before the end of the fiscal year shall be provided

20                  as grants under subsection (a).”.

21                  (3) EMERGENCY ASSISTANCE.—Section 408 (16

22                  U.S.C. 1421f–1) is amended—

23                   (A) in subsection (a) by redesignating

24                   paragraph (2) as paragraph (3), and by insert-

25                   ing after paragraph (1) the following:

1           “(2) Subject to the availability of appropriations, the  
2 Secretary may also enter into cooperative agreements, con-  
3 tracts, or such other agreements or arrangements as the  
4 Secretary considers appropriate to address stranding  
5 events requiring emergency assistance.”;

6                       (B) in subsection (d) by inserting “(1)”  
7                       before the text, and by adding at the end the  
8                       following:

9           “(2) Funding for emergency stranding projects shall  
10 not be subject to the funding limit established in para-  
11 graph (1).”;

12                       (C) in subsection (e)—

13                       (i) in paragraph (1) by striking “The  
14 non-Federal” and inserting “Except as  
15 provided in paragraph (2), the non-Fed-  
16 eral”;

17                       (ii) by redesignating paragraph (2) as  
18 paragraph (3); and

19                       (iii) by inserting after paragraph (1)  
20 the following:

21           “(2) EMERGENCY ASSISTANCE.—No non-Fed-  
22 eral contribution shall be required for funding for a  
23 response to an emergency stranding event.”; and

1 (D) in subsection (g) by redesignating  
2 paragraph (2) as paragraph (3) and inserting  
3 after paragraph (1) the following:

4 “(2) EMERGENCY ASSISTANCE.—The term  
5 ‘emergency assistance’ means assistance provided for  
6 a stranding event that—

7 “(A) is not an unusual mortality event as  
8 defined in section 409(6);

9 “(B) leads to an immediate increase in re-  
10 quired costs for stranding response, recovery, or  
11 rehabilitation in excess of regularly scheduled  
12 costs;

13 “(C) may be cyclical or endemic; and

14 “(D) may involve out-of-habitat animals.”.

15 (4) CONTRIBUTIONS.—Section 408 (16 U.S.C.  
16 1421f–1) is amended by adding at the end the fol-  
17 lowing:

18 “(i) CONTRIBUTIONS.—For purposes of carrying out  
19 this section, the Secretary may solicit, accept, receive,  
20 hold, administer, and use gifts, devises, and bequests.”.

21 (f) AUTHORIZATION OF APPROPRIATIONS FOR MA-  
22 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—  
23 Section 409(3) (16 U.S.C. 1421g(3)) is amended by strik-  
24 ing “\$500,000 for fiscal year 1993” and inserting  
25 “\$125,000 for each of fiscal years 2007 through 2010”.

1 **SEC. 16. SCRIMSHAW EXEMPTION.**

2 Any valid certificate of exemption referred to in sec-  
3 tion 18 of Public Law 103–238 (16 U.S.C. 1539 note)  
4 that was valid under that section on April 29, 1999, shall  
5 be valid during the 11-year period beginning October 31,  
6 1999.

7 **SEC. 17. POLAR BEARS.**

8 (a) IN GENERAL.—The Marine Mammal Protection  
9 Act of 1972 (16 U.S.C. 1361 et seq.) is amended by add-  
10 ing at the end thereof the following:

11 **“TITLE V—POLAR BEARS**

12 **“SEC. 501. DEFINITIONS.**

13 “In this title:

14 “(1) AGREEMENT.—The term ‘Agreement’  
15 means the Agreement Between the Government of  
16 the United States of America and the Government  
17 of the Russian Federation on the Conservation and  
18 Management of the Alaska-Chukotka Polar Bear  
19 Population, signed at Washington, D.C., on October  
20 16, 2000.

21 “(2) ALASKA NANUUQ COMMISSION.—The term  
22 ‘Alaska Nanuuq Commission’ means the Alaska Na-  
23 tive entity, in existence on the date of enactment of  
24 this title, that represents all villages in the State of  
25 Alaska that engage in the annual subsistence taking

1 of polar bears from the Alaska-Chukotka population  
2 and any successor entity.

