

Calendar No. 285

105TH CONGRESS
1ST Session

H. R. 1658

[Report No. 105-148]
[Report No. 105-149]

AN ACT

To reauthorize and amend the Atlantic Striped
Bass Conservation Act and related laws.

NOVEMBER 8, 1997
Reported with amendments

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IN THE SENATE OF THE UNITED STATES

JULY 9, 1997

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

SEPTEMBER 2, 1997

Ordered, that when reported, the bill be referred to the Committee on Envi-
ronment and Public Works for a period not to exceed 20 session days
to report or be automatically discharged and placed on the calendar

NOVEMBER 8, 1997

Reported by Mr. MCCAIN, with amendments

[Omit the part struck through and insert the part printed in *italie*]

NOVEMBER 8, 1997

Referred to the Committee on Environment and Public Works pursuant to the
order of September 2, 1997

NOVEMBER 8, 1997

Reported by Mr. CHAFEE, with amendments

[Omit the part in boldface brackets and insert the part printed in boldface roman]

AN ACT

To reauthorize and amend the Atlantic Striped Bass
Conservation Act and related laws.

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 “Atlantic Striped Bass
5 Conservation Act Amendments of 1997”.

6 **SEC. 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC**
7 **STRIPED BASS CONSERVATION ACT.**

8 The Atlantic Striped Bass Conservation Act (16
9 U.S.C. 1851 note) is amended to read as follows:

10 **“SECTION 1. SHORT TITLE.**

11 “This Act may be cited as the ‘Atlantic Striped Bass
12 Conservation Act’.

13 **“SEC. 2. FINDINGS AND PURPOSES.**

14 “(a) FINDINGS.—The Congress finds and declares
15 the following:

16 “(1) Atlantic striped bass are of historic com-
17 mercial and recreational importance and economic
18 benefit to the Atlantic coastal States and to the Na-
19 tion.

20 “(2) No single government entity has full man-
21 agement authority throughout the range of the At-
22 lantic striped bass.

23 “(3) The population of Atlantic striped bass—

24 “(A) has been subject to large fluctuations
25 due to natural causes, fishing pressure, environ-

1 mental pollution, loss and alteration of habitat,
2 inadequacy of fisheries conservation and man-
3 agement practices, and other causes; and

4 “(B) risks potential depletion in the future
5 without effective monitoring and conservation
6 and management measures.

7 “(4) It is in the national interest to implement
8 effective procedures and measures to provide for ef-
9 fective interjurisdictional conservation and manage-
10 ment of this species.

11 “(b) PURPOSE.—It is therefore declared to be the
12 purpose of the Congress in this Act to support and encour-
13 age the development, implementation, and enforcement of
14 effective interstate action regarding the conservation and
15 management of the Atlantic striped bass.

16 **“SEC. 3. DEFINITIONS.**

17 “As used in this Act—

18 “(1) the term ‘Magnuson Act’ means the Mag-
19 nuson-Stevens Fishery Conservation and Manage-
20 ment Act (16 U.S.C. 1801 et seq.).

21 “(2) The term ‘Atlantic striped bass’ means
22 members of stocks or populations of the species
23 *Morone saxatilis*, which ordinarily migrate seaward
24 of the waters described in paragraph (3)(A)(i).

25 “(3) The term ‘coastal waters’ means—

1 “(A) for each coastal State referred to in
2 paragraph (4)(A)—

3 “(i) all waters, whether salt or fresh,
4 of the coastal State shoreward of the base-
5 line from which the territorial sea of the
6 United States is measured; and

7 “(ii) the waters of the coastal State
8 seaward from the baseline referred to in
9 clause (i) to the inner boundary of the ex-
10 clusive economic zone;

11 “(B) for the District of Columbia, those
12 waters within its jurisdiction; and

13 “(C) for the Potomac River Fisheries Com-
14 mission, those waters of the Potomac River
15 within the boundaries established by the Poto-
16 mac River Compact of 1958.

17 “(4) The term ‘coastal State’ means—

18 “(A) Pennsylvania and each State of the
19 United States bordering on the Atlantic Ocean
20 north of the State of South Carolina;

21 “(B) the District of Columbia; and

22 “(C) the Potomac River Fisheries Commis-
23 sion established by the Potomac River Compact
24 of 1958.

1 “(5) The term ‘Commission’ means the Atlantic
2 States Marine Fisheries Commission established
3 under the interstate compact consented to and ap-
4 proved by the Congress in Public Laws 77–539 and
5 81–721.

