

115TH CONGRESS
1ST SESSION

S. 1686

To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide for management of red snapper in the Gulf of Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2017

Mr. CASSIDY (for himself and Mr. KENNEDY) 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 to provide for management of red snapper in the Gulf of Mexico, 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 “Regionally Empowered
5 Decision-making for Snapper, Noting the Angling Public
6 and the Preservation of an Exceptional Resource Act” or
7 the “RED SNAPPER Act”.

1 **SEC. 2. STATE EXCLUSIVE FISHERY MANAGEMENT AU-**
 2 **THORITY OVER PRIVATE RECREATIONAL**
 3 **RED SNAPPER FISHING SEASONS IN THE**
 4 **GULF OF MEXICO.**

5 (a) IN GENERAL.—Section 407 of the Magnuson-Ste-
 6 vens Fishery Conservation and Management Act (16
 7 U.S.C. 1883) is amended by striking subsection (d) and
 8 inserting the following:

9 “(d) CATCH LIMITS.—Any fishery management plan,
 10 plan amendment, or regulation for the red snapper fishery
 11 that is submitted by the Gulf of Mexico Fishery Manage-
 12 ment Council after the date of the enactment of the RED
 13 SNAPPER Act shall contain conservation and manage-
 14 ment measures that—

15 “(1) establish separate catch limits for each
 16 of—

17 “(A) private recreational fishing;

18 “(B) federally permitted charter fishing;

19 and

20 “(C) commercial fishing; and

21 “(2) ensure that such catch limits reflect alloca-
 22 tions among such sectors and do not reflect any har-
 23 vests in excess of such allocations.

24 “(e) STATE EXCLUSIVE AUTHORITY OVER PRIVATE
 25 RECREATIONAL RED SNAPPER FISHING SEASONS IN THE
 26 GULF OF MEXICO.—

1 “(1) EXCLUSIVE AUTHORITY.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B) and paragraph (5), and sub-
4 ject to paragraph (4) and section 306(b), each
5 of the Gulf States shall have exclusive authority
6 to establish for each of fishing years 2018
7 through 2024 the timing and duration of the
8 fishing season for private recreational fishing of
9 red snapper in the Gulf of Mexico in the ex-
10 tended red snapper management zone of such
11 Gulf State under paragraph (2).

12 “(B) SPECIAL RULE FOR FLORIDA.—With
13 respect to the State of Florida, the exclusive
14 authority provided under subparagraph (A)
15 shall apply only to waters adjacent to the State
16 of Florida in the Gulf of Mexico.

17 “(2) EXTENDED RED SNAPPER MANAGEMENT
18 ZONE DESCRIBED.—

19 “(A) IN GENERAL.—For purposes of this
20 subsection, the extended red snapper manage-
21 ment zone of a Gulf State consists of all waters
22 that are—

23 “(i) seaward of the State seaward
24 boundary of such Gulf State;

1 “(ii) not further from shore than the
2 25-fathom line described under subpara-
3 graph (B); and

4 “(iii) between the projected lines de-
5 termined for that State under section
6 4(a)(2)(A) of the Outer Continental Shelf
7 Lands Act (43 U.S.C. 1333(a)(2)(A)).

8 “(B) DESCRIPTION OF LINE.—

9 “(i) IN GENERAL.—Not later than 60
10 days after the date of the enactment of the
11 RED SNAPPER Act and subject to clause
12 (ii), the Secretary shall publish in the Fed-
13 eral Register and make available on the
14 Internet website of the Department of
15 Commerce a description of, and map show-
16 ing, a continuous line in waters of the ex-
17 clusive economic zone in the Gulf of Mex-
18 ico along the coasts of the Gulf States,
19 that is comprised of points that are, on av-
20 erage, 25 fathoms in depth.

21 “(ii) MINIMUM DISTANCE.—No point
22 on such continuous line shall be less than
23 25 nautical miles from the shore.

24 “(iii) CONSULTATION WITH STATES.—
25 In determining the placement of such con-

1 tinuous line, the Secretary shall consult
2 with appropriate agencies of each Gulf
3 State.

4 “(3) CRITERIA.—In determining a fishing sea-
5 son under this subsection, a Gulf State shall—

6 “(A) to the extent practicable, ensure sus-
7 tainable and responsible fishery management
8 consistent with the national standards for fish-
9 ery conservation and management in section
10 301; and

11 “(B) include—

12 “(i) the most recent stock assessment
13 for the red snapper in the Gulf of Mexico;

14 “(ii) surveys of red snapper in the
15 Gulf of Mexico certified under subsection
16 (g);

17 “(iii) data related to red snapper in
18 the Gulf of Mexico collected by the Gulf
19 States Marine Fisheries Commission, non-
20 governmental organizations, and non-
21 governmental sources, including fishermen,
22 universities, and research institutions;

23 “(iv) consideration of the duration of
24 the fishing seasons for red snapper within
25 the State’s seaward boundary;

1 “(v) estimates of private recreational
2 fishing effort and catch rates both within
3 the State’s seaward boundary and within
4 the State’s extended red snapper manage-
5 ment zone under paragraph (2)(A); and

6 “(vi) relevant data from independent
7 biological surveys, including State popu-
8 lation estimates of the biomass of red
9 snapper within the State’s seaward bound-
10 ary and within the State’s extended red
11 snapper management zone under para-
12 graph (2).

13 “(4) LIMITATION WITH RESPECT TO CHARTER
14 FISHING.—The authority of a State under para-
15 graph (1) does not apply with respect to the timing
16 or duration of the charter fishing season.

17 “(5) SECRETARIAL ACTION TO ADDRESS AD-
18 VERSE EFFECTS OF STATE ACTIONS.—For purposes
19 of section 306(b)(1), the extended red snapper man-
20 agement zone of a State under this subsection shall
21 be treated as within the boundaries of such State.

22 “(6) BIENNIAL REPORT.—Not later than 150
23 days before the end of the 2024 fishing year and not
24 less frequently than once every two years thereafter,
25 the Secretