

108TH CONGRESS
2D SESSION

S. 2547

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2004

Mr. VOINOVICH (for himself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, 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 **TITLE I—EXCLUSION OF NON-**
4 **NATIVE SPECIES FROM MI-**
5 **GRATORY BIRD TREATY ACT**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Migratory Bird Treaty
8 Reform Act of 2004”.

1 **SEC. 102. EXCLUSION OF NONNATIVE SPECIES FROM AP-**
2 **PLICATION OF CERTAIN PROHIBITIONS**
3 **UNDER MIGRATORY BIRD TREATY ACT.**

4 Section 2 of the Migratory Bird Treaty Act (16
5 U.S.C. 703) is amended—

6 (1) in the first sentence, by striking “That un-
7 less and except as permitted” and inserting the fol-
8 lowing: “(a) In General.—Unless and except as per-
9 mitted”; and

10 (2) by adding at the end the following:

11 “(b) **LIMITATION ON APPLICATION TO INTRODUCED**
12 **SPECIES.—**

13 “(1) **IN GENERAL.—**This section applies only to
14 migratory bird species that are native to the United
15 States the occurrence of which in the United States
16 is entirely the result of natural biological or ecologi-
17 cal conditions.

18 “(2) **TREATMENT OF INTRODUCED SPECIES.—**
19 For purposes of paragraph (1)—

20 “(A) a bird species shall not be treated as
21 native to the United States if the species occurs
22 in the United States solely as a result of inten-
23 tional or unintentional human-assisted introduc-
24 tion; and

25 “(B) a migratory bird species shall be
26 treated as native to the United States if—

1 “(i) the species was native to the
2 United States and extant in 1918;

3 “(ii) the species was extirpated after
4 1918 throughout its range in the United
5 States; and

6 “(iii) after such extirpation, the spe-
7 cies was reintroduced in the United States
8 as a part of a program carried out by a
9 Federal agency.”.

10 **SEC. 103. PUBLICATION OF LIST.**

11 (a) **IN GENERAL.**—Not later than 90 days after the
12 date of enactment of this Act, the Secretary of the Interior
13 shall publish in the Federal Register a list of all nonnative,
14 human-introduced bird species to which the Migratory
15 Bird Treaty Act (16 U.S.C. 703 et seq.) does not apply
16 that belong to biological families of migratory birds cov-
17 ered under any of the migratory bird conventions with
18 Great Britain (for Canada), Mexico, Russia, or Japan.

19 (b) **PUBLIC COMMENT.**—Before publishing the list
20 under subsection (a), the Secretary shall provide adequate
21 time for public comment.

22 (c) **EFFECT OF SECTION.**—Nothing in this section
23 shall delay implementation of other provisions of this Act
24 or amendments made by this Act that exclude nonnative,

1 human-introduced bird species from the application of the
 2 Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

3 **TITLE II—CONSERVATION OF**
 4 **NEOTROPICAL MIGRATORY**
 5 **BIRDS**

6 **SEC. 201. SHORT TITLE.**

7 This title may be cited as the “Neotropical Migratory
 8 Bird Conservation Improvement Act of 2004”.

9 **SEC. 202. AMENDMENTS TO NEOTROPICAL MIGRATORY**
 10 **BIRD CONSERVATION ACT.**

11 (a) FINDINGS.—Section 2(1) of the Neotropical Mi-
 12 gratory Bird Conservation Act (16 U.S.C. 6101(1)) is
 13 amended by inserting “, but breed in Canada and the
 14 United States” after “the Caribbean”.

15 (b) PURPOSES.—Section 3(2) of the Neotropical Mi-
 16 gratory Bird Conservation Act (16 U.S.C. 6102(2)) is
 17 amended by inserting “Canada,” after “United States,”.

18 (c) DEFINITION OF CARIBBEAN.—Section 4 of the
 19 Neotropical Migratory Bird Conservation Act (16 U.S.C.
 20 6103) is amended—

21 (1) by redesignating paragraph (3) as para-
 22 graph (4);

23 (2) by striking paragraph (1) and inserting the
 24 following:

1 “(1) CARIBBEAN.—The term ‘Caribbean’ in-
2 includes Puerto Rico and the United States Virgin Is-
3 lands.”; and

4 (3) by inserting after paragraph (2) the fol-
5 lowing:

6 “(3) FUND.—The term ‘Fund’ means the
7 Neotropical Migratory Bird Conservation Fund es-
8 tablished by section 9(a).”.

