

Union Calendar No. 354

118TH CONGRESS
2D SESSION

H. R. 1792

[Report No. 118–429]

To amend the South Pacific Tuna Act of 1988, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2023

Mrs. RADEWAGEN (for herself and Mr. CASE) introduced the following bill;
which was referred to the Committee on Natural Resources

MARCH 21, 2024

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 24, 2023]

A BILL

To amend the South Pacific Tuna Act of 1988, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“South Pacific Tuna Treaty Act of 2023”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 7 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of South Pacific Tuna Act of 1988.

Sec. 3. Definitions.

Sec. 4. Prohibited acts.

Sec. 5. Exceptions.

Sec. 6. Criminal offenses.

Sec. 7. Civil penalties.

Sec. 8. Licenses.

Sec. 9. Enforcement.

Sec. 10. Findings by Secretary.

Sec. 11. Reporting requirements; disclosure of information.

Sec. 12. Closed Area stowage requirements.

Sec. 13. Observers.

Sec. 14. Technical assistance.

Sec. 15. Arbitration.

Sec. 16. Disposition of fees, penalties, forfeitures, and other moneys.

Sec. 17. Additional agreements.

8 **SEC. 2. AMENDMENT OF SOUTH PACIFIC TUNA ACT OF 1988.**

9 *Except as otherwise expressly provided, wherever in*
 10 *this Act an amendment or repeal is expressed in terms of*
 11 *an amendment to, or repeal of, a section or other provision,*
 12 *the reference shall be considered to be made to a section or*
 13 *other provision of the South Pacific Tuna Act of 1988 (16*
 14 *U.S.C. 973 et seq.).*

15 **SEC. 3. DEFINITIONS.**

16 (a) *APPLICABLE NATIONAL LAW.*—*Section 2(4) (16*
 17 *U.S.C. 973(4)) is amended by striking “described in para-*

1 *graph 1(a) of Annex I of* and inserting “noticed and in
2 *effect in accordance with*”.

3 (b) *CLOSED AREA*.—Section 2(5) (16 U.S.C. 973(5))
4 *is amended by striking “of the closed areas identified in*
5 *Schedule 2 of Annex I of* and inserting “area within the
6 *jurisdiction of a Pacific Island Party that is closed to ves-*
7 *sels pursuant to a national law of that Pacific Island Party*
8 *and is noticed and in effect in accordance with*”.

9 (c) *FISHING*.—Section 2(6) (16 U.S.C. 973(6)) *is*
10 *amended—*

11 (1) *in subparagraph (C), by inserting “for any*
12 *purpose” after “harvesting of fish”; and*

13 (2) *by amending subparagraph (F) to read as*
14 *follows:*

15 “(F) *use of any other vessel, vehicle, air-*
16 *craft, or hovercraft, for any activity described in*
17 *this paragraph except for emergencies involving*
18 *the health or safety of the crew or the safety of*
19 *a vessel.*”.

20 (d) *FISHING VESSEL*.—Section 2(7) (16 U.S.C.
21 973(7)) *is amended by striking “commercial fishing” and*
22 *inserting “commercial purse seine fishing for tuna”.*

23 (e) *LICENSING AREA*.—Section 2(8) (16 U.S.C.
24 973(8)) *is amended by striking “in the Treaty Area” and*
25 *all that follows and inserting “under the jurisdiction of a*

1 *Pacific Island Party, except for internal waters, territorial*
 2 *seas, archipelagic waters, and any Closed Area.”.*

3 (f) *LIMITED AREA; PARTY; TREATY AREA.*—Section 2
 4 (16 U.S.C. 973) is amended—

5 (1) *by striking paragraphs (10), (13), and (18);*

6 (2) *by redesignating paragraphs (11) and (12)*
 7 *as paragraphs (10) and (11), respectively;*

8 (3) *by redesignating paragraph (14) as para-*
 9 *graph (12); and*

10 (4) *by redesignating paragraphs (15) through*
 11 *(17) as paragraphs (14) through (16), respectively.*

12 (g) *REGIONAL TERMS AND CONDITIONS.*—Section 2
 13 (16 U.S.C. 973) is amended by inserting after paragraph
 14 (12), as so redesignated, the following:

15 “(13) The term ‘regional terms and conditions’
 16 means any of the terms or conditions attached by the
 17 Administrator to the license issued by the Adminis-
 18 trator, as notified by the Secretary.”.

