

109TH CONGRESS
1ST SESSION

S. 421

To reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

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

A BILL

To reauthorize programs relating to sport fishing and recreational boating safety, 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 “Sportfishing and Rec-
5 reational Boating Safety Act of 2005”.

1 **TITLE I—FEDERAL AID IN SPORT**
2 **FISH RESTORATION ACT**
3 **AMENDMENTS**

4 **SEC. 101. AMENDMENT OF FEDERAL AID IN SPORT FISH**
5 **RESTORATION ACT.**

6 Except as otherwise expressly provided, whenever in
7 this title an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a
10 section or other provision of the Dingell-Johnson Sport
11 Fish Restoration Act (16 U.S.C. 777 et seq.).

12 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) **IN GENERAL.**—Section 3 (16 U.S.C. 777b) is
14 amended—

15 (1) by striking “the succeeding fiscal year.” in
16 the third sentence and inserting “succeeding fiscal
17 years.”; and

18 (2) by striking “in carrying on the research
19 program of the Fish and Wildlife Service in respect
20 to fish of material value for sport and recreation.”
21 and inserting “to supplement the 57 percent of the
22 balance of each annual appropriation to be appor-
23 tioned among the States, as provided for in section
24 4(c).”.

25 (b) **CONFORMING AMENDMENTS.**—

1 (1) IN GENERAL.—Section 3 (16 U.S.C. 777b)
2 is amended in the first sentence—

3 (A) by striking “Sport Fish Restoration
4 Account” and inserting “Sport Fish Restora-
5 tion and Boating Trust Fund”; and

6 (B) by striking “that Account” and insert-
7 ing “that Trust Fund, except as provided in
8 section 9504(e) of the Internal Revenue Code of
9 1986”.

10 (2) EFFECTIVE DATE.—The amendments made
11 by paragraph (1) take effect on October 1, 2005.

12 **SEC. 103. DIVISION OF ANNUAL APPROPRIATIONS.**

13 Section 4 (16 U.S.C. 777c) is amended—

14 (1) by striking subsections (a) through (c) and
15 redesignating subsections (d), (e), (f), and (g) as
16 subsections (b), (c), (d), and (e), respectively;

17 (2) by inserting before subsection (b), as redес-
18 igned by paragraph (1), the following:

19 “(a) IN GENERAL.—For fiscal years 2006 through
20 2020, the balance of each annual appropriation made in
21 accordance with the provisions of section 3 remaining
22 after the distributions for administrative expenses and
23 other purposes under subsection (b) and for multistate
24 conservation grants under section 14 shall be distributed
25 as follows:

1 “(1) COASTAL WETLANDS.—18.5 percent to the
2 Secretary of the Interior for distribution as provided
3 in the Coastal Wetlands Planning, Protection, and
4 Restoration Act (16 U.S.C. 3951 et seq.).

5 “(2) BOATING SAFETY.—18.5 percent to the
6 Secretary of Homeland Security for State rec-
7 reational boating safety programs under section
8 13106 of title 46, United States Code.

9 “(3) CLEAN VESSEL ACT.—2.0 percent to the
10 Secretary of the Interior for qualified projects under
11 section 5604(c) of the Clean Vessel Act of 1992 (33
12 U.S.C. 1322 note).

13 “(4) BOATING INFRASTRUCTURE.—2.0 percent
14 to the Secretary of the Interior for obligation for
15 qualified projects under section 7404(d) of the
16 Sportfishing and Boating Safety Act of 1998 (16
17 U.S.C. 777g–1(d)).

18 “(5) NATIONAL OUTREACH AND COMMUNICA-
19 TIONS.—2.0 percent to the Secretary of the Interior
20 for the National Outreach and Communications Pro-
21 gram under section 8(d) of this Act. Such amounts
22 shall remain available for 3 fiscal years, after which
23 any portion thereof that is unobligated by the Sec-
24 retary for that program may be expended by the
25 Secretary under subsection (e) of this section.”;

1 (3) by striking (b)(1)(A), as redesignated by
2 paragraph (1), and inserting the following:

3 “(A) SET-ASIDE.—For a fiscal year after
4 fiscal year 2005, the Secretary of the Interior
5 may use no more than the amount specified in
6 subparagraph (B) for the fiscal year for ex-
7 penses of administration incurred in the imple-
8 mentation of this Act, in accordance with this
9 section and section 9. The amount specified in
10 subparagraph (B) for a fiscal year may not be
11 included in the amount of the annual appro-
12 priation distributed under subsection (a) for the
13 fiscal year.”;

