

107TH CONGRESS
1ST SESSION

S. 637

To amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to authorize the establishment of individual fishery quota systems.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2001

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

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to authorize the establishment of individual fishery quota systems.

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 “IFQ Act of 2001”.

5 **SEC. 2. INDIVIDUAL QUOTA PROGRAMS.**

6 (a) **AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA**
7 **SYSTEMS.**—Section 303 of the Magnuson-Stevens Fishery
8 Conservation and Management Act (16 U.S.C. 1853) is
9 amended by adding at the end the following:

1 “(e) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA
2 SYSTEMS.—

3 “(1) CONDITIONS.—A fishery management plan
4 which establishes an individual quota system for a
5 fishery after September 30, 2002—

6 “(A) shall provide for administration of the
7 system by the Secretary in accordance with the
8 terms of the plan;

9 “(B) shall not create, or be construed to
10 create, any right, title, or interest in or to any
11 fish before the fish is harvested;

12 “(C) shall include provisions which estab-
13 lish procedures and requirements for each
14 Council having authority over the fishery, for—

15 “(i) reviewing and revising the terms
16 of the plan that establish the system; and

17 “(ii) renewing, reallocating, and re-
18 issuing individual quotas if determined ap-
19 propriate by each Council;

20 “(D) shall include provisions to—

21 “(i) promote sustainable management
22 of the fishery;

23 “(ii) provide for fair and equitable al-
24 location of individual quotas under the sys-
25 tem;

1 “(iii) minimize negative social and
2 economic impacts of the system on local
3 coastal communities;

4 “(iv) ensure adequate enforcement of
5 the system, including the use of observers
6 where appropriate at a level of coverage
7 that should yield statistically significant re-
8 sults; and

9 “(v) take into account present partici-
10 pation and historical fishing practices, in
11 the fishery; and

12 “(E) include provisions that prevent any
13 person or entity from acquiring an excessive
14 share of individual quotas issued for a fishery.

15 “(2) PLAN CHARACTERISTICS.—An individual
16 quota issued under an individual quota system es-
17 tablished by a fishery management plan—

18 “(A) shall be considered a grant, to the
19 holder of the individual quota, of permission to
20 engage in activities permitted by the individual
21 quota;

22 “(B) may be revoked or limited at any
23 time, in accordance with the terms of the plan
24 and regulations issued by the Secretary or the
25 Council having authority over the fishery for

1 which it is issued, if necessary for the conserva-
2 tion and management of the fishery (including
3 as a result of a violation of this Act or any reg-
4 ulation prescribed under this Act);

5 “(C) if revoked or limited by the Secretary
6 or a Council, shall not confer any right of com-
7 pensation to the holder of the individual quota;

8 “(D) may be received and held in accord-
9 ance with regulations prescribed by the Sec-
10 retary under this Act;

11 “(E) shall, except in the case of an indi-
12 vidual quota allocated under an individual
13 quota system established before the date of en-
14 actment of the IFQ Act of 2001, expire not
15 later than 5 years after the date it is issued, in
16 accordance with the terms of the fishery man-
17 agement plan; and

18 “(F) upon expiration under subparagraph
19 (E), may be renewed, reallocated, or reissued if
20 determined appropriate by each Council having
21 authority over the fishery.

22 “(3) ELIGIBLE HOLDERS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), any fishery management
25 plan that establishes an individual quota system

1 for a fishery may authorize individual quotas to
2 be held by or issued under the system to fishing
3 vessel owners, fishermen, and crew members.

4 “(B) NON-CITIZENS NOT ELIGIBLE.—An
5 individual who is not a citizen of the United
6 States may not hold an individual quota issued
7 under a fishery management plan.

8 “(4) PERMITTED PROVISIONS.—Any fishery
9 management plan that establishes an individual
10 quota system for a fishery may include provisions
11 that—

12 “(A) allocate individual quotas under the
13 system among categories of vessels; and

14 “(B) provide a portion of the annual har-
15 vest in the fishery for entry-level fishermen,
16 small vessel owners, or crewmembers who do
17 not hold or qualify for individual quotas.

18 “(5) TERMINATION OR LIMITATION.—

19 “(A) GROUNDS.—An individual quota sys-
20 tem established for a fishery may be limited or
21 terminated at any time if necessary for the con-
22 servation and management of the fishery, by—

23 “(i) the Council which has authority
24 over the fishery for which the system is es-

1 tablISHED, through a fishery management
2 plan or amendment; or

3 “(ii) the Secretary, in the case of any
4 individual quota system established by a
5 fishery management plan developed by the
6 Secretary.

7 “(B) EFFECT ON OTHER AUTHORITY.—
8 This paragraph does not diminish the authority
9 of the Secretary under any other provision of
10 this Act.

11 “(6) REQUIRED PROVISIONS; REALLOCA-
12 TIONS.—Any individual quota system established for
13 a fishery after the date of enactment of the IFQ Act
14 of 2001—

15 “(A) shall not allow individual quota
16 shares under the system to be sold, transferred,
17 or leased;

18 “(B) shall prohibit a person from holding
19 an individual quota share under the system un-
20 less the person participates in the fishery for
21 which the individual quota share is issued; and

22 “(C) shall require that if any person that
23 holds an individual quota share under the sys-
24 tem does not engage in fishing under the indi-
25 vidual quota share for 3 or more years in any

1 period of 5 consecutive years, the individual
2 quota share shall revert to the Secretary and
3 shall be reallocated under the system to quali-
4 fied participants in the fishery in a fair and eq-
5 uitable manner.

