

Calendar No. 317

116TH CONGRESS
1ST SESSION**S. 908****[Report No. 116–167]**

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2019

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

DECEMBER 5, 2019

Reported by Mr. WICKER, without amendment

A BILL

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data 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 “Fluke Fairness Act
5 of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Summer flounder is an important economic
4 fish stock for commercial and recreational fishermen
5 across the Northeast and Mid-Atlantic United
6 States.

7 (2) The Magnuson-Stevens Fishery Conserva-
8 tion and Management Act (16 U.S.C. 1801 et seq.)
9 was reauthorized in 2006 and instituted annual
10 catch limits and accountability measures for impor-
11 tant fish stocks.

12 (3) That reauthorization prompted fishery man-
13 agers to look at alternate management schemes to
14 rebuild depleted stocks like summer flounder.

15 (4) Summer flounder occur in both State and
16 Federal waters and are managed through a joint
17 fishery management plan between the Council and
18 the Commission.

19 (5) The Council and the Commission decided
20 that each State's recreational and commercial har-
21 vest limits for summer flounder would be based upon
22 landings in previous years.

23 (6) These historical landings were based on
24 flawed data sets that no longer provide fairness or
25 flexibility for fisheries managers to allocate resources
26 based on the best science.

1 (7) This allocation mechanism resulted in an
2 uneven split among the States along the East Coast
3 which is problematic.

4 (8) The fishery management plan for summer
5 flounder does not account for regional changes in
6 the location of the fluke stock even though the stock
7 has moved further to the north and changes in effort
8 by anglers along the East Coast.

9 (9) The States have been locked in a manage-
10 ment system based on data collected from 1981 to
11 1989, thus, the summer flounder stock is not being
12 managed using the best available science and mod-
13 ern fishery management techniques.

14 (10) It is in the interest of the Federal Govern-
15 ment to establish a new fishery management plan
16 for summer flounder that is based on current geo-
17 graphic, scientific, and economic realities.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) COMMISSION.—The term “Commission”
21 means the Atlantic States Marine Fisheries Commis-
22 sion.

23 (2) COUNCIL.—The term “Council” means the
24 Mid-Atlantic Fishery Management Council estab-
25 lished under section 302(a) of the Magnuson-Stevens

1 Fishery Conservation and Management Act (16
2 U.S.C. 1852(a)).

3 (3) NATIONAL STANDARDS.—The term “Na-
4 tional Standards” means the national standards for
5 fishery conservation and management set out in sec-
6 tion 301(a) of the Magnuson-Stevens Fishery Con-
7 servation and Management Act (16 U.S.C. 1851(a)).

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of Commerce.

10 (5) SUMMER FLOUNDER.—The term “summer
11 flounder” means the species *Paralichthys dentatus*.

12 **SEC. 4. SUMMER FLOUNDER MANAGEMENT REFORM.**

13 (a) FISHERY MANAGEMENT PLAN MODIFICATION.—
14 Not later than 1 year after the date of enactment of this
15 Act, the Council shall submit to the Secretary, and the
16 Secretary may approve, a modified fishery management
17 plan for the commercial management of summer flounder
18 under title III of the Magnuson-Stevens Fishery Conserva-
19 tion and Management Act (16 U.S.C. 1851 et seq.) or an
20 amendment to such plan that—

21 (1) shall be based on the best scientific infor-
22 mation available;

23 (2) establishes commercial quotas in direct pro-
24 portion to the distribution, abundance, and location
25 of summer flounder as reflected by fishery inde-

1 pendent surveys conducted by the National Marine
2 Fisheries Service and State agencies;

3 (3) considers regional, coastwide, or other man-
4 agement measures for summer flounder that comply
5 with the National Standards; and

6 (4) prohibits the establishment of commercial
7 catch quotas for summer flounder on a State-by-
8 State basis using historical landings data that does
9 not reflect the status of the summer flounder stock,
10 based on the most recent scientific information.

11 (b) CONSULTATION WITH THE COMMISSION.—In
12 preparing the modified fishery management plan or an
13 amendment to such a plan as described in subsection (a),
14 the Council shall consult with the Commission to ensure
15 consistent management throughout the range of the sum-
16 mer flounder.

17 (c) FAILURE TO SUBMIT PLAN.—If the Council fails
18 to submit a modified fishery management plan or an
19 amendment to such a plan as described in subsection (a)
20 that may be approved by the Secretary, the Secretary shall
21 prepare and consider such a modified plan or amendment.

22 **SEC. 5. REPORT.**

23 Not later than 1 year after the date of the approval
24 under section 4 of a modified fishery management plan
25 for the commercial management of summer flounder or

1 an amendment to such plan, the Comptroller General of
2 the United States shall submit to Congress a report on
3 the implementation of such modified plan or amendment
4 that includes an assessment of whether such implementa-
5 tion complies with the National Standards.

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