14 (4) by striking “Secretary of the Interior, after
15 the distribution, transfer, use, and deduction under
16 subsections (a), (b), (c), and (d), respectively, and
17 after deducting amounts used for grants under sec-
18 tion 14, shall apportion the remainder” in subsection
19 (c), as redesignated by paragraph (1), and inserting
20 “Secretary, for a fiscal year after fiscal year 2005,
21 after the distribution, transfer, use and deduction
22 under subsection (b), and after deducting amounts
23 used for grants under section 14 of this title, shall
24 apportion 57 percent of the balance”;

1 (5) by striking “per centum” each place it ap-
2 pears in subsection (c), as redesignated by para-
3 graph (1), and inserting “percent”;

4 (6) by striking “subsections (a), (b)(3)(A),
5 (b)(3)(B), and (c)” in paragraph (1) of subsection
6 (e), as redesignated by paragraph (1), and inserting
7 “paragraphs (1), (3), (4), and (5) of subsection
8 (a)”;

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

10 “(f) TRANSFER OF CERTAIN FUNDS.—Amounts
11 available under paragraphs (3) and (4) of subsection (a)
12 that are unobligated by the Secretary of the Interior after
13 3 fiscal years shall be transferred to the Secretary of
14 Homeland Security and shall be expended for State rec-
15 reational boating safety programs under section 13106(a)
16 of title 46, United States Code.”.

17 **SEC. 104. MAINTENANCE OF PROJECTS.**

18 Section 8 (16 U.S.C. 777g) is amended—

19 (1) by striking “in carrying out the research
20 program of the Fish and Wildlife Service in respect
21 to fish of material value for sport or recreation.” in
22 subsection (b)(2) and inserting “to supplement the
23 57 percent of the balance of each annual appropria-
24 tion to be apportioned among the States under sec-
25 tion 4(c).”; and

1 (2) by striking “subsection (c) or (d)” in sub-
2 section (d)(3) and inserting “subsection (a)(5) or
3 subsection (b)”.

4 **SEC. 105. BOATING INFRASTRUCTURE.**

5 Section 7404(d)(1) of the Sportfishing and Boating
6 Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended
7 by striking “section 4(b)(3)(B) of the Act entitled ‘An Act
8 to provide that the United States shall aid the States in
9 fish restoration and management projects, and for other
10 purposes,’ approved August 9, 1950, as amended by this
11 Act,” and inserting “section 4(a)(4) of the Dingell-John-
12 son Sport Fish Restoration Act”.

13 **SEC. 106. REQUIREMENTS AND RESTRICTIONS CON-**
14 **CERNING USE OF AMOUNTS FOR EXPENSES**
15 **FOR ADMINISTRATION.**

16 Section 9 (16 U.S.C. 777h) is amended—

17 (1) by striking “section 4(d)(1)” in subsection
18 (a) and inserting “section 4(b)”; and

19 (2) by striking “section 4(d)(1)” in subsection
20 (b)(1) and inserting “section 4(b)”.

1 **SEC. 107. PAYMENTS OF FUNDS TO AND COOPERATION**
2 **WITH PUERTO RICO, THE DISTRICT OF CO-**
3 **LUMBIA, GUAM, AMERICAN SAMOA, COMMON-**
4 **WEALTH OF THE NORTHERN MARIANA IS-**
5 **LANDS, AND VIRGIN ISLANDS.**

6 Section 12 (16 U.S.C. 777k) is amended by striking
7 “in carrying on the research program of the Fish and
8 Wildlife Service in respect to fish of material value for
9 sport or recreation.” and inserting “to supplement the 57
10 percent of the balance of each annual appropriation to be
11 apportioned among the States under section 4(b) of this
12 Act.”.

13 **SEC. 108. MULTISTATE CONSERVATION GRANT PROGRAM.**

14 Section 14 (16 U.S.C. 777m) is amended—

15 (1) by striking so much of subsection (a) as
16 precedes paragraph (2) and inserting the following:
17 “(a) IN GENERAL.—

18 “(1) AMOUNT FOR GRANTS.—For each fiscal
19 year after fiscal year 2005, not more than
20 \$3,000,000 of each annual appropriation made in
21 accordance with the provisions of section 3 shall be
22 distributed to the Secretary of the Interior for mak-
23 ing multistate conservation project grants in accord-
24 ance with this section.”;

1 (2) by striking “section 4(e)” each place it ap-
 2 pears in subsection (a)(2)(B) and inserting “section
 3 4(c)”; and

4 (3) by striking “Of the balance of each annual
 5 appropriation made under section 3 remaining after
 6 the distribution and use under subsections (a), (b),
 7 and (c) of section 4 for each fiscal year and after
 8 deducting amounts used for grants under subsection
 9 (a)—” in subsection (e) and inserting “Of amounts
 10 made available under section 4(b) for each fiscal
 11 year—”.