9 (d) COST SHARING.—Section 5(e) of the Neotropical
10 Migratory Bird Conservation Act (16 U.S.C. 6104(e)) is
11 amended—

12 (1) in paragraph (1), by striking “25 percent”
13 and inserting “50 percent”; and

14 (2) in paragraph (2), by striking subparagraph
15 (B) and inserting the following:

16 “(B) FORM OF PAYMENT.—

17 “(i) PROJECTS IN THE UNITED
18 STATES AND CANADA.—The non-Federal
19 share required to be paid for a project car-
20 ried out in the United States or Canada
21 shall be paid in cash.

22 “(ii) PROJECTS IN LATIN AMERICA
23 AND THE CARIBBEAN.—The non-Federal
24 share required to be paid for a project car-

1 ried out in Latin America or the Caribbean
2 may be paid in cash or in kind.”.

3 (e) REPORT.—Section 8 of the Neotropical Migratory
4 Bird Conservation Act (16 U.S.C. 6107) is amended—

5 (1) by striking “October 1, 2002,” and insert-
6 ing “1 year after the date of enactment of the
7 Neotropical Migratory Bird Conservation Improve-
8 ment Act of 2004,”;

9 (2) by striking “this Act, including rec-
10 ommendations” and inserting “this Act that in-
11 cludes—

12 “(1) recommendations”;

13 (3) by striking the period at the end and insert-
14 ing “; and”; and

15 (4) by adding at the end the following:

16 “(2) a description of the activities of the advi-
17 sory group convened under section 7(b).”.

18 (f) NEOTROPICAL MIGRATORY BIRD CONSERVATION
19 FUND.—

20 (1) IN GENERAL.—Section 9 of the Neotropical
21 Migratory Bird Conservation Act (16 U.S.C. 6108)
22 is amended—

23 (A) by striking the section heading and all
24 that follows through subsection (b) and insert-
25 ing the following:

1 **“SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION**
2 **FUND.**

3 “(a) ESTABLISHMENT.—There is established in the
4 Treasury a separate account to be known as the
5 ‘Neotropical Migratory Bird Conservation Fund’, which
6 shall consist of amounts deposited in the Fund by the Sec-
7 retary of the Treasury under subsection (b).

8 “(b) DEPOSITS IN THE FUND.—The Secretary of the
9 Treasury shall deposit into the Fund—

10 “(1) all amounts received by the Secretary in
11 the form of donations under subsection (d); and

12 “(2) other amounts appropriated to the Fund.”;
13 and

14 (B) in subsection (d), by striking “Ac-
15 count” and inserting “Fund”.

16 (2) ADMINISTRATIVE EXPENSES.—Section
17 9(c)(2) of the Neotropical Migratory Bird Conserva-
18 tion Act (16 U.S.C. 6108(c)(2)) is amended by
19 striking “\$80,000” and inserting “\$150,000”.

20 (3) TRANSFER.—The Secretary of the Treasury
21 shall transfer to the Neotropical Migratory Bird
22 Conservation Fund amounts that were in the
23 Neotropical Migratory Bird Conservation Account
24 immediately before the date of enactment of this
25 Act.

1 (g) AUTHORIZATION OF APPROPRIATIONS.—Section
2 10 of the Neotropical Migratory Bird Conservation Act
3 (16 U.S.C. 6109) is amended to read as follows:

4 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

5 “(a) IN GENERAL.—There are authorized to be ap-
6 propriated to the Fund to carry out this Act—

7 “(1) \$5,000,000 for each of fiscal years 2005
8 and 2006;

9 “(2) \$10,000,000 for fiscal year 2007; and

10 “(3) \$15,000,000 for fiscal year 2008.

11 “(b) AVAILABILITY.—Amounts made available under
12 this section shall remain available until expended.

13 “(c) ALLOCATION.—Of amounts made available
14 under this section for a fiscal year, not less than 75 per-
15 cent shall be expended for projects carried out outside the
16 United States.

17 “(d) LIMITATION ON EXPENDITURES FOR PROJECTS
18 IN CANADA.—Amounts made available under this section
19 for a fiscal year shall not be used for any project in Can-
20 ada unless the amount available to carry out this Act for
21 that fiscal year is greater than \$10,000,000.”.

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