6 “(6) The term ‘exclusive economic zone’ has the
7 meaning given such term in section 3(6) of the Mag-
8 nuson Act (16 U.S.C. 1802(6)).

9 “(7) The term ‘fishing’ means—

10 “(A) the catching, taking, or harvesting of
11 Atlantic striped bass, except when incidental to
12 harvesting that occurs in the course of commer-
13 cial or recreational fish catching activities di-
14 rected at a species other than Atlantic striped
15 bass;

16 “(B) the attempted catching, taking, or
17 harvesting of Atlantic striped bass; and

18 “(C) any operation at sea in support of, or
19 in preparation for, any activity described in
20 subparagraph (A) or (B). The term does not in-
21 clude any scientific research authorized by the
22 Federal Government or by any State govern-
23 ment.

1 “(8) The term ‘moratorium area’ means the
2 coastal waters with respect to which a declaration
3 under section 5(a) applies.

4 “(9) The term ‘moratorium period’ means the
5 period beginning on the day on which moratorium is
6 declared under section 5(a) regarding a coastal
7 State and ending on the day on which the Commis-
8 sion notifies the Secretaries that that State has
9 taken appropriate remedial action with respect to
10 those matters that were the case of the moratorium
11 being declared.

12 “(10) The term ‘Plan’ means a plan for manag-
13 ing Atlantic striped bass, or an amendment to such
14 plan, that is prepared and adopted by the Commis-
15 sion.

16 “(11) The term ‘Secretary’ means the Secretary
17 of Commerce or a designee of the Secretary of the
18 Secretary of Commerce.

19 “(12) The term ‘Secretaries’ means the Sec-
20 retary of Commerce and the Secretary of the Inte-
21 rior or their designees.

1 **“SEC. 4. MONITORING OF IMPLEMENTATION AND EN-**
2 **FORCEMENT BY COASTAL STATES.**

3 “(a) DETERMINATION—During December of each
4 fiscal year, and at any other time it deems necessary the
5 Commission shall determine—

6 “(1) whether each coastal State has adopted all
7 regulatory measures necessary to fully implement
8 the Plan in its coastal waters; and

9 “(2) whether the enforcement of the Plan by
10 each coastal State is satisfactory.

11 “(b) SATISFACTORY STATE ENFORCEMENT—For
12 purposes of subsection (a)(2), enforcement by a coastal
13 State shall not be considered satisfactory by the Commis-
14 sion if, in its view, the enforcement is being carried out
15 in such a manner that the implementation of the Plan
16 within the coastal waters of the State is being, or will like-
17 ly be, substantially and adversely affected.

18 “(c) NOTIFICATION OF SECRETARIES—The Commis-
19 sion shall immediately notify the Secretaries of each nega-
20 tive determination made by it under subsection (a).

21 **“SEC. 5. MORATORIUM.**

22 “(a) SECRETARIAL ACTION AFTER NOTIFICATION.—
23 Upon receiving notice from the Commission under section
24 4(c) of a negative determination regarding a coastal State,
25 the Secretaries shall determine jointly, within thirty days,
26 whether that coastal State is in compliance with the Plan

1 and, if the State is not in compliance, the Secretaries shall
2 declare jointly a moratorium on fishing for Atlantic
3 striped bass within the coastal waters of that coastal
4 State. In making such a determination, the Secretaries
5 shall carefully consider and review the comments of the
6 Commission and that coastal State in question.

7 “(b) PROHIBITED ACTS DURING MORATORIUM.—
8 During a moratorium period, it is unlawful for any per-
9 son—

10 “(1) to engage in fishing within the moratorium
11 area;

12 “(2) to land, or attempt to land, Atlantic
13 striped bass that are caught, taken, or harvested in
14 violation of paragraph (1);

15 “(3) to land lawfully harvested Atlantic striped
16 bass within the boundaries of a coastal State when
17 a moratorium declared under subsection (a) applies
18 to that State; or

19 “(4) to fail to return to the water Atlantic
20 striped bass to which the moratorium applies that
21 are caught incidental to harvesting that occurs in
22 the course of commercial or recreational fish catch-
23 ing activities, regardless of the physical condition of
24 the striped bass when caught.

25 “(c) CIVIL PENALTIES.—

1 “(1) CIVIL PENALTY.—Any person who com-
2 mits any act that is unlawful under subsection (b)
3 shall be liable to the United States for a civil penalty
4 as provided by section 308 of the Magnuson Act (16
5 U.S.C. 1858).

