

Calendar No. 692

114TH CONGRESS
2^D SESSION**S. 3099****[Report No. 114–388]**

To preserve and enhance saltwater fishing opportunities for recreational anglers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2016

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

NOVEMBER 28, 2016

Reported by Mr. THUNE, without amendment

A BILL

To preserve and enhance saltwater fishing opportunities for recreational anglers, 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 “Access for Sportfishing
5 Act of 2016”.

1 **SEC. 2. FISHERY MANAGEMENT MEASURES IN BISCAYNE**
2 **NATIONAL PARK.**

3 (a) IN GENERAL.—Notwithstanding anything to the
4 contrary in section 103 of Public Law 96–287 (16 U.S.C.
5 410gg–2), the Secretary of the Interior may not imple-
6 ment or enforce any restrictions on recreational fishing,
7 charter fishing, or commercial fishing in any portion of
8 Biscayne National Park, developed as part of any general
9 management plan, fishery management plan, or other
10 measure adopted after December 31, 2014.

11 (b) EXCEPTION.—Notwithstanding the general prohi-
12 bition under subsection (a), the Secretary of the Interior
13 may implement and enforce restrictions on recreational
14 fishing, charter fishing, or commercial fishing in any por-
15 tion of Biscayne National Park as part of a park fishery
16 management plan if the restrictions are—

17 (1) developed in formal coordination and con-
18 sultation with the Fish and Wildlife Conservation
19 Commission of the State of Florida;

20 (2) based upon the best and most recent sci-
21 entific information available regarding the fishery re-
22 sources in Biscayne National Park, with priority
23 given to scientific information relied upon by the
24 State of Florida for fish conservation and manage-
25 ment in State waters;

1 (3) the least restrictive measures necessary for
2 effective fish conservation and management that will
3 provide the best fishing opportunities in the affected
4 areas of the park on a continuing basis, such as—

- 5 (A) size limits;
- 6 (B) possession limits;
- 7 (C) gear restrictions or requirements;
- 8 (D) seasonal closures; and
- 9 (E) access permits; and

10 (4) for the sole purpose of fishery conservation
11 and management.

12 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion may be construed to apply to lands, waters, or inter-
14 ests donated by the State of Florida after June 28, 1980,
15 to the administrative jurisdiction of the National Park
16 Service for the purpose of the Biscayne National Park.
17 Fishing on such lands and waters shall continue to be in
18 conformance with State law.

19 (d) DEFINITIONS.—

20 (1) IN GENERAL.—In this section, the terms
21 “fish”, “fishery resource”, “fishing”, “charter fish-
22 ing”, “commercial fishing”, “conservation and man-
23 agement”, and “recreational fishing” have the mean-
24 ings given those terms in section 3 of the Magnuson-

1 Stevens Fishery Conservation and Management Act
2 (16 U.S.C. 1802).

3 (2) DEFINITION OF FORMAL COORDINATION
4 AND CONSULTATION.—In this section, the term “for-
5 mal coordination and consultation” means a process
6 memorialized in a memorandum of understanding
7 between Biscayne National Park and the Fish and
8 Wildlife Conservation Commission of the State of
9 Florida.

10 **SEC. 3. SHARK CONSERVATION ACT OF 2010.**

11 (a) IN GENERAL.—The Act entitled “An Act to
12 amend the High Seas Driftnet Fishing Moratorium Pro-
13 tection Act and the Magnuson-Stevens Fishery Conserva-
14 tion and Management Act to improve the conservation of
15 sharks”, approved January 4, 2011 (Public Law 111–348;
16 124 Stat. 3668), is amended—

17 (1) by striking section 104 and inserting the
18 following:

19 **“SEC. 104. PROHIBITION ON SHARK FEEDING.**

20 “(a) PROHIBITION.—Except as provided in section
21 317 of the Magnuson-Stevens Fishery Conservation and
22 Management Act (16 U.S.C. 1866), it is unlawful for any
23 person—

24 “(1) to engage in shark feeding; or

1 “(2) to operate a vessel for the purpose of car-
2 rying a passenger for hire to any site to engage in
3 shark feeding or to observe shark feeding.

4 “(b) ADDITIONAL PROHIBITED ACTS.—It is unlawful
5 for any person—

6 “(1) to violate this section or any regulation
7 promulgated under this section;

8 “(2) to refuse to permit any officer authorized
9 to enforce the provisions of this section to board a
10 fishing vessel subject to such person’s control for
11 purposes of conducting any search or inspection in
12 connection with the enforcement of this section or
13 any regulation promulgated under the section;

14 “(3) to forcibly assault, resist, oppose, impede,
15 intimidate, or interfere with any such authorized of-
16 ficer in the conduct of any search or inspection de-
17 scribed in paragraph (2);

18 “(4) to resist a lawful arrest for any act prohib-
19 ited by this section; or

20 “(5) to interfere with, delay, or prevent, by any
21 means, the apprehension or arrest of another person,
22 knowing that such other person has committed any
23 act prohibited by this section.

