

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.**

**S. 1520**

To expand recreational fishing opportunities through enhanced marine fishery conservation and management, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. WICKER

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**  
4 **ERENCES.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Modernizing Recreational Fisheries Management Act of  
7 2018”.

8 (b) TABLE OF CONTENTS.—The table of contents of  
9 this Act is as follows:

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Findings.
- Sec. 3. Definitions.

## 2

Sec. 101. Process for allocation review for South Atlantic and Gulf of Mexico mixed-use fisheries.

Sec. 102. Fishery management measures.

Sec. 103. Study of limited access privilege programs for mixed-use fisheries.

TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

Sec. 201. Cooperative data collection.

Sec. 202. Recreational data collection.

TITLE III—RULE OF CONSTRUCTION

Sec. 301. Rule of construction.

1           (c) REFERENCES TO THE MAGNUSON-STEVENSON  
2 FISHERY CONSERVATION AND MANAGEMENT ACT.—Ex-  
3 cept as otherwise expressly provided, wherever in this Act  
4 an amendment or repeal is expressed in terms of an  
5 amendment to, or repeal of, a section or other provision,  
6 the reference shall be considered to be made to a section  
7 or other provision of the Magnuson-Stevens Fishery Con-  
8 servation and Management Act (16 U.S.C. 1801 et seq.).

9 **SEC. 2. FINDINGS.**

10           Section 2(a) (16 U.S.C. 1801(a)) is amended by add-  
11 ing at the end the following:

12           “(13) While both provide significant cultural  
13 and economic benefits to the Nation, recreational  
14 fishing and commercial fishing are different activi-  
15 ties. Therefore, science-based conservation and man-  
16 agement approaches should be adapted to the char-  
17 acteristics of each sector.”.

18 **SEC. 3. DEFINITIONS.**

19           In this Act:

1           (1) APPROPRIATE COMMITTEES OF CON-  
2           GRESS.—The term “appropriate committees of Con-  
3           gress” means—

4                   (A) the Committee on Commerce, Science,  
5                   and Transportation of the Senate; and

6                   (B) the Committee on Natural Resources  
7                   of the House of Representatives.

8           (2) COUNCIL.—The term “Council” means any  
9           Regional Fishery Management Council established  
10          under section 302 of the Magnuson-Stevens Fishery  
11          Conservation and Management Act (16 U.S.C.  
12          1852).

13          (3) LIMITED ACCESS PRIVILEGE PROGRAM.—  
14          The term “limited access privilege program” means  
15          a program that meets the requirements of section  
16          303A of the Magnuson-Stevens Fishery Conserva-  
17          tion and Management Act (16 U.S.C. 1853a).

18          (4) MIXED-USE FISHERY.—The term “mixed-  
19          use fishery” means a Federal fishery in which 2 or  
20          more of the following occur:

21                   (A) Recreational fishing.

22                   (B) Charter fishing.

23                   (C) Commercial fishing.

1     **TITLE I—CONSERVATION AND**  
2                     **MANAGEMENT**

3     **SEC. 101. PROCESS FOR ALLOCATION REVIEW FOR SOUTH**  
4                     **ATLANTIC AND GULF OF MEXICO MIXED-USE**  
5                     **FISHERIES.**

6             (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-  
7     ERIES.—Not later than 1 year after the date of enactment  
8     of this Act, the Comptroller General of the United States  
9     shall conduct a study and submit to the appropriate com-  
10    mittees of Congress a report on mixed-use fisheries in each  
11    applicable Council’s jurisdiction, which shall include—

12             (1) recommendations on criteria that could be  
13             used by such Councils for allocating or reallocating  
14             fishing privileges in the preparation of a fishery  
15             management plan or plan amendment, including  
16             consideration of the ecological, conservation, eco-  
17             nomic, and social factors of each component of a  
18             mixed-use fishery;

19             (2) identification of the sources of information  
20             that could reasonably support the use of such cri-  
21             teria in allocation decisions;

22             (3) an assessment of the budgetary require-  
23             ments for performing periodic allocation reviews for  
24             each applicable Council; and

1           (4) developing recommendations of procedures  
2           for allocation reviews and potential adjustments in  
3           allocation.