6 “(2) CIVIL FORFEITURES.—

7 “(A) IN GENERAL.—Any vessel (including
8 its gear, equipment, appurtenances, stores, and
9 cargo) used, and any fish (or the fair market
10 value thereof) taken or retained, in any manner,
11 in connection with, or as the result of, the com-
12 mission of any act that is unlawful under sub-
13 section (b) shall be subject to forfeiture to the
14 United States as provided in section 310 of the
15 Magnuson Act (16 U.S.C. 1860).

16 “(B) DISPOSAL OF FISH.—Any fish seized
17 pursuant to this Act may be disposed of pursu-
18 ant to the order of a court of competent juris-
19 diction, or, if perishable, in a manner prescribed
20 in regulations.

21 “(d) ENFORCEMENT.—A person authorized by the
22 **[Secretary] Secretaries** or the Secretary of the depart-
23 ment in which the Coast Guard is operating may take any
24 action to enforce a moratorium declared under subsection
25 (a) that an officer authorized by the Secretary under sec-

1 tion 311(b) of the Magnuson Act (16 U.S.C. 1861(b))
2 may take to enforce that Act (16 U.S.C. 1801 et seq.).
3 The **【Secretary】 Secretaries** may, by agreement, on a
4 reimbursable basis or otherwise, utilize the personnel,
5 services, equipment (including aircraft and vessels), and
6 facilities of any other Federal department or agency and
7 of any agency of a State in carrying out that enforcement.

8 “(e) REGULATIONS.—The **【Secretary】 Secretar-**
9 **ies** may issue regulations to implement this section.

10 **“SEC. 6. CONTINUING STUDIES OF STRIPED BASS POPU-**
11 **LATIONS.**

12 “(a) IN GENERAL.—For the purposes of carrying out
13 this Act, the Secretaries shall conduct continuing, com-
14 prehensive studies of Atlantic striped bass stocks. These
15 studies shall include, but shall not be limited to, the follow-
16 ing:

17 “(1) Annual stock assessments, using fishery-
18 dependent and fishery-independent data, for the pur-
19 poses of extending the long-term population record
20 generated by the annual striped bass study con-
21 ducted by the Secretaries before 1994 and under-
22 standing the population dynamics of Atlantic striped
23 bass.

24 “(2) Investigations of the causes of fluctuations
25 in Atlantic striped bass populations.

1 “(3) Investigations of the effects of water qual-
2 ity, land use, and other environmental factors on the
3 recruitment, spawning potential, mortality, and
4 abundance of Atlantic striped bass populations, in-
5 cluding the Delaware River population.

6 “(4) Investigations of—

7 “(A) the interactions between Atlantic
8 striped bass and other fish, including bluefish,
9 menhaden, mackerel, and other forage fish or
10 possible competitors, stock assessments of these
11 species, to the extent appropriate; and

12 “(B) the effects of interspecies predation
13 and competition on the recruitment, spawning
14 potential mortality, and abundance of Atlantic
15 striped bass.

16 “(b) *SOCIO-ECONOMIC STUDY.*—*The Secretaries, in*
17 *consultation with the Atlantic States Marine Fisheries*
18 *Commission, shall conduct a study of the socio-economic*
19 *benefits of the Atlantic striped bass resource. The Secretaries*
20 *shall issue a report to the Congress concerning the findings*
21 *of this study no later than September 30, 1998.*

22 “~~(b)~~ (c) *REPORTS.*—The Secretaries shall make bien-
23 nial reports to the Congress and to the Commission con-
24 cerning the progress and findings of studies conducted
25 under subsection (a) and shall make those reports public.

1 Such reports shall, to the extent appropriate, contain rec-
2 ommendations of actions which could be taken to encour-
3 age the sustainable management of Atlantic striped bass.

4 **“SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERA-**
5 **TIVE AGREEMENTS.**

6 “(a) AUTHORIZATION.—For each of fiscal years
7 1998, 1999, and 2000, there are authorized to be appro-
8 priated to carry out this Act—

9 “(1) \$800,000 to the Secretary of Commerce;
10 and

11 “(2) \$250,000 to the Secretary of the Interior.

12 “(b) COOPERATIVE AGREEMENTS.—The Secretaries
13 may enter into cooperative agreements with the Atlantic
14 States Marine Fisheries Commission or with States, for
15 the purpose of using amounts appropriated pursuant to
16 this section to provide financial assistance for carrying out
17 the purposes of this Act.