12 **TITLE II—AMENDMENTS TO THE**
 13 **TRUST FUND CODE**

14 **SEC. 201. TRANSFERS OF MOTORBOAT FUEL TAXES FROM**
 15 **THE HIGHWAY TRUST FUND TO THE SPORT**
 16 **FISH RESTORATION AND BOATING TRUST**
 17 **FUND FOR AUTHORIZED EXPENDITURES.**

18 (a) IN GENERAL.—Paragraph (4) of section 9503(c)
 19 of the Internal Revenue Code of 1986 (relating to expendi-
 20 tures from Highway Trust Fund) is amended—

21 (1) by striking so much of that paragraph as
 22 precedes subparagraph (C) and inserting the fol-
 23 lowing:

24 “(4) TRANSFERS FROM THE TRUST FUND FOR
 25 MOTORBOAT FUEL TAXES.—

1 “(A) TRANSFER TO LAND AND WATER
2 CONSERVATION FUND.—

3 “(i) IN GENERAL.—The Secretary
4 shall pay from time to time from the High-
5 way Trust Fund into the land and water
6 conservation fund provided for in title I of
7 the Land and Water Conservation Fund
8 Act of 1965 amounts (as determined by
9 the Secretary) equivalent to the motorboat
10 fuel taxes received on or after October 1,
11 2005, and before October 1, 2010.

12 “(ii) LIMITATION.—The aggregate
13 amount transferred under this subpara-
14 graph during any fiscal year shall not ex-
15 ceed \$1,000,000.

16 “(B) EXCESS FUNDS TRANSFERRED TO
17 SPORT FISH RESTORATION AND BOATING TRUST
18 FUND.—Any amounts received in the Highway
19 Trust Fund—

20 “(i) which are attributable to motor-
21 boat fuel taxes, and

22 “(ii) which are not transferred from
23 the Highway Trust Fund under subpara-
24 graph (A), shall be transferred by the Sec-
25 retary from the Highway Trust Fund into

1 the Sport Fish Restoration and Boating
2 Trust Fund.”, and

3 (2) by striking subparagraph (C) and redesignig-
4 nating subparagraphs (D) and (E) as subparagraphs
5 (C) and (D), respectively.

6 (b) MERGING OF ACCOUNTS.—

7 (1) IN GENERAL.—Subsection (a) of section
8 9504 of the Internal Revenue Code of 1986 is
9 amended to read as follows:

10 “(a) CREATION OF TRUST FUND.—There is hereby
11 established in the Treasury of the United States a trust
12 fund to be known as the ‘Sport Fish Restoration and
13 Boating Trust Fund’. Such Trust Fund shall consist of
14 such amounts as may be appropriated, credited, or paid
15 to it as provided in this section, section 9503(c)(4), section
16 9503(c)(5), or section 9602(b).”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Subsection (b) of section 9504 of such
19 Code is amended—

20 (i) by striking “ACCOUNT” in the
21 heading and inserting “AND BOATING
22 TRUST FUND”,

23 (ii) by striking “Account” both places
24 it appears in paragraphs (1) and (2) and
25 inserting “and Boating Trust Fund”, and

1 (iii) by striking “ACCOUNT” both
2 places it appears in the headings for para-
3 graphs (1) and (2) and inserting “AND
4 BOATING TRUST FUND”.

5 (B) Paragraph (2) of section 9504(b) of
6 such Code is amended by striking “Surface
7 Transportation Extension Act of 2004, Part V”
8 each place it appears and inserting
9 “Sportfishing and Recreational Boating Safety
10 Act of 2005”.

11 (C) The last sentence of paragraph (2) of
12 section 9504(b) of such Code is amended by
13 striking “subparagraph (B)” and inserting
14 “subparagraph (C)”.