3 “(3) IMPORT.—The term ‘import’ means to  
4 land on, bring into, or introduce into, or attempt to  
5 land on, bring into, or introduce into, any place sub-  
6 ject to the jurisdiction of the United States, without  
7 regard to whether the landing, bringing, or introduc-  
8 tion constitutes an importation within the meaning  
9 of the customs laws of the United States.

10 “(4) POLAR BEAR PART OR PRODUCT.—The  
11 term ‘part or product of a polar bear’ means any  
12 polar bear part or product, including the gall bile  
13 and gall bladder.

14 “(5) SECRETARY.—The term ‘Secretary’ means  
15 the Secretary of the Interior.

16 “(6) TAKING.—The term ‘taking’ has the  
17 meaning given the term in the Agreement.

18 “(7) COMMISSION.—The term ‘Commission’  
19 means the commission established under article 8 of  
20 the Agreement.

21 **“SEC. 502. PROHIBITIONS.**

22 “(a) IN GENERAL.—It is unlawful for any person  
23 who is subject to the jurisdiction of the United States—

24 “(1) to take any polar bear in violation of the  
25 Agreement;



1           “(2) to take any polar bear in violation of the  
2 Agreement or any annual taking limit or other re-  
3 striction on the taking of polar bears that is adopted  
4 by the Commission pursuant to the Agreement;

5           “(3) to import, export, possess, transport, sell,  
6 receive, acquire, or purchase, exchange, barter, or  
7 offer to sell, purchase, exchange, or barter any polar  
8 bear, or any part or product of a polar bear, that  
9 is taken in violation of paragraph (2);

10           “(4) to import, export, sell, purchase, exchange,  
11 barter, or offer to sell, purchase, exchange, or bar-  
12 ter, any polar bear gall bile or polar bear gall blad-  
13 der;

14           “(5) to commit, solicit another person to com-  
15 mit, or cause to be committed, any offense under  
16 this subsection; or

17           “(6) to violate any regulation promulgated by  
18 the Secretary to implement any of the prohibitions  
19 established in this subsection.

20           “(b) EXCEPTIONS.—For the purpose of forensic test-  
21 ing or any other law enforcement purpose, the Secretary,  
22 and Federal law enforcement officials, and any State or  
23 local law enforcement official authorized by the Secretary,  
24 may import a polar bear or any part or product of a polar  
25 bear.

1 **“SEC. 503. ADMINISTRATION.**

2       “(a) IN GENERAL.—The Secretary, acting through  
3 the Director of the United States Fish and Wildlife Serv-  
4 ice, shall do all things necessary and appropriate, includ-  
5 ing the promulgation of regulations, to implement, en-  
6 force, and administer the provisions of the Agreement on  
7 behalf of the United States. The Secretary shall consult  
8 with the Secretary of State and the Alaska Nanuuq Com-  
9 mission on matters involving the implementation of the  
10 Agreement.

11       “(b) UTILIZATION OF OTHER GOVERNMENT RE-  
12 SOURCES AND AUTHORITIES.—

13               “(1) OTHER GOVERNMENT RESOURCES.—The  
14 Secretary may utilize by agreement, with or without  
15 reimbursement, the personnel, services, and facilities  
16 of any other Federal agency, any State agency, or  
17 the Alaska Nanuuq Commission for purposes of car-  
18 rying out this title or the Agreement.

19               “(2) OTHER POWERS AND AUTHORITIES.—Any  
20 person authorized by the Secretary under this sub-  
21 section to enforce this title or the Agreement shall  
22 have the authorities that are enumerated in section  
23 6(b) of the Lacey Act Amendments of 1981 (16  
24 U.S.C. 3375(b)).

25       “(c) ENSURING COMPLIANCE.—

1           “(1) TITLE I AUTHORITIES.—The Secretary  
2           may use authorities granted under title I to enforce  
3           this title.

4           “(2) ADDITIONAL AUTHORITIES.—Any gun,  
5           trap, net, or other equipment used, to aid in the vio-  
6           lation or attempted violation of this title shall be  
7           subject to seizure and forfeiture under section 106.

8           “(d) REGULATIONS.—

9           “(1) IN GENERAL.—The Secretary shall pro-  
10          mulgate such regulations as are necessary to carry  
11          out this title and the Agreement.

12          “(2) ORDINANCES AND REGULATIONS.—If nec-  
13          essary to carry out this title and the Agreement, and  
14          to improve compliance with any annual taking limit  
15          or other restriction on taking adopted by the Com-  
16          mission and implemented by the Secretary in accord-  
17          ance with this title, the Secretary may promulgate  
18          regulations that adopt any ordinance or regulation  
19          that restricts the taking of polar bears for subsist-  
20          ence purposes if the ordinance or regulation has  
21          been promulgated by the Alaska Nanuuq Commis-  
22          sion.

1 **“SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AU-**  
2 **THORITY TO DELEGATE ENFORCEMENT AU-**  
3 **THORITY.**

4 “(a) IN GENERAL.—The Secretary, acting through  
5 the Director of the United States Fish and Wildlife Serv-  
6 ice, may share authority under this title for the manage-  
7 ment of the taking of polar bears for subsistence purposes  
8 with the Alaska Nanuuq Commission if such commission  
9 is eligible under subsection (b).

10 “(b) DELEGATION.—To be eligible for the manage-  
11 ment authority described in subsection (a), the Alaska  
12 Nanuuq Commission shall—

13 “(1) enter into a cooperative agreement with  
14 the Secretary under section 119 for the conservation  
15 of polar bears;

16 “(2) meaningfully monitor compliance with this  
17 title and the Agreement by Alaska Natives; and

18 “(3) administer its co-management program for  
19 polar bears in accordance with—

20 “(A) this title; and

21 “(B) the Agreement.

22 **“SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION,**  
23 **TRAVEL EXPENSES, AND CLAIMS.**

24 “(a) APPOINTMENT OF U.S. COMMISSIONERS.—

25 “(1) APPOINTMENT.—The United States com-  
26 missioners on the Commission shall be appointed by

1 the President, in accordance with paragraph 2 of ar-  
2 ticle 8 of the Agreement, after taking into consider-  
3 ation the recommendations of—

4 “(A) the Secretary;

5 “(B) the Secretary of State; and

6 “(C) the Alaska Nanuuq Commission.

7 “(2) QUALIFICATIONS.—Both of the United  
8 States commissioners shall have knowledge or exper-  
9 tise in polar bears.

10 “(3) SERVICE AND TERM.—Each United States  
11 commissioner shall serve—

12 “(A) at the pleasure of the President; and

13 “(B) for an initial 4-year term and such  
14 additional terms as the President shall deter-  
15 mine.

16 “(4) VACANCIES.—

17 “(A) IN GENERAL.—Any individual ap-  
18 pointed to fill a vacancy occurring before the  
19 expiration of any term of office of a United  
20 States commissioner shall be appointed for the  
21 remainder of that term.

22 “(B) MANNER.—Any vacancy on the Com-  
23 mission shall be filled in the same manner as  
24 the original appointment.

25 “(b) ALTERNATE COMMISSIONERS.—

1           “(1) IN GENERAL.—The Secretary, in consulta-  
2           tion with the Secretary of State and the Alaska  
3           Nanuuq Commission, shall designate an alternate  
4           commissioner for each member of the United States  
5           section.

6           “(2) DUTIES.—In the absence of a United  
7           States commissioner, an alternate commissioner may  
8           exercise all functions of the United States commis-  
9           sioner at any meetings of the Commission or of the  
10          United States section.

11          “(3) REAPPOINTMENT.—An alternate commis-  
12          sioner—

13                 “(A) shall be eligible for reappointment by  
14                 the President; and

15                 “(B) may attend all meetings of the  
16                 United States section.

17          “(c) DUTIES.—The members of the United States  
18          section may carry out the functions and responsibilities  
19          described in article 8 of the Agreement in accordance with  
20          this title and the Agreement.

21          “(d) COMPENSATION AND EXPENSES.—

22                 “(1) COMPENSATION.—A member of the United  
23                 States section shall serve without compensation.

24                 “(2) TRAVEL EXPENSES.—A member of the  
25                 United States section shall be allowed travel ex-

1       penses, including per diem in lieu of subsistence, at  
2       rates authorized for an employee of an agency under  
3       subchapter I of chapter 57 of title 5, United States  
4       Code, while away from the home or regular place of  
5       business of the member in the performance of the  
6       duties of the United States-Russia Polar Bear Com-  
7       mission.

8       “(e) AGENCY DESIGNATION.—The United States sec-  
9       tion shall, for the purpose of title 28, United States Code,  
10      relating to claims against the United States and tort  
11      claims procedure, be considered to be a Federal agency.

12      **“SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION**  
13                                      **ON MATTERS BEFORE THE COMMISSION.**

14      “‘In accordance with paragraph 3 of article 8 of the  
15      Agreement, the United States section , made up of com-  
16      missioners appointed by the President, shall vote on any  
17      issue before the United States-Russia Polar Bear Commis-  
18      sion only if there is no disagreement between the United  
19      States commissioners regarding the vote.

20      **“SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE**  
21                                      **COMMISSION.**

22      “(a) IN GENERAL.—The Secretary shall take all nec-  
23      essary actions to implement the decisions and determina-  
24      tions of the Commission under paragraph 7 of article 8  
25      of the Agreement.

1       “(b) TAKING LIMITATION.—Not later than 60 days  
2 after the date on which the Secretary receives notice of  
3 the determination of the Commission of an annual taking  
4 limit, or of the adoption by the Commission of other re-  
5 striction on the taking of polar bears for subsistence pur-  
6 poses, the Secretary shall publish a notice in the Federal  
7 Register announcing the determination or restriction.

8       **“SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.**

9       “The authority of the Secretary under this title is in  
10 addition to, and shall not affect the authority of the Sec-  
11 retary under, the other titles of this Act or the Lacey Act  
12 Amendments of 1981 (16 U.S.C. 3371 et seq.) or the ex-  
13 emption for Alaskan natives under section 101(b) of this  
14 Act.

15       **“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

16       “There is authorized to be appropriated to the Sec-  
17 retary to carry out this title and the Agreement  
18 \$2,000,000 for each of fiscal years 2007 through 2010.”.

19       (b) CLERICAL AMENDMENT.—The table of contents  
20 in the first section of the Marine Mammal Protection Act  
21 of 1972 (16 U.S.C. 1361 et seq.) is amended by adding  
22 at the end the following:

“TITLE V—POLAR BEARS

“Sec. 501. Definitions.

“Sec. 502. Prohibitions.

“Sec. 503. Administration.

“Sec. 504. Cooperative management agreement; authority to delegate enforce-  
ment authority.



“Sec. 505. Commission appointments; compensation, travel expenses, and claims.

“Sec. 506. Votes taken by the United States Section on matters before the Commission.

“Sec. 507. Implementation of actions taken by the Commission.

“Sec. 508. Application with other titles of Act.

“Sec. 509. Authorization of appropriations.”.

1           (c)     TREATMENT     OF     CONTAINERS.—Section  
2 107(d)(2) of the Marine Mammal Protection Act of 1972  
3 (16 U.S.C. 1377(d)(2)) is amended—

4                   (1) by striking “or other conveyance” and in-  
5                   serting “, other conveyance, or container”; and

6                   (2) by striking “or conveyance” and inserting  
7                   “conveyance, or container”.

Passed the House of Representatives July 17, 2006.

Attest:

KAREN L. HAAS,

*Clerk.*