

Union Calendar No. 814

115TH CONGRESS
2^D SESSION

H. R. 3588

[Report No. 115–1047]

To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide for management of red snapper in the Gulf of Mexico, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. GRAVES of Louisiana (for himself, Mr. RICHMOND, Mr. BYRNE, Mr. THOMPSON of Mississippi, Mr. WEBER of Texas, Mr. CLAY, Mr. PALAZZO, Mr. FARENTHOLD, Mr. AUSTIN SCOTT of Georgia, and Mr. HIGGINS of Louisiana) introduced the following bill; which was referred to the Committee on Natural Resources

NOVEMBER 27, 2018

Additional sponsors: Mr. BROOKS of Alabama, Mr. BABIN, and Mr. JOHNSON of Louisiana

NOVEMBER 27, 2018

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide for management of red snapper in the Gulf of Mexico, 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 “Regionally Empowered
5 Decision-making for Snapper, Noting the Angling Public
6 and the Preservation of an Exceptional Resource Act” or
7 the “RED SNAPPER Act”.

8 **SEC. 2. STATE EXCLUSIVE FISHERY MANAGEMENT AU-**
9 **THORITY OVER PRIVATE RECREATIONAL**
10 **RED SNAPPER FISHING SEASONS IN THE**
11 **GULF OF MEXICO.**

12 (a) IN GENERAL.—Section 407 of the Magnuson-Ste-
13 vens Fishery Conservation and Management Act (16
14 U.S.C. 1883) is amended by striking subsection (d) and
15 inserting the following:

16 “(d) CATCH LIMITS.—Any fishery management plan,
17 plan amendment, or regulation for the red snapper fishery
18 that is submitted by the Gulf of Mexico Fishery Manage-
19 ment Council after the date of the enactment of the RED
20 SNAPPER Act shall contain conservation and manage-
21 ment measures that—

22 “(1) establish separate catch limits for each
23 of—

24 “(A) private recreational fishing;

1 “(B) federally permitted charter fishing;

2 and

3 “(C) commercial fishing; and

4 “(2) ensure that such catch limits reflect alloca-
5 tions among such sectors and do not reflect any har-
6 vests in excess of such allocations.

7 “(e) STATE EXCLUSIVE AUTHORITY OVER PRIVATE
8 RECREATIONAL RED SNAPPER FISHING SEASONS IN THE
9 GULF OF MEXICO.—

10 “(1) EXCLUSIVE AUTHORITY.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B) and paragraph (5), and sub-
13 ject to paragraph (4) and section 306(b), each
14 of the Gulf States shall have exclusive authority
15 to establish for each of fishing years 2018
16 through 2024 the timing and duration of the
17 fishing season for private recreational fishing of
18 red snapper in the Gulf of Mexico in the ex-
19 tended red snapper management zone of such
20 Gulf State under paragraph (2).

21 “(B) SPECIAL RULE FOR FLORIDA.—With
22 respect to the State of Florida, the exclusive
23 authority provided under subparagraph (A)
24 shall apply only to waters adjacent to the State
25 of Florida in the Gulf of Mexico.

1 “(2) EXTENDED RED SNAPPER MANAGEMENT
2 ZONE DESCRIBED.—

3 “(A) IN GENERAL.—For purposes of this
4 subsection, the extended red snapper manage-
5 ment zone of a Gulf State consists of all waters
6 that are—

7 “(i) seaward of the State seaward
8 boundary of such Gulf State;

9 “(ii) not further from shore than the
10 25-fathom line described under subpara-
11 graph (B); and

12 “(iii) between the projected lines de-
13 termined for that State under section
14 4(a)(2)(A) of the Outer Continental Shelf
15 Lands Act (43 U.S.C. 1333(a)(2)(A)).