15 (D) Subsection (d) of section 9504 of such
16 Code is amended—

17 (i) by striking “AQUATIC RE-
18 SOURCES” in the heading,

19 (ii) by striking “any Account in the
20 Aquatic Resources” in paragraph (1) and
21 inserting “the Sports Fish Restoration and
22 Boating”, and

23 (iii) by striking “any such Account”
24 in paragraph (1) and inserting “such
25 Trust Fund”.

1 (E) Paragraph (2) of section 9504(d) is
2 amended by striking “June 1, 2005” and in-
3 serting “October 1, 2020”.

4 (F) Subsection (e) of section 9504 of such
5 Code is amended by striking “Boat Safety Ac-
6 count and Sport Fish Restoration Account” and
7 inserting “Sport Fish Restoration and Boating
8 Trust Fund”.

9 (G) Section 9504 of such Code is amended
10 by striking “**AQUATIC RESOURCES**” in the
11 heading and inserting “**SPORT FISH RES-**
12 **TORATION AND BOATING**”.

13 (H) The item relating to section 9504 in
14 the table of sections for subchapter A of chap-
15 ter 98 of such Code is amended by striking
16 “aquatic resources” and inserting “sport fish
17 restoration and boating”.

18 (I) Paragraph (5) of section 9503(c) of
19 such Code is amended by striking “Account in
20 the Aquatic Resources” in subparagraph (A)
21 and inserting “and Boating”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on October 1, 2005.

1 **SEC. 202. EXPENDITURES FROM THE BOAT SAFETY AC-**
2 **COUNT.**

3 Section 9504(c) of the Internal Revenue Code of
4 1986 is amended to read as follows:

5 “(c) EXPENDITURES FROM BOAT SAFETY AC-
6 COUNT.—Amounts in the Boat Safety Account on the date
7 of the enactment of the Sport Fishing and Recreational
8 Boating Safety Act, and amounts thereafter credited to
9 the Account under section 9602(b), shall be available,
10 without further appropriation, in the following amounts:

11 “(1) In fiscal year 2006, \$28,155,000 shall be
12 distributed—

13 “(A) under section 4 of the Act entitled
14 ‘An Act to provide that the United States shall
15 aid the States in fish restoration and manage-
16 ment projects, and for other purposes,’ ap-
17 proved August 9, 1950 (16 U.S.C. 777e) in the
18 following manner:

19 “(i) \$11,200,000 to be added to funds
20 available under subsection (a)(2) of that
21 section,

22 “(ii) \$1,245,000 to be added to funds
23 available under subsection (a)(3) of that
24 section,

1 “(iii) \$1,245,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$1,245,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$12,800,000 to be added to
8 funds available under subsection (b) of
9 that section, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$420,000, to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(2) In fiscal year 2007, \$22,419,000 shall be
15 distributed—

16 “(A) under section 4 of that Act (16
17 U.S.C. 777e) in the following manner:

18 “(i) \$8,075,000 to be added to funds
19 available under subsection (a)(2) of that
20 section,

21 “(ii) \$713,000 to be added to funds
22 available under subsection (a)(3) of that
23 section,

1 “(iii) \$713,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$713,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$11,925,000 to be added to
8 funds available under subsection (b) of
9 that Act, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$280,000 to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(3) In fiscal year 2008, \$17,139,000 shall be
15 distributed—

16 “(A) under section 4 of that Act (16
17 U.S.C. 777e) in the following manner:

18 “(i) \$6,800,000 to be added to funds
19 available under subsection (a)(2) of that
20 section,

21 “(ii) \$333,000 to be added to funds
22 available under subsection (a)(3) of that
23 section,

1 “(iii) \$333,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$333,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$9,200,000 to be added to funds
8 available under subsection (b) of that sec-
9 tion, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$140,000, to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(4) In fiscal year 2009, \$12,287,000 shall be
15 distributed—

16 “(A) under section 4 of that Act (16
17 U.S.C. 777e) in the following manner:

18 “(i) \$5,100,000 to be added to funds
19 available under subsection (a)(2) of that
20 section,

21 “(ii) \$48,000 to be added to funds
22 available under subsection (a)(3) of that
23 section,

1 “(iii) \$48,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$48,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$6,900,000 to be added to funds
8 available under subsection (b) of that sec-
9 tion, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$143,000, to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(5) In fiscal year 2010, all remaining funds in
15 the Account shall be distributed under section 4 of
16 that Act (16 U.S.C. 777c) in the following manner:

17 “(A) one-third to be added to funds avail-
18 able under subsection (b), and

19 “(B) two-thirds to be added to funds avail-
20 able under subsection (h).”.