24 “(c) LIMITATION.—Any incidental feeding or attract-
25 ing of a shark in the course of educational or scientific

1 research conducted under a permit issued by the Secretary
2 of Commerce or lawful fishing under the Magnuson-Ste-
3 vens Fishery Conservation and Management Act (16
4 U.S.C. 1801 et seq.) shall not be considered a violation
5 of this section.

6 “(d) CIVIL PENALTY.—Any person who commits any
7 act that is unlawful under subsection (a) or subsection (b)
8 of this section shall be liable to the United States for a
9 civil penalty under section 308 of the Magnuson-Stevens
10 Fishery Conservation and Management Act (16 U.S.C.
11 1858).

12 “(e) CRIMINAL PENALTY.—Any person who commits
13 an act that is unlawful under paragraph (2), (3), (4), or
14 (5) of subsection (b) of this section is deemed to be guilty
15 of an offense punishable under section 309(b) of the Mag-
16 nuson-Stevens Fishery Conservation and Management Act
17 (16 U.S.C. 1859(b)).

18 “(f) ENFORCEMENT.—

19 “(1) IN GENERAL.—The Secretary of Com-
20 merce and the Secretary of the department in which
21 the Coast Guard is operating shall prevent any per-
22 son from violating this section in the same manner,
23 by the same means, and with the same jurisdiction,
24 powers, and duties as though sections 308 through
25 311 of the Magnuson-Stevens Fishery Conservation

1 and Management Act (16 U.S.C. 1858, 1859, 1860,
2 1861) were incorporated into and made a part of
3 this Act.

4 “(2) PENALTIES AND PRIVILEGES.—Any person
5 who violates this section is subject to the penalties
6 and entitled to the privileges and immunities pro-
7 vided in the Magnuson-Stevens Fishery Conservation
8 and Management Act (16 U.S.C. 1801 et seq.) in
9 the same manner and by the same means as though
10 sections 308 through 311 of the Magnuson-Stevens
11 Fishery Conservation and Management Act (16
12 U.S.C. 1858, 1859, 1860, 1861) were incorporated
13 into and made a part of this Act.

14 “(g) DEFINITIONS.—In this section:

15 “(1) PASSENGER FOR HIRE.—The term ‘pas-
16 senger for hire’ has the meaning given that term in
17 section 2101(21a) of title 46, United States Code.

18 “(2) SHARK FEEDING.—The term ‘shark feed-
19 ing’ means the introduction of food or any other
20 substance into the water to feed or attract sharks
21 for any purpose other than to harvest sharks.

22 **“SEC. 105. RULE OF CONSTRUCTION.**

23 “Nothing in this Act or the amendments made by this
24 Act shall be construed as affecting, altering, or dimin-
25 ishing in any way the authority of the Secretary of Com-

1 merce to establish such conservation and management
2 measures as the Secretary considers appropriate under
3 sections 302(a)(3) and 304(g) of the Magnuson-Stevens
4 Fishery Conservation and Management Act (16 U.S.C.
5 1852(a)(3) and 1854(g)).”; and

6 (2) in section 1, by striking the item relating to
7 section 104 and inserting the following:

“Sec. 104. Prohibition on shark feeding.

“Sec. 105. Rule of construction.”.

8 (b) **RELATION TO OTHER LAWS.**—Nothing in this
9 section or the amendments made by this Act supercedes
10 more restrictive State laws or regulations regarding shark
11 feeding in State waters.

12 **SEC. 4. BILLFISH CONSERVATION ACT OF 2012.**

13 (a) **EXEMPTIONS FOR TRADITIONAL FISHERIES AND**
14 **MARKETS.**—Section 4(c)(1) of the Billfish Conservation
15 Act of 2012 (16 U.S.C. 1827a(c)(1)) is amended by in-
16 serting “and retained” after “landed”.

17 (b) **DEADLINE FOR ISSUANCE OF FINAL REGULA-**
18 **TIONS.**—The Secretary of Commerce shall issue a final
19 rule implementing the Billfish Conservation Act of 2012
20 (16 U.S.C. 1827a), as amended by this Act, not later than
21 45 days after the date of enactment of this Act.

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