16 “(B) DESCRIPTION OF LINE.—

17 “(i) IN GENERAL.—Not later than 60
18 days after the date of the enactment of the
19 RED SNAPPER Act and subject to clause
20 (ii), the Secretary shall publish in the Fed-
21 eral Register and make available on the
22 website of the Department of Commerce a
23 description of, and map showing, a contin-
24 uous line in waters of the exclusive eco-
25 nomic zone in the Gulf of Mexico along the

1 coasts of the Gulf States, that is comprised
2 of points that are, on average, 25 fathoms
3 in depth.

4 “(ii) MINIMUM DISTANCE.—No point
5 on such continuous line shall be less than
6 25 nautical miles from the shore.

7 “(iii) CONSULTATION WITH STATES.—
8 In determining the placement of such con-
9 tinuous line, the Secretary shall consult
10 with appropriate agencies of each Gulf
11 State.

12 “(3) CRITERIA.—In determining a fishing sea-
13 son under this subsection, a Gulf State shall—

14 “(A) to the extent practicable, ensure sus-
15 tainable and responsible fishery management
16 consistent with the national standards for fish-
17 ery conservation and management in section
18 301; and

19 “(B) include—

20 “(i) the most recent stock assessment
21 for the red snapper in the Gulf of Mexico;

22 “(ii) surveys of red snapper in the
23 Gulf of Mexico certified under subsection
24 (g);

1 “(iii) data related to red snapper in
2 the Gulf of Mexico collected by the Gulf
3 States Marine Fisheries Commission, non-
4 governmental organizations, and non-
5 governmental sources, including fishermen,
6 universities, and research institutions;

7 “(iv) consideration of the duration of
8 the fishing seasons for red snapper within
9 the State’s seaward boundary;

10 “(v) estimates of private recreational
11 fishing effort and catch rates both within
12 the State’s seaward boundary and within
13 the State’s extended red snapper manage-
14 ment zone under paragraph (2)(A); and

15 “(vi) relevant data from independent
16 biological surveys, including State popu-
17 lation estimates of the biomass of red
18 snapper within the State’s seaward bound-
19 ary and within the State’s extended red
20 snapper management zone under para-
21 graph (2).

22 “(4) LIMITATION WITH RESPECT TO CHARTER
23 FISHING.—The authority of a State under para-
24 graph (1) does not apply with respect to the timing
25 or duration of the charter fishing season.

1 “(5) SECRETARIAL ACTION TO ADDRESS AD-
2 VERSE EFFECTS OF STATE ACTIONS.—For purposes
3 of section 306(b)(1), the extended red snapper man-
4 agement zone of a State under this subsection shall
5 be treated as within the boundaries of such State.

6 “(6) REPORT.—Not later than 150 days before
7 the end of the 2024 fishing year and biannually
8 thereafter, the Secretary shall submit a report to the
9 Committee on Commerce, Science, and Transpor-
10 tation of the Senate and the Committee on Natural
11 Resources of the House of Representatives detailing
12 the health of the red snapper fishery in the Gulf of
13 Mexico. The report shall—

14 “(A) be based upon the boundaries pre-
15 scribed in paragraph (2);

16 “(B) describe the impact of the criteria
17 listed under paragraph (3); and

18 “(C) include results of the NOAA Fish-
19 eries Southeast Region head boat surveys.

20 “(7) RELATIONSHIP TO OTHER FEDERAL AU-
21 THORITY AND REQUIREMENTS.—Nothing in this
22 subsection affects the authority of the Secretary
23 under any other provision of law—

1 “(A) to establish the acceptable biological
2 catch and total allowable catch of red snapper
3 in the Gulf of Mexico; or

4 “(B) to establish any limited access privi-
5 lege program for the commercial harvest of red
6 snapper in the Gulf of Mexico.

7 “(8) RELATIONSHIP TO STATE AUTHORITY
8 OVER STATE WATERS.—Nothing in this subsection
9 affects the authority of a Gulf State over the terri-
10 torial waters of such State and fishing in such
11 waters.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) UNITED STATES SOVEREIGN RIGHTS TO
14 FISH AND FISHERY MANAGEMENT AUTHORITY.—
15 Section 101(a) of the Magnuson-Stevens Fishery
16 Conservation and Management Act (16 U.S.C.
17 1811) is amended by striking “102,” and inserting
18 “102 and section 407(e),”.

