

116TH CONGRESS
2D SESSION

H. R. 5126

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2020

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To require individuals fishing for Gulf reef fish to use certain
descending devices, 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 “Direct Enhancement
3 of Snapper Conservation and the Economy through Novel
4 Devices Act of 2020” or the “DESCEND Act of 2020”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that commercial and rec-
7 reational fishermen (which, for the purpose of this Act
8 shall include charter fishing) for Gulf reef fish are ex-
9 pected to use a venting tool or a descending device re-
10 quired for possession under section 3 when releasing fish
11 that are exhibiting signs of barotrauma. The Secretary of
12 Commerce (referred to in this Act as the “Secretary”),
13 in coordination with the Gulf of Mexico Fishery Manage-
14 ment Council, should develop and disseminate to fisher-
15 men education and outreach materials related to proper
16 use of venting tools and descending devices, and strongly
17 encourage their use by commercial and recreational fisher-
18 men when releasing fish that are exhibiting signs of
19 barotrauma.

20 **SEC. 3. REQUIRED POSSESSION OF DESCENDING DEVICES.**

21 (a) REQUIRED GEAR IN THE GULF REEF FISH FISH-
22 ERY.—Title III of the Magnuson-Stevens Fishery Con-
23 servation and Management Act (16 U.S.C. 1851 et seq.)
24 is amended by adding at the end the following:

1 **“SEC. 321. REQUIRED POSSESSION OF DESCENDING DE-**
2 **VICES.**

3 “(a) REQUIRE GEAR IN THE GULF REEF FISH FISH-
4 ERY.—It shall be unlawful for a person on board a com-
5 mercial or recreational vessel to fish for Gulf reef fish in
6 the Gulf of Mexico Exclusive Economic Zone without pos-
7 sessed on board the vessel a venting tool or a descending
8 device that is rigged and ready for use while fishing is
9 occurring.

10 “(b) SAVINGS CLAUSE.—No provision of this section
11 shall be interpreted to affect any program or activity car-
12 ried out by the Gulf Coast Ecosystem Restoration Council
13 established by the Resources and Ecosystems Sustain-
14 ability, Tourist Opportunities, and Revived Economies of
15 the Gulf Coast States Act of 2012 (33 U.S.C. 1321 note),
16 or any project contained in an approved Restoration Plan
17 developed by any Natural Resources Damage Assessment
18 Trustee Implementation Group to reduce post-release
19 mortality from barotrauma in Gulf of Mexico Reef Fish
20 Recreational Fisheries.

21 “(c) DEFINITIONS.—In this section:

22 “(1) DESCENDING DEVICE.—The term ‘de-
23 scending device’ means an instrument that—

24 “(A) will release fish at a depth sufficient
25 for the fish to be able to recover from the ef-
26 fects of barotrauma;

1 “(B) is a weighted hook, lip clamp, or box
2 that will hold the fish while it is lowered to
3 depth, or another device determined to be ap-
4 propriate by the Secretary; and

5 “(C) is capable of—

6 “(i) releasing the fish automatically;

7 “(ii) releasing the fish by actions of
8 the operator of the device; or

9 “(iii) allowing the fish to escape on its
10 own.

11 “(2) VENTING TOOL.—The term ‘venting tool’
12 has the meaning given to it by the Gulf of Mexico
13 Fishery Management Council.

14 “(3) GULF REEF FISH.—The term ‘Gulf reef
15 fish’ means any fish chosen by the Gulf of Mexico
16 Fishery Management Council that is in the reef
17 Fishery Management Plan for the purposes of this
18 Act.”.

19 (b) CIVIL PENALTIES.—Section 308(a) of the Mag-
20 nuson-Stevens Fishery Conservation and Management Act
21 (16 U.S.C. 1858(a)) is amended by inserting “or section
22 321” after “section 307”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this Act shall take effect 1 year after the date of the enact-
25 ment of this Act.