4           (b) CONSULTATION WITH STAKEHOLDERS.—The  
5           Comptroller General of the United States shall consult  
6           with the National Oceanic and Atmospheric Administra-  
7           tion, the applicable Councils, the Science and Statistical  
8           Committees of such Councils, the applicable State fish-  
9           eries management commissions, the recreational fishing  
10          sector, the commercial fishing sector, the charter fishing  
11          sector, and other stakeholders, to the extent practicable,  
12          in conducting the study required under subsection (a).

13          (c) DEFINITION OF APPLICABLE COUNCIL.—In this  
14          section, the term “applicable Council” means—

15               (1) the South Atlantic Fishery Management  
16               Council; or

17               (2) the Gulf of Mexico Fishery Management  
18               Council.

19       **SEC. 102. FISHERY MANAGEMENT MEASURES.**

20          (a) MANAGEMENT.—Section 302(h) (16 U.S.C.  
21          1852(h)) is amended—

22               (1) in paragraph (7)(C), by striking “; and”  
23               and inserting a semicolon;

24               (2) by redesignating paragraph (8) as para-  
25               graph (9); and

1           (3) by inserting after paragraph (7) the fol-  
2           lowing:

3           “(8) in addition to complying with the stand-  
4           ards and requirements under paragraph (6), sections  
5           301(a), 303(a)(15), and 304(e), and other applicable  
6           provisions of this Act, have the authority to use fish-  
7           ery management measures in a recreational fishery  
8           (or the recreational component of a mixed-use fish-  
9           ery) in developing a fishery management plan, plan  
10          amendment, or proposed regulations, such as extrac-  
11          tion rates, fishing mortality targets, harvest control  
12          rules, or traditional or cultural practices of native  
13          communities in such fishery or fishery component;  
14          and”.

15          (b) REPORT.—Not later than 180 days after the date  
16          of enactment of this Act, the Secretary of Commerce shall  
17          submit to the appropriate committees of Congress a report  
18          that describes any actions pursuant to paragraph (8) of  
19          section 302(h) of the Magnuson-Stevens Fishery Con-  
20          servation and Management Act (16 U.S.C. 1852(h)), as  
21          added by subsection (a).

22          (c) OTHER FISHERIES.—Nothing in paragraph (8) of  
23          section 302(h) of the Magnuson-Stevens Fishery Con-  
24          servation and Management Act (16 U.S.C. 1852(h)), as  
25          added by subsection (a), shall be construed to affect man-

1 agement of any fishery not described in such paragraph  
2 (8).

3 **SEC. 103. STUDY OF LIMITED ACCESS PRIVILEGE PRO-**  
4 **GRAMS FOR MIXED-USE FISHERIES.**

5 (a) STUDY ON LIMITED ACCESS PRIVILEGE PRO-  
6 GRAMS.—Not later than 2 years after the date of enact-  
7 ment of this Act, the Ocean Studies Board of the National  
8 Academies of Sciences, Engineering, and Medicine shall—

9 (1) complete a study on the use of limited ac-  
10 cess privilege programs in mixed-use fisheries, in-  
11 cluding—

12 (A) an assessment of progress in meeting  
13 the goals of the program and this Act;

14 (B) an assessment of the social, economic,  
15 and ecological effects of the program, consid-  
16 ering each sector of a mixed-use fishery and re-  
17 lated businesses, coastal communities, and the  
18 environment;

19 (C) an assessment of any impacts to stake-  
20 holders in a mixed-use fishery caused by a lim-  
21 ited access privilege program;

22 (D) recommendations of policies to address  
23 any impacts identified under subparagraph (C);

24 (E) identification of and recommendation  
25 of the different factors and information that

1           should be considered when designing, estab-  
2           lishing, or maintaining a limited access privilege  
3           program in a mixed-use fishery to mitigate any  
4           impacts identified in subparagraph (C), to the  
5           extent practicable; and

6                       (F) a review of best practices and chal-  
7           lenges faced in the design and implementation  
8           of limited access privilege programs under the  
9           jurisdiction of each of the 8 Regional Fishery  
10          Management Councils; and

11          (2) submit to the appropriate committees of  
12          Congress a report on the study under paragraph (1),  
13          including the recommendations under subparagraphs  
14          (D) and (E) of paragraph (1).