19 (2) GULF COUNCIL.—Section 302(a)(1)(E) of
20 the Magnuson-Stevens Fishery Conservation and
21 Management Act (16 U.S.C. 1852(a)(1)(E)) is
22 amended by striking “paragraph (3).” and inserting
23 “paragraph (3) of this subsection and section
24 407(e).”.

1 (c) EXTENSION OF STATE SEAWARD BOUNDARY.—
 2 Section 407 of the Magnuson-Stevens Fishery Conserva-
 3 tion and Management Act (16 U.S.C. 1883) is further
 4 amended by adding at the end the following:

5 “(f) STATE SEAWARD BOUNDARY.—Notwithstanding
 6 any other provision of law, for the purpose of management
 7 of red snapper fisheries in the Gulf of Mexico, the seaward
 8 boundary of a Gulf State is a line 9 nautical miles seaward
 9 from the baseline from which the territorial sea of the
 10 United States is measured.”.

11 **SEC. 3. FEDERAL GULF OF MEXICO RED SNAPPER MANAGE-**
 12 **MENT.**

13 (a) ALLOCATIONS OF PERCENTAGE OF TOTAL AL-
 14 LOWABLE CATCH AND SEASONS FOR OTHER SECTORS.—
 15 Section 407 of the Magnuson-Stevens Fishery Conserva-
 16 tion and Management Act (16 U.S.C. 1883) is further
 17 amended by adding at the end the following:

18 “(g) ACCEPTABLE BIOLOGICAL CATCH, TOTAL AL-
 19 LOWABLE CATCH, AND CERTIFIED STATE SURVEYS; AL-
 20 LOCATION.—

21 “(1) INCLUSION OF CERTIFIED STATE SUR-
 22 VEYS.—In establishing the acceptable biological
 23 catch and total allowable catch for red snapper in
 24 the Gulf of Mexico, the Secretary shall include—

1 “(A) Gulf State recreational fisheries sur-
2 veys that are certified under subsection (h); and

3 “(B) data related to red snapper in the
4 Gulf of Mexico collected by the Gulf States Ma-
5 rine Fisheries Commission, nongovernmental
6 organizations, and other nongovernmental
7 sources, including universities and research in-
8 stitutions.

9 “(2) ALLOCATION AND DURATION OF COMMER-
10 CIAL AND FEDERALLY PERMITTED CHARTER SEA-
11 SON.—Beginning in fishing year 2018, the percent-
12 age of the total allowable catch of red snapper, and
13 the duration of the red snapper fishing season in the
14 Gulf of Mexico—

15 “(A) for the commercial fishing sector
16 shall be the same as such percentage and dura-
17 tion, respectively, that applied for the most re-
18 cent fishing year, unless amended by the Sec-
19 retary; and

20 “(B) for the federally permitted charter
21 fishing sector may not be less than the alloca-
22 tion and duration that applied to such sector
23 for the most recent fishing year, unless amend-
24 ed by the Secretary.

1 “(3) FISHING BY FEDERALLY PERMITTED
2 CHARTER SECTOR WITHIN GULF STATE SEAWARD
3 BOUNDARIES.—Nothing in this Act shall be con-
4 strued to authorize limiting fishing for red snapper
5 by the federally permitted charter sector within a
6 Gulf State’s seaward boundary in any period in
7 which such fishing in the exclusive economic zone is
8 not prohibited.”.

9 (b) STATE SURVEYS.—Section 407 of the Magnuson-
10 Stevens Fishery Conservation and Management Act (16
11 U.S.C. 1883) is further amended by adding at the end
12 the following:

13 “(h) STATE SURVEYS.—

14 “(1) SUBMISSION.—A Gulf State that conducts
15 a recreational fisheries survey in the Gulf of Mexico
16 to make catch estimates for red snapper landed in
17 such State may submit such survey to the Secretary
18 for certification.