1 (d) CONFORMING AMENDMENT.—Title III of the
2 table of contents of the Magnuson-Stevens Fishery Con-
3 servation and Management Act (16 U.S.C. 1851 et seq.)
4 is amended by striking the item relating to section 305
5 and all that follows through the end of the items relating
6 to such title and inserting the following:

- “Sec. 305. Other requirements and authority.
- “Sec. 306. State jurisdiction.
- “Sec. 307. Prohibited acts.
- “Sec. 308. Civil penalties and permit sanctions.
- “Sec. 309. Criminal offenses.
- “Sec. 310. Civil forfeitures.
- “Sec. 311. Enforcement.
- “Sec. 312. Transition to sustainable fisheries.
- “Sec. 313. North Pacific fisheries conservation.
- “Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.
- “Sec. 315. Regional Coastal Disaster Assistance, Transition, and Recovery Pro-
gram.
- “Sec. 316. Bycatch Reduction Engineering Program.
- “Sec. 317. Shark Feeding.
- “Sec. 318. Cooperative Research and Management Program.
- “Sec. 319. Herring Study.
- “Sec. 320. Restoration Study.
- “Sec. 321. Required possession of descending devices.”.

7 (e) SUNSET.—Five years after the date of the enact-
8 ment of this Act, the Magnuson-Stevens Fishery Con-
9 servation and Management Act (16 U.S.C. 1851 et seq.)
10 is amended—

11 (1) in the table of contents, by striking the item
12 relating to section 321;

13 (2) in section 308(a), by striking “or section
14 321”; and

15 (3) by striking section 321.

1 **SEC. 4. IMPROVING DISCARD MORTALITY DATA.**

2 (a) AGREEMENT.—Not later than 60 days after the
3 date of the enactment of this Act, the Secretary shall enter
4 into an agreement with the National Academy of Sciences
5 to conduct a study and produce a report on discard mor-
6 tality in the Gulf of Mexico reef fish fisheries. The study
7 shall include—

8 (1) assessment of gaps and biases in reporting
9 of discards and associated discard mortality;

10 (2) assessment of uncertainty and likely im-
11 pacts of such uncertainty in discard mortality;

12 (3) assessment of the effectiveness and usage
13 rates of barotrauma-reducing devices;

14 (4) recommendations for future research prior-
15 ities; and

16 (5) recommendations for standardized reporting
17 and quantification of discards in the same metric as
18 landings for fisheries under the Gulf of Mexico Reef
19 Fish Fishery Management Plan.

20 (b) DEADLINES.—Not later than 2 years after the
21 date of the enactment of this Act, the National Academy
22 of Sciences shall complete the study required under sub-
23 section (a) and transmit the final report to the Secretary.
24 Not later than 3 months after receiving the study and re-
25 port in accordance with this subsection, the Secretary
26 shall submit the study and report to the Committee on

1 Commerce, Science, and Transportation of the Senate and
2 the Committee on Natural Resources of the House of Rep-
3 resentatives.

4 (c) PLAN.—Not later than 1 year after the Secretary
5 receives the study and report required under subsection
6 (a), Secretary and the Gulf of Mexico Fishery Manage-
7 ment Council shall develop—

8 (1) guidance for minimum standards for quan-
9 tifying and reporting discards and associated mor-
10 tality in the Gulf of Mexico Reef Fish Fishery Man-
11 agement Plan; and

12 (2) a plan to assess and monitor the effective-
13 ness and usage of barotrauma-reducing devices and
14 the impact on discard mortality rates in Gulf of
15 Mexico reef fish fisheries.

16 (d) FOLLOW-UP REPORT.—Not later than 3 years
17 after developing minimum standards and developing the
18 assessment and monitoring plan under subsection (c), the
19 Secretary shall provide a detailed report on implementa-
20 tion to the Committee on Commerce, Science, and Trans-
21 portation of the Senate and the Committee on Natural Re-
22 sources of the House of Representatives.

23 **SEC. 5. DETERMINATION OF BUDGETARY EFFECTS.**

24 The budgetary effects of this Act, for the purpose of
25 complying with the Statutory Pay-As-You-Go Act of 2010,

1 shall be determined by reference to the latest statement
2 titled “Budgetary Effects of PAYGO Legislation” for this
3 Act, submitted for printing in the Congressional Record
4 by the Chairman of the House Budget Committee, pro-
5 vided that such statement has been submitted prior to the
6 vote on passage.

Passed the House of Representatives October 1,
2020.

Attest: CHERYL L. JOHNSON,
Clerk.