19 **SEC. 4. PROHIBITED ACTS.**

20 (a) *IN GENERAL.*—Section 5(a) (16 U.S.C. 973c(a))
 21 is amended—

22 (1) *by striking “Except as provided in section 6*
 23 *of this Act, it” at the beginning and inserting “It”;*

24 (2) *by striking paragraphs (3) and (4);*

1 (3) by redesignating paragraphs (5) through (13)
2 as paragraphs (3) through (11), respectively;

3 (4) in paragraph (3), as so redesignated, by in-
4 serting “, except in accordance with an agreement
5 pursuant to the Treaty” after “Closed Area”;

6 (5) in paragraph (10), as so redesignated, by
7 striking “or” at the end;

8 (6) in paragraph (11), as so redesignated, by
9 striking the period at the end and inserting a semi-
10 colon; and

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

12 “(12) to violate any of the regional terms and
13 conditions; or

14 “(13) to violate any limit on authorized fishing
15 effort or catch.”.

16 (b) *IN THE LICENSING AREA.*—Section 5(b) (16 U.S.C.
17 973c(b)) is amended—

18 (1) by striking “Except as provided in section 6
19 of this Act, it” and inserting “It”;

20 (2) by striking paragraph (5); and

21 (3) by redesignating paragraphs (6) and (7) as
22 paragraphs (5) and (6), respectively.

23 **SEC. 5. EXCEPTIONS.**

24 Section 6 (16 U.S.C. 973d) is repealed.

1 **SEC. 6. CRIMINAL OFFENSES.**

2 Section 7(a) (16 U.S.C. 973e(a)) is amended by strik-
 3 ing “section 5(a) (8), (10), (11), or (12)” and inserting
 4 “paragraphs (6), (8), (9), or (10) of section 5(a)”.

5 **SEC. 7. CIVIL PENALTIES.**

6 (a) *DETERMINATION OF LIABILITY; AMOUNT; PARTICI-*
 7 *PATION BY SECRETARY OF STATE IN ASSESSMENT PRO-*
 8 *CEEDING.*—Section 8(a) (16 U.S.C. 973f(a)) is amended—

9 (1) by striking “Code” after “liable to the United
 10 States”; and

11 (2) by striking “Except for those acts prohibited
 12 by section 5(a) (4), (5), (7), (8), (10), (11), and (12),
 13 and section 5(b) (1), (2), (3), and (7) of this Act, the”
 14 and inserting “The”.

15 (b) *WAIVER OF REFERRAL TO ATTORNEY GENERAL.*—
 16 Section 8(g) (16 U.S.C. 973f(g)) is amended—

17 (1) by striking “section 5(a)(1), (2), (3), (4), (5),
 18 (6), (7), (8), (9), or (13)” and inserting “paragraphs
 19 (1), (2), (3), (4), (5), (6), (7), (11), (12), or (13) of
 20 section 5(a)”;

21 (2) in paragraph (2), by striking “, all Limited
 22 Areas closed to fishing,” after “outside of the Licens-
 23 ing Area”.

1 **SEC. 8. LICENSES.**

2 (a) *FORWARDING AND TRANSMITTAL OF VESSEL LI-*
 3 *CENSE APPLICATION.*—Section 9(b) (16 U.S.C. 973g(b)) is
 4 amended to read as follows:

5 “(b) In accordance with subsection (e), and except as
 6 provided in subsection (f), the Secretary shall forward a
 7 vessel license application to the Administrator whenever
 8 such application is in accordance with application proce-
 9 dures established by the Secretary.”.

10 (b) *FEEES AND SCHEDULES.*—Section 9(c) (16 U.S.C.
 11 973g(c)) is amended to read as follows:

12 “(c) Fees required under the Treaty shall be paid in
 13 accordance with the Treaty and any procedures established
 14 by the Secretary.”.

15 (c) *MINIMUM FEES REQUIRED TO BE RECEIVED IN*
 16 *INITIAL YEAR OF IMPLEMENTATION FOR FORWARDING AND*
 17 *TRANSMITTAL OF LICENSE APPLICATIONS.*—Section 9 (16
 18 U.S.C. 973g) is amended—

19 (1) by striking subsection (f);

20 (2) by redesignating subsections (g) and (h) as
 21 subsections (f) and (g), respectively;

22 (3) by amending subsection (f), as so redesign-
 23 nated, to read as follows:

24 “(f) The Secretary, in consultation with the Secretary
 25 of State, may determine that a license application should
 26 not be forwarded to the Administrator if—

1 “(1) the application is not in accordance with
2 the Treaty or the procedures established by the Sec-
3 retary; or

4 “(2) the owner or charterer—

5 “(A) is the subject of proceedings under the
6 bankruptcy laws of the United States, unless rea-
7 sonable financial assurances have been provided
8 to the Secretary;

9 “(B) has not established to the satisfaction
10 of the Secretary that the fishing vessel is fully in-
11 sured against all risks and liabilities normally
12 provided in maritime liability insurance; or

13 “(C) has not paid any penalty which has
14 become final, assessed by the Secretary in accord-
15 ance with this Act.”; and

16 (4) in subsection (g), as so redesignated—

17 (A) by amending paragraph (1) to read as
18 follows:

19 “(1) chapter 12113 of title 46, United States
20 Code;”;

21 (B) in paragraph (2), by inserting “of
22 1972” after “Marine Mammal Protection Act”;

23 (C) in paragraph (3), by inserting “of
24 1972” after “Marine Mammal Protection Act”;

25 and

1 (D) in the matter that follows paragraph
2 (3), by striking “any vessel documented” and all
3 that follows and inserting the following:
4 “any vessel documented under the laws of the United States
5 as of the date of enactment of the Fisheries Act of 1995
6 for which a license has been issued under subsection (a)
7 may fish for tuna in the Licensing Area, and on the high
8 seas and in waters subject to the jurisdiction of the United
9 States west of 146° west longitude and east of 129.5° east
10 longitude in accordance with international law, subject to
11 the provisions of the Treaty, this Act, and other applicable
12 law, provided that no such vessel intentionally deploys a
13 purse seine net to encircle any dolphin or other marine
14 mammal in the course of fishing.”.

15 **SEC. 9. ENFORCEMENT.**

16 (a) NOTICE REQUIREMENTS TO PACIFIC ISLAND
17 PARTY CONCERNING INSTITUTION AND OUTCOME OF LEGAL
18 PROCEEDINGS.—Section 10(c)(1) (16 U.S.C. 973h(c)(1)) is
19 amended—

20 (1) by striking “paragraph 8 of Article 4 of”;
21 and

22 (2) by striking “Article 10 of”.

23 (b) SEARCHES AND SEIZURES BY AUTHORIZED OFFI-
24 CERS; LIMITATIONS ON POWER.—Section 10(d)(1)(A) (16
25 U.S.C. 973h(d)(1)(A)) is amended—

1 (1) *in clause (ii), by striking “or” at the end;*

2 *and*

3 (2) *in clause (iii), by adding “or” at the end.*

4 **SEC. 10. FINDINGS BY SECRETARY.**

5 (a) *ORDER TO LEAVE WATERS UPON FAILURE TO*
6 *SUBMIT TO JURISDICTION OF PACIFIC ISLAND PARTY; PRO-*
7 *CEDURE APPLICABLE.—Section 11(a) (16 U.S.C. 973i(a))*
8 *is amended—*

9 (1) *by striking “, all Limited Areas,”;*

10 (2) *in paragraph (1)—*

11 (A) *in subparagraph (A), by striking*
12 *“paragraph 2 of Article 3 of”; and*

13 (B) *in subparagraph (C), by striking “with-*
14 *in the Treaty Area” and inserting “under the ju-*
15 *risdiction”; and*

16 (3) *in paragraph (2)—*

17 (A) *in subparagraph (A), by striking “sec-*
18 *tion 5 (a)(4), (a)(5), (b)(2), or (b)(3)” and in-*
19 *serting “paragraph (4) of section 5(a) or para-*
20 *graphs (2) or (3) of section 5(b);*

21 (B) *in subparagraph (B), by striking “(7)”*
22 *and inserting “(6); and*

23 (C) *in subparagraph (C), by striking “(7)”*
24 *and inserting “(6)”.*

1 (b) *ORDER OF VESSEL TO LEAVE WATERS WHERE PA-*
 2 *CIFIC ISLAND PARTY INVESTIGATING ALLEGED TREATY IN-*
 3 *FRINGEMENT.*—Section 11(b) (16 U.S.C. 973i(b)) is amend-
 4 ed by striking “paragraph 7 of Article 5 of”.

5 **SEC. 11. REPORTING REQUIREMENTS; DISCLOSURE OF IN-**
 6 **FORMATION.**

7 Section 12 (16 U.S.C. 973j) is amended to read as fol-
 8 lows:

9 **“SEC. 12. REPORTING.**

10 “(a) *PROHIBITED DISCLOSURE OF CERTAIN INFORMA-*
 11 *TION.*—The Secretary shall keep confidential and may not
 12 disclose the following information, except in accordance
 13 with subsection (b):

14 “(1) Information provided to the Secretary by
 15 the Administrator that the Administrator has des-
 16 ignated confidential.

17 “(2) Information collected by observers.

18 “(3) Information submitted to the Secretary by
 19 any person in compliance with the requirements of
 20 this Act.

21 “(b) *PERMITTED DISCLOSURE OF CERTAIN INFORMA-*
 22 *TION.*—The Secretary may disclose information described
 23 in subsection (a)—

24 “(1) if disclosure is ordered by a court;

1 “(2) if the information is used by a Federal em-
2 ployee—

3 “(A) for enforcement; or

4 “(B) in support of the homeland and na-
5 tional security missions of the Coast Guard as
6 defined in section 888 of the Homeland Security
7 Act of 2002 (6 U.S.C. 468);

8 “(3) if the information is used by a Federal em-
9 ployee or an employee of the Fishery Management
10 Council for Treaty administration or fishery manage-
11 ment and monitoring;

12 “(4) to the Administrator, in accordance with
13 the requirements of the Treaty and this Act;

14 “(5) to the secretariat or equivalent of an inter-
15 national fisheries management organization of which
16 the United States is a member, in accordance with
17 the requirements or decisions of such organization,
18 and insofar as possible, in accordance with an agree-
19 ment that prevents public disclosure of the identity of
20 any person that submits such information;

21 “(6) if the Secretary has obtained written au-
22 thorization from the person providing such informa-
23 tion, and disclosure does not violate other require-
24 ments of this Act; or

1 “(7) in an aggregate or summary form that does
 2 not directly or indirectly disclose the identity of any
 3 person that submits such information.”.

4 **SEC. 12. CLOSED AREA STOWAGE REQUIREMENTS.**

5 Section 13 (16 U.S.C. 973k) is amended by striking
 6 “. In particular, the boom shall be lowered” and all that
 7 follows and inserting “and in accordance with any require-
 8 ments established by the Secretary.”.

9 **SEC. 13. OBSERVERS.**

10 Section 14 (16 U.S.C. 973l) is repealed.

11 **SEC. 14. TECHNICAL ASSISTANCE.**

12 Section 15 (16 U.S.C. 973m) is amended to read as
 13 follows:

14 **“SEC. 15. TECHNICAL ASSISTANCE.**

15 “The Secretary and the Secretary of State may provide
 16 assistance to a Pacific Island Party to benefit such Pacific
 17 Island Party from the development of fisheries resources
 18 and the operation of fishing vessels that are licensed pursu-
 19 ant to the Treaty, including—

20 “(1) technical assistance;

21 “(2) training and capacity building opportuni-
 22 ties;

23 “(3) facilitation of the implementation of private
 24 sector activities or partnerships; and

1 “(4) other activities as determined appropriate
2 by the Secretary and the Secretary of State.”.

3 **SEC. 15. ARBITRATION.**

4 Section 16 (16 U.S.C. 973n) is amended—

5 (1) by striking “Article 6 of” after “arbitral tri-
6 bunal under”; and

7 (2) by striking “paragraph 3 of that Article”,
8 and inserting “the Treaty, shall determine the loca-
9 tion of the arbitration”.

10 **SEC. 16. DISPOSITION OF FEES, PENALTIES, FORFEITURES,**
11 **AND OTHER MONEYS.**

12 Section 17 (16 U.S.C. 973o) is amended by striking
13 “Article 4 of”.

14 **SEC. 17. ADDITIONAL AGREEMENTS.**

15 Section 18 (16 U.S.C. 973p) is amended by striking
16 “Within 30 days after” and all that follows and inserting
17 “The Secretary may establish procedures for review of any
18 agreements for additional fishing access entered into pursu-
19 ant to the Treaty.”.

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