

115TH CONGRESS  
2D SESSION

# S. 2764

To amend and enhance the High Seas Driftnet Fishing Moratorium Protection Act to improve the conservation of sharks, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 26, 2018

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

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## A BILL

To amend and enhance the High Seas Driftnet Fishing Moratorium Protection Act to improve the conservation of sharks, 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 “Sustainable Shark  
5 Fisheries and Trade Act of 2018”.

6 **SEC. 2. SHARK CONSERVATION AND TRADE FAIRNESS CER-**  
7 **TIFICATION.**

8 Section 610 of the High Seas Driftnet Fishing Mora-  
9 torium Protection Act (16 U.S.C. 1826k) is amended—

1 (1) in subsection (a)(2)—

2 (A) by striking subparagraph (A) and in-  
3 serting the following:

4 “(A) that nation or any individual or entity  
5 from that nation has imported shark products  
6 into the United States or seeks to import shark  
7 products into the United States; and”;

8 (B) in subparagraph (B)—

9 (i) by striking “adopted” and insert-  
10 ing “sought and obtained, not later than  
11 the effective date specified in paragraph  
12 (8) of subsection (g), a certification from  
13 the Secretary under that subsection that  
14 the nation has in effect”;

15 (ii) by striking “, taking into account  
16 different conditions”;

17 (2) in subsection (b), in paragraphs (2) and  
18 (3), by striking “subsection (a)” each place it ap-  
19 pears and inserting “subsection (a)(1)”;

20 (3) in subsection (c)—

21 (A) in paragraph (1), by striking “sub-  
22 section (a)” and inserting “subsection (a)(1)”;  
23 and

24 (B) by adding at the end the following:

1 “(6) APPLICABILITY TO CERTAIN COUNTRIES.—

2 This subsection does not apply to nations identified  
3 under subsection (a)(2).”;

4 (4) in subsection (d)—

5 (A) in paragraph (1), by inserting “or (g)”  
6 after “under subsection (c)”; and

7 (B) in paragraph (3), by inserting “or (g)”  
8 after “under subsection (c)”; and

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

10 “(g) SHARK CONSERVATION AND TRADE FAIRNESS  
11 CERTIFICATION.—

12 “(1) PROHIBITION ON IMPORTATION.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), shark products may not be  
15 imported into the United States unless the  
16 shark products were landed in a nation to  
17 which the Secretary has issued a certification or  
18 partial certification under paragraph (2).

19 “(B) EXCEPTIONS.—The prohibition under  
20 subparagraph (A) shall not apply to shark  
21 products that are—

22 “(i) traded, owned, held, or otherwise  
23 possessed by an employee or agent of a  
24 governmental agency for law enforcement  
25 purposes;

1           “(ii) used for noncommercial subsist-  
2           ence purposes in accordance with Federal,  
3           State, tribal, or territorial law;

4           “(iii) used solely for display, edu-  
5           cation, conservation, or research purposes  
6           by an accredited zoo, aquarium, museum,  
7           college, or university; or

8           “(iv) used by any other person under  
9           a State or Federal permit to conduct non-  
10          commercial scientific research.

11          “(2) CERTIFICATIONS.—Pursuant to the regu-  
12          lations prescribed under paragraph (5), the Sec-  
13          retary—

14               “(A) shall grant a certification to any na-  
15               tion that has adopted and effectively enforces  
16               regulatory programs to provide for the con-  
17               servation and management of sharks, and  
18               measures to prohibit shark finning, that are  
19               comparable to those of the United States; and

20               “(B) may grant a partial certification to a  
21               nation if the Secretary determines that the na-  
22               tion—

23                       “(i) has adopted and effectively en-  
24                       forces regulatory programs that are com-  
25                       parable to the regulatory programs of the

1 United States to provide for the conserva-  
2 tion and management of a specific species  
3 of shark imported into the United States  
4 or used to produce shark products im-  
5 ported into the United States; and

6 “(ii) has in effect an effective ban on  
7 shark finning that is comparable to that of  
8 the United States.

9 “(3) EXPIRATION; RENEWAL.—A certification  
10 or partial certification issued under this sub-  
11 section—

12 “(A) shall be effective for not more than 3  
13 years from the date of issuance; and

14 “(B) may be renewed in accordance with  
15 the provisions of this subsection relating to the  
16 initial issuance of the certification.

17 “(4) CERTAIN DETERMINATIONS.—The Sec-  
18 retary shall make a determination with respect to  
19 whether to renew under paragraph (3) or revoke  
20 pursuant to paragraph (5)(A)(ii) a certification or  
21 partial certification issued under this subsection not  
22 later than 180 days after the submission of the ap-  
23 plication for renewal or the petition for revocation,  
24 as the case may be.

25 “(5) REGULATIONS.—

1           “(A) IN GENERAL.—Not later than 2 years  
2 after the date of the enactment of the Sustain-  
3 able Shark Fisheries and Trade Act of 2018,  
4 the Secretary shall prescribe regulations under  
5 chapter 5 of title 5, United States Code, with  
6 respect to the submission, evaluation, revoca-  
7 tion, and renewal of applications for certifi-  
8 cations and partial certifications under para-  
9 graph (2). Such regulations shall—

10           “(i) prescribe the content and format  
11 of applications and standards for the infor-  
12 mation to be provided in such applications;  
13 and

14           “(ii) establish a process for petitioning  
15 the Secretary for revocation of the certifi-  
16 cation or partial certification of any nation,  
17 including standards for the information re-  
18 quired to be provided to demonstrate that  
19 the nation no longer meets the criteria es-  
20 tablished under this subsection for the cer-  
21 tification.