15          (b) EXCLUSION.—Except as provided in subsection  
16          (a)(1)(F), the study described in this section shall not in-  
17          clude the areas covered by the Pacific Fishery Manage-  
18          ment Council and the North Pacific Fishery Management  
19          Council.



1 **TITLE II—RECREATION FISHERY**  
2 **INFORMATION, RESEARCH,**  
3 **AND DEVELOPMENT**

4 **SEC. 201. COOPERATIVE DATA COLLECTION.**

5 (a) IMPROVING DATA COLLECTION AND ANALYSIS.—  
6 Section 404 (16 U.S.C. 1881c) is amended by adding at  
7 the end the following:

8 “(e) IMPROVING DATA COLLECTION AND ANAL-  
9 YSIS.—

10 “(1) IN GENERAL.—Not later than 1 year after  
11 the date of enactment of the Modernizing Rec-  
12 reational Fisheries Management Act of 2017, the  
13 Secretary shall develop, in consultation with the  
14 science and statistical committees of the Councils es-  
15 tablished under section 302(g) and the Marine Fish-  
16 eries Commissions, and submit to the Committee on  
17 Commerce, Science, and Transportation of the Sen-  
18 ate and the Committee on Natural Resources of the  
19 House of Representatives a report on facilitating  
20 greater incorporation of data, analysis, stock assess-  
21 ments, and surveys from State agencies and non-  
22 governmental sources described in paragraph (2), to  
23 the extent such information is consistent with sec-  
24 tion 301(a)(2), into fisheries management decisions.

1           “(2) CONTENT.—In developing the report  
2 under paragraph (1), the Secretary shall—

3           “(A) identify types of data and analysis,  
4 especially concerning recreational fishing, that  
5 can be used for purposes of this Act as the  
6 basis for establishing conservation and manage-  
7 ment measures as required by section  
8 303(a)(1), including setting standards for the  
9 collection and use of that data and analysis in  
10 stock assessments and surveys and for other  
11 purposes;

12           “(B) provide specific recommendations for  
13 collecting data and performing analyses identi-  
14 fied as necessary to reduce uncertainty in and  
15 improve the accuracy of future stock assess-  
16 ments, including whether such data and anal-  
17 ysis could be provided by nongovernmental  
18 sources; and

19           “(C) consider the extent to which the ac-  
20 ceptance and use of data and analyses identi-  
21 fied in the report in fishery management deci-  
22 sions is practicable and compatible with the re-  
23 quirements of section 301(a)(2).”.

24           (b) NAS REPORT RECOMMENDATIONS.—The Sec-  
25 retary of Commerce shall take into consideration and, to

1 the extent feasible, implement the recommendations of the  
2 National Academy of Sciences in the report entitled “Re-  
3 view of the Marine Recreational Information Program  
4 (2017)”, and shall submit, every 2 years following the date  
5 of enactment of this Act, a report to the appropriate com-  
6 mittees of Congress detailing progress made implementing  
7 those recommendations. Recommendations considered  
8 shall include—

9 (1) prioritizing the evaluation of electronic data  
10 collection, including smartphone applications, elec-  
11 tronic diaries for prospective data collection, and an  
12 internet website option for panel members or for the  
13 public;

14 (2) evaluating whether the design of the Marine  
15 Recreational Information Program for the purposes  
16 of stock assessment and the determination of stock  
17 management reference points is compatible with the  
18 needs of in-season management of annual catch lim-  
19 its; and

20 (3) if the Marine Recreational Information Pro-  
21 gram is incompatible with the needs of in-season  
22 management of annual catch limits, determining an  
23 alternative method for in-season management.

24 **SEC. 202. RECREATIONAL DATA COLLECTION.**

25 Section 401 (16 U.S.C. 1881) is amended—

1 (1) in subsection (g)—

2 (A) by redesignating paragraph (4) as  
3 paragraph (5); and

4 (B) by inserting after paragraph (3) the  
5 following:

6 “(4) FEDERAL-STATE PARTNERSHIPS.—

7 “(A) ESTABLISHMENT.—The Secretary  
8 shall establish a partnership with a State to de-  
9 velop best practices for implementing the State  
10 program established under paragraph (2).