19 “(2) CERTIFICATION.—

20 “(A) IN GENERAL.—The Secretary shall
21 make a certification or a denial of certification
22 for any survey submitted under paragraph (1)
23 not later than the end of the 6-month period
24 beginning on the date the survey is submitted.

1 “(B) DEEMED CERTIFIED.—A recreational
2 fisheries survey is deemed to be certified effec-
3 tive upon the expiration of such period if the
4 Secretary has not made a certification or denial
5 of certification.

6 “(3) MODIFICATION OF SURVEYS DENIED CER-
7 TIFICATION.—

8 “(A) IN GENERAL.—If a survey of a Gulf
9 State is denied certification under paragraph
10 (2), the Secretary shall, not later than 60 days
11 after the date of the denial, provide the Gulf
12 State a proposal for modifications to the survey.

13 “(B) PROPOSAL.—A proposal provided to
14 a Gulf State for a survey under subparagraph
15 (A)—

16 “(i) shall be specific to the survey
17 submitted by such Gulf State and may not
18 be construed to apply to any other Gulf
19 State;

20 “(ii) shall require revision to the few-
21 est possible provisions of the survey; and

22 “(iii) may not unduly burden the abil-
23 ity of such Gulf State to revise the survey.

24 “(C) MODIFIED SURVEY.—

1 “(i) AUTHORITY TO SUBMIT.—If a
2 survey of a Gulf State was denied certifi-
3 cation under paragraph (2), the Gulf State
4 may modify the survey and submit the
5 modified survey to the Secretary for certifi-
6 cation or denial of certification.

7 “(ii) SCHEDULE.—The Secretary shall
8 make a certification or denial of certifi-
9 cation for any modified survey not later
10 than the end of the 30-day period begin-
11 ning on the date the modified survey is
12 submitted.

13 “(iii) DEEMED CERTIFIED.—A modi-
14 fied survey is deemed to be certified effec-
15 tive upon the expiration of the period de-
16 scribed in clause (ii) if the Secretary has
17 not made a certification or denial of certifi-
18 cation.”.

19 (c) REDUCTION OF BAROTRAUMA.—Section 407 of
20 the Magnuson-Stevens Fishery Conservation and Manage-
21 ment Act (16 U.S.C. 1883) is further amended by adding
22 at the end the following:

23 “(i) REDUCTION OF BAROTRAUMA.—Each Gulf State
24 shall develop and promote best practices for use in the

1 red snapper fishery in the Gulf of Mexico to reduce
2 barotrauma.”.

3 (d) CONSTRUCTION.—Section 407 of the Magnuson-
4 Stevens Fishery Conservation and Management Act (16
5 U.S.C. 1883) is further amended by adding at the end
6 the following:

7 “(j) CONSTRUCTION.—Nothing in this section may be
8 construed to alter—

9 “(1) any commercial catch share program for
10 Gulf of Mexico red snapper;

11 “(2) any Federal program related to charter
12 fishing; or

13 “(3) the fishing gear that may be used in the
14 red snapper fishery in the Gulf of Mexico.”.

15 (e) DEFINITIONS.—Section 407 of the Magnuson-
16 Stevens Fishery Conservation and Management Act (16
17 U.S.C. 1883), as amended by this section, is further
18 amended by adding at the end the following:

19 “(k) DEFINITIONS.—In this section:

20 “(1) GULF STATE.—The term ‘Gulf State’
21 means each of the States of Texas, Louisiana, Mis-
22 sissippi, Alabama, or Florida.

23 “(2) RED SNAPPER.—The term ‘red snapper’
24 means the species *Lutjanus campechanus*.”.

1 **SEC. 4. SENSE OF CONGRESS.**

2 It is the sense of Congress that in order to supple-
3 ment State data collection efforts, Gulf States should con-
4 tinue modernizing fishery harvest data for red snapper
5 through the development and implementation of voluntary
6 electronic reporting applications for use by the private rec-
7 reational fishing sector to determine red snapper catch
8 rates and effort in the Gulf of Mexico.

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