22           “(B) CRITERIA FOR CERTIFICATION OR  
23 PARTIAL CERTIFICATION.—The regulations pre-  
24 scribed under subparagraph (A) shall establish  
25 criteria for determining whether a nation has

1 and effectively enforces regulatory programs to  
2 provide for the conservation and management  
3 of sharks, and measures to prohibit shark fin-  
4 ning, that are comparable to those of the  
5 United States, which shall include, at a min-  
6 imum, a requirement that such programs—

7 “(i) be consistent with the national  
8 standards for fishery conservation and  
9 management set forth at section 301(a) of  
10 the Magnuson-Stevens Conservation and  
11 Management Act (16 U.S.C. 1851(a));

12 “(ii) provide for regularly updated  
13 management plans, scientifically estab-  
14 lished catch limits, and bycatch assess-  
15 ments and minimization;

16 “(iii) include a program to prevent  
17 overfishing of sharks and rebuild over-  
18 fished stocks;

19 “(iv) require reporting and data col-  
20 lection;

21 “(v) be consistent with the Inter-  
22 national Plan of Action for Conservation  
23 and Management of Sharks of the Food  
24 and Agriculture Organization of the  
25 United Nations; and

1           “(vi) include a mechanism to ensure  
2           that, if the nation allows landings of  
3           sharks by foreign vessels that are not sub-  
4           ject to such programs, only shark products  
5           that comply with such programs are ex-  
6           ported to the United States.

7           “(6) PUBLICATION; PUBLIC COMMENT.—The  
8           Secretary shall—

9           “(A) publish in the Federal Register notice  
10          of applications, petitions, and decisions with re-  
11          spect to certifications, renewal of certifications,  
12          or revocation of certifications under this sub-  
13          section; and

14          “(B) provide an opportunity for public  
15          comment with respect to such applications, peti-  
16          tions, and decisions.

17          “(7) FINAL AGENCY ACTION.—A decision of the  
18          Secretary with respect to the issuance, renewal, or  
19          revocation of a certification or partial certification  
20          under this subsection, or a failure to make a deter-  
21          mination under paragraph (4) in the time required  
22          by that paragraph, shall be considered a final agency  
23          action for the purposes of chapter 7 of title 5,  
24          United States Code.



1           “(8) EFFECTIVE DATE.—The prohibition under  
2 paragraph (1) shall take effect on the earlier of—

3           “(A) the date on which regulations are  
4 prescribed under paragraph (5); or

5           “(B) the date that is 3 years after the date  
6 of the enactment of the Sustainable Shark  
7 Fisheries and Trade Act of 2018.

8           “(9) DEFINITIONS.—In this subsection:

9           “(A) SHARK.—The term ‘shark’ means  
10 any species of the subclass Elasmobranchii.

11           “(B) SHARK PRODUCT.—The term ‘shark  
12 product’ means live sharks, whole sharks, and  
13 the meat, skin, oil, fins (including wings and  
14 tails), gill rakers, cartilage, jaws, teeth, liver, or  
15 any product containing meat, skin, oil, fins (in-  
16 cluding wings and tails), gill rakers, cartilage,  
17 jaws, teeth, or liver derived from sharks.

18           “(C) SHARK FINNING.—The term ‘shark  
19 finning’ means the removal of a shark’s fins, in-  
20 cluding the tail, and discarding the remaining  
21 carcass of the shark at sea.”.

1 **SEC. 3. ACTIONS TO STRENGTHEN INTERNATIONAL FISH-**  
2 **ERY MANAGEMENT ORGANIZATIONS.**

3 Section 608(a) of the High Seas Driftnet Fishing  
4 Moratorium Protection Act (16 U.S.C. 1826i(a)) is  
5 amended—

6 (1) in paragraph (1), by striking subparagraph  
7 (F) and inserting the following:

8 “(F) to adopt shark conservation and man-  
9 agement measures and measures to prevent  
10 shark finning that are consistent with the Inter-  
11 national Plan of Action for Conservation and  
12 Management of Sharks of the Food and Agri-  
13 culture Organization of the United Nations;”;  
14 and

15 (2) by striking paragraph (3) and inserting the  
16 following:

17 “(3) seeking to enter into international agree-  
18 ments that require measures for the conservation  
19 and management of sharks and measures to prevent  
20 shark finning that are consistent with the Inter-  
21 national Plan of Action for Conservation and Man-  
22 agement of Sharks; and”.

23 **SEC. 4. INCLUSION OF RAYS AND SKATES IN SEAFOOD**  
24 **TRACEABILITY PROGRAM.**

25 Not later than one year after the date of the enact-  
26 ment of this Act, the Secretary of Commerce shall revise

1 section 300.324 of title 50, Code of Federal Regulations  
2 to include rays and skates on the list provided for under  
3 subsection (a)(2) of that section.

4 **SEC. 5. RULE OF CONSTRUCTION.**

5 Nothing in this Act shall be construed to preempt any  
6 Federal or State law establishing additional or more strin-  
7 gent requirements than the requirements of subsection (g)  
8 of section 610 of the High Seas Driftnet Fishing Morato-  
9 rium Protection Act (16 U.S.C. 1826k), as added by sec-  
10 tion 3.

11 **SEC. 6. FUNDING.**

12 There are authorized to be appropriated to the Sec-  
13 retary of Commerce to carry out this Act—

14 (1) \$325,000 for fiscal year 2019;

15 (2) \$325,000 for fiscal year 2020;

16 (3) \$400,000 for each of fiscal years 2021,  
17 2022, and 2023; and

18 (4) \$250,000 for fiscal year 2024.

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