11 “(B) GUIDANCE.—The Secretary shall de-  
12 velop guidance, in cooperation with the States,  
13 that details best practices for administering  
14 State programs pursuant to paragraph (2), and  
15 provide such guidance to the States.

16 “(C) BIENNIAL REPORT.—The Secretary  
17 shall submit to the appropriate committees of  
18 Congress and publish biennial reports that in-  
19 clude—

20 “(i) the estimated accuracy of—

21 “(I) the information provided  
22 under subparagraphs (A) and (B) of  
23 paragraph (1) for each registry pro-  
24 gram established under that para-  
25 graph; and

1                   “(II) the information from each  
2                   State program that is used to assist  
3                   in completing surveys or evaluating  
4                   effects of conservation and manage-  
5                   ment measures under paragraph (2);

6                   “(ii) priorities for improving rec-  
7                   reational fishing data collection; and

8                   “(iii) an explanation of any use of in-  
9                   formation collected by such State programs  
10                  and by the Secretary.

11                  “(D) STATES GRANT PROGRAM.—

12                  “(i) IN GENERAL.—The Secretary  
13                  may make grants to States to—

14                         “(I) improve implementation of  
15                         State programs consistent with this  
16                         subsection; and

17                         “(II) assist such programs in  
18                         complying with requirements related  
19                         to changes in recreational data collec-  
20                         tion under paragraph (3).

21                         “(ii) USE OF FUNDS.—Any funds  
22                         awarded through such grants shall be used  
23                         to support data collection, quality assur-  
24                         ance, and outreach to entities submitting  
25                         such data. The Secretary shall prioritize

1           such grants based on the ability of the  
2           grant to improve the quality and accuracy  
3           of such programs.”; and

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

5           “(h) ACTION BY SECRETARY.—The Secretary shall—

6           “(1) within 90 days after the date of the enact-  
7           ment of the Modernizing Recreational Fisheries  
8           Management Act of 2018, enter into an agreement  
9           with the National Academy of Sciences to evaluate,  
10          in the form of a report—

11           “(A) how the design of the Marine Rec-  
12          reational Information Program, for the pur-  
13          poses of stock assessment and the determina-  
14          tion of stock management reference points, can  
15          be improved to better meet the needs of in-sea-  
16          son management of annual catch limits under  
17          section 303(a)(15); and

18           “(B) what actions the Secretary, Councils,  
19          and States could take to improve the accuracy  
20          and timeliness of data collection and analysis to  
21          improve the Marine Recreational Information  
22          Program and facilitate in-season management;  
23          and

1           “(2) within 6 months after receiving the report  
2 under paragraph (1), submit to Congress rec-  
3 ommendations regarding—

4           “(A) changes to be made to the Marine  
5 Recreational Information Program to make the  
6 program better meet the needs of in-season  
7 management of annual catch limits and other  
8 requirements under such section; and

9           “(B) alternative management approaches  
10 that could be applied to recreational fisheries  
11 for which the Marine Recreational Information  
12 Program is not meeting the needs of in-season  
13 management of annual catch limits, consistent  
14 with other requirements of this Act, until such  
15 time as the changes in subparagraph (A) are  
16 implemented.”.

17           **TITLE III—RULE OF**  
18           **CONSTRUCTION**

19       **SEC. 301. RULE OF CONSTRUCTION.**

20       Nothing in this Act shall be construed as modifying  
21 the requirements of sections 301(a), 302(h)(6),  
22 303(a)(15), or 304(e) of the Magnuson-Stevens Fishery  
23 Conservation and Management Act (16 U.S.C. 1851(a),  
24 1852(h)(6), 1853(a)(15), and 1854(e)), or the equal appli-  
25 cation of such requirements and other standards and re-

1 quirements under the Magnuson-Stevens Fishery Con-  
2 servation and Management Act (16 U.S.C. 1801 et seq.)  
3 to commercial, charter, and recreational fisheries, includ-  
4 ing each component of mixed-use fisheries.