18 **“SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF MAN-**
19 **AGEMENT PLANS AND AMENDMENTS.**

20 “(a) STANDARDS AND PROCEDURES.—In order to
21 ensure the opportunity for public participation in the prep-
22 aration of management plans and amendments to manage-
23 ment plans for Atlantic striped bass, the Commission shall
24 prepare such plans and amendments in accordance with
25 the standards and procedures established under section

1 805(a)(2) of the Atlantic Coastal Fisheries Cooperative
2 Management Act.

3 “(b) APPLICATION.—Subsection (a) shall apply to
4 management plans and amendments adopted by the Com-
5 mission after the 6-month period beginning on the date
6 of enactment of the Atlantic Striped Bass Conservation
7 Act Amendments of 1997.

8 **“SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE**
9 **ECONOMIC ZONE.**

10 “(a) **REGULATION OF FISHING IN EXCLUSIVE ECO-**
11 **NOMIC ZONE.**—The Secretary shall promulgate regula-
12 tions governing fishing for Atlantic striped bass in the ex-
13 clusive economic zone that the Secretary determines are—

14 “(1) consistent with the national standards set
15 forth in section 301 of the Magnuson Act (16 U.S.C.
16 1851);

17 “(2) compatible with the Plan and each Federal
18 moratorium in effect on fishing for Atlantic striped
19 bass within the coastal waters of a coastal State;
20 and

21 “(3) sufficient to assure the long-term con-
22 servation of Atlantic striped bass populations.

23 “(a) *REGULATION OF FISHING IN EXCLUSIVE ECO-*
24 *NOMIC ZONE.*—*The Secretary shall promulgate regulations*

1 *governing fishing for Atlantic striped bass in the exclusive*
2 *economic zone that the Secretary determines—*

3 “(1) *are consistent with the national standards*
4 *set forth in section 301 of the Magnuson Act (16*
5 *U.S.C. 1851);*

6 “(2) *are compatible with the Plan and each Fed-*
7 *eral moratorium in effect on fishing for Atlantic*
8 *striped bass within the coastal waters of a coastal*
9 *State;*

10 “(3) *ensure the effectiveness of State regulations*
11 *on fishing for Atlantic striped bass within the coastal*
12 *waters of a coastal State; and*

13 “(4) *are sufficient to assure the long-term con-*
14 *servation of Atlantic striped bass populations.*

15 “(b) CONSULTATION; PERIODIC REVIEW OF REGU-
16 LATIONS.—In preparing regulations under subsection (a),
17 the Secretary shall consult with the Atlantic States Marine
18 Fisheries Commission, the appropriate Regional Fishery
19 Management Councils, and each affected Federal, State,
20 and local government entity. The Secretary shall periodi-
21 cally review regulations promulgated under subsection (a),
22 and if necessary to ensure their continued consistency with
23 the requirements of subsection (a), shall amend those reg-
24 ulations.

1 “(c) APPLICABILITY OF MAGNUSON ACT PROVI-
2 SIONS.—The provisions of sections 307, 308, 309, 310,
3 and 311 of the Magnuson Act (16 U.S.C. 1857, 1858,
4 1859, 1860, and 1861) regarding prohibited acts, civil
5 penalties, criminal offenses, civil forfeitures, and enforce-
6 ment shall apply with respect to regulations and any plan
7 issued under subsection (a) of this section as if such regu-
8 lations or plan were issued under the Magnuson Act.”.

9 **SEC. 3. REPEALS.**

10 (a) ANADROMOUS FISH CONSERVATION ACT.—Sec-
11 tion 7 of the Anadromous Fish Conservation Act (16
12 U.S.C. 757g) is repealed.

13 (b) ALBEMARLE SOUND-ROANOKE RIVER BASIN.—
14 Section 5 of the Act entitled “An Act to authorize appro-
15 priations to carry out the Atlantic Striped Bass Conserva-
16 tion Act for fiscal years 1989 through 1991, and for other
17 purposes”, approved November 3, 1988 (16 U.S.C. 1851
18 note; 102 Stat. 2984), relating to studies of the
19 Albermarle Sound-Roanoke River Basin striped bass
20 stock, is repealed.

21 (c) REGULATION OF FISHING IN EXCLUSIVE ECO-
22 NOMIC ZONE.—Section 6 of the Act entitled “An Act to
23 authorize appropriations to carry out the Atlantic Striped
24 Bass Conservation Act for fiscal years 1989 through

- 1 1991, and for other purposes”, approved November 3,
- 2 1988 (102 Stat. 2986; 16 U.S.C. 1851 note) is repealed.