6 “(7) EXCEPTIONS.—

7 “(A) HARDSHIP.—The Secretary may sus-
8 pend the applicability of paragraph (6) for indi-
9 viduals on a case-by-case basis due to death,
10 disablement, undue hardship, retirement, or in
11 any case in which fishing is prohibited by the
12 Secretary or the Council.

13 “(B) TRANSFER TO FAMILY MEMBERS.—
14 Notwithstanding paragraph (6)(A), the Sec-
15 retary may permit the transfer of an individual
16 fishing quota, on a case-by-case basis, from an
17 individual to a member of that individual’s fam-
18 ily under circumstances described in subpara-
19 graph (A) through a simple and expeditious
20 process.

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

22 “(A) INDIVIDUAL QUOTA SYSTEM.—The
23 term ‘individual quota system’ means a system
24 that limits access to a fishery in order to

1 achieve optimum yield, through the allocation
2 and issuance of individual quotas.

3 “(B) INDIVIDUAL QUOTA.—The term ‘indi-
4 vidual quota’ means a grant of permission to
5 harvest a quantity of fish in a fishery, during
6 each fishing season for which the permission is
7 granted, equal to a stated percentage of the
8 total allowable catch for the fishery.”.

9 (b) APPROVAL OF FISHERY MANAGEMENT PLANS
10 ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section
11 304 of that Act (16 U.S.C. 1854) is further amended by
12 adding after subsection (h) the following:

13 “(i) REFERENDUM PROCEDURE.—

14 “(1) A Council may prepare and submit a fish-
15 ery management plan, plan amendment, or regula-
16 tion that creates an individual fishing quota or other
17 quota-based program only if both the preparation
18 and the submission of such plan, amendment or reg-
19 ulation are approved in separate referenda con-
20 ducted under paragraph (2).

21 “(2) The Secretary, at the request of a Council,
22 shall conduct the referenda described in paragraph
23 (1). Each referendum shall be decided by a two-
24 thirds majority of the votes cast by eligible permit
25 holders. The Secretary shall develop guidelines to de-

1 termine procedures and eligibility requirements for
2 referenda and to conduct such referenda in a fair
3 and equitable manner.

4 “(j) ACTION ON LIMITED ACCESS SYSTEMS.—

5 “(1) In addition to the other requirements of
6 this Act, the Secretary may not approve a fishery
7 management plan that establishes a limited access
8 system that provides for the allocation of individual
9 quotas (in this subsection referred to as an ‘indi-
10 vidual quota system’) unless the plan complies with
11 section 303(e).

12 “(2) Within 1 year after receipt of rec-
13 ommendations from the review panel established
14 under paragraph (3), the Secretary shall issue regu-
15 lations which establish requirements for establishing
16 an individual quota system. The regulations shall be
17 developed in accordance with the recommendations.
18 The regulations shall—

19 “(A) specify factors that shall be consid-
20 ered by a Council in determining whether a
21 fishery should be managed under an individual
22 quota system;

23 “(B) ensure that any individual quota sys-
24 tem is consistent with the requirements of sec-
25 tions 303(b) and 303(e), and require the collec-

1 tion of fees in accordance with subsection (d)(2)
2 of this section;

3 “(C) provide for appropriate penalties for
4 violations of individual quotas systems, includ-
5 ing the revocation of individual quotas for such
6 violations;

7 “(D) include recommendations for poten-
8 tial management options related to individual
9 quotas, including the use of leases or auctions
10 by the Federal Government in the establish-
11 ment or allocation of individual quotas; and

12 “(E) establish a central lien registry sys-
13 tem for the identification, perfection, and deter-
14 mination of lien priorities, and nonjudicial fore-
15 closure of encumbrances, on individual quotas.

16 “(3)(A) Not later than 6 months after the date
17 of the enactment of the IFQ Act of 2001, the Sec-
18 retary shall establish a review panel to evaluate fish-
19 ery management plans in effect under this Act that
20 establish a system for limiting access to a fishery,
21 including individual quota systems, and other limited
22 access systems, with particular attention to—

23 “(i) the success of the systems in con-
24 serving and managing fisheries;

1 “(ii) the costs of implementing and enforce-
2 ing the systems;

3 “(iii) the economic effects of the systems
4 on local communities; and

5 “(iv) the use of auctions in the establish-
6 ment or allocation of individual quota shares.

7 “(B) The review panel shall consist of—

8 “(i) the Secretary or a designee of the Sec-
9 retary;

10 “(ii) the Commandant of the Coast Guard;

11 “(iii) a representative of each Council, se-
12 lected by the Council; and

13 “(iv) 5 individuals with knowledge and ex-
14 perience in fisheries management.

15 “(C) Based on the evaluation required under
16 subparagraph (A), the review panel shall, by Sep-
17 tember 30, 2003—

18 “(i) submit comments to the Councils and
19 the Secretary with respect to the revision of in-
20 dividual quota systems that were established
21 prior to June 1, 1995; and

22 “(ii) submit recommendations to the Sec-
23 retary for the development of the regulations
24 required under paragraph (2).”.

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