21 **TITLE III—CLEAN VESSEL ACT**
22 **AMENDMENTS**

23 **SEC. 301. GRANT PROGRAM.**

24 Section 5604(c)(2) of the Clean Vessel Act of 1992
25 (33 U.S.C. 1322 note) is amended—

- 1 (1) by striking subparagraph (A); and
 2 (2) by redesignating subparagraphs (B) and
 3 (C) as subparagraphs (A) and (B), respectively.

4 **TITLE IV—RECREATIONAL BOAT-**
 5 **ING SAFETY PROGRAM**
 6 **AMENDMENTS**

7 **SEC. 401. STATE MATCHING FUNDS REQUIREMENT.**

8 Section 13103(b) of title 46, United States Code, is
 9 amended by striking “one-half” and inserting “75 per-
 10 cent”.

11 **SEC. 402. AVAILABILITY OF ALLOCATIONS.**

12 Section 13104(a) of title 46, United States Code, is
 13 amended—

14 (1) by striking “2 years” in paragraph (1) and
 15 inserting “3 years”; and

16 (2) by striking “2-year” in paragraph (2) and
 17 inserting “3-year”.

18 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR**
 19 **STATE RECREATIONAL BOATING SAFETY**
 20 **PROGRAMS.**

21 Section 13106 of title 46, United States Code, is
 22 amended—

23 (1) in subsection (a)(1), by striking “section
 24 4(b) of the Act of August 9, 1950” and inserting

1 “subsections (a)(2) and (f) of section 4 of the Din-
2 gell-Johnson Sport Fish Restoration Act”; and

3 (2) in subsection (c)(1)—

4 (A) by striking “Secretary of Transpor-
5 tation under paragraph (5)(C) of section 4(b)”
6 and inserting “Secretary under subsections
7 (a)(2) and (f) of section 4”; and

8 (B) by striking “\$1,333,336” and insert-
9 ing “not less than \$2,083,333”.

10 **SEC. 404. MAINTENANCE OF EFFORT FOR STATE REC-**
11 **REATIONAL BOATING SAFETY PROGRAMS.**

12 (a) IN GENERAL.—Chapter 131 of title 46, United
13 States Code, is amended by inserting after section 13106
14 the following:

15 **“§ 13107. Maintenance of effort for State recreational**
16 **boating safety programs**

17 “(a) IN GENERAL.—The amount payable to a State
18 for a fiscal year from an allocation under section 13103
19 of this chapter shall be reduced if the usual amounts ex-
20 pended by the State for the State’s recreational boating
21 safety program, as determined under section 13105 of this
22 chapter, for the previous fiscal year is less than the aver-
23 age of the total of such expenditures for the 3 fiscal years
24 immediately preceding that previous fiscal year. The re-
25 duction shall be proportionate, as a percentage, to the

1 amount by which the level of State expenditures for such
2 previous fiscal year is less than the average of the total
3 of such expenditures for the 3 fiscal years immediately
4 preceding that previous fiscal year.

5 “(b) REDUCTION OF THRESHOLD.—If the total
6 amount available for allocation and distribution under this
7 chapter in a fiscal year for all participating State rec-
8 reational boating safety programs is less than such
9 amount for the preceding fiscal year, the level of State
10 expenditures required under subsection (a) of this section
11 for the preceding fiscal year shall be decreased proportion-
12 ately.

13 “(c) WAIVER.—

14 “(1) IN GENERAL.—Upon the written request
15 of a State, the Secretary may waive the provisions
16 of subsection (a) of this section for 1 fiscal year if
17 the Secretary determines that a reduction in expend-
18 itures for the State’s recreational boating safety pro-
19 gram is attributable to a non-selective reduction in
20 expenditures for the programs of all Executive
21 branch agencies of the State government, or for
22 other reasons if the State demonstrates to the Sec-
23 retary’s satisfaction that such waiver is warranted.

1 “(2) 30-DAY DECISION.—The Secretary shall
2 approve or deny a request for a waiver not later
3 than 30 days after the date the request is received.”.

4 (b) CONFORMING AMENDMENT.—The chapter anal-
5 ysis for chapter 131 of title 46, United States Code, is
6 amended by inserting after the item relating to section
7 13106 the following:

 “13107. Maintenance of effort for State recreational boating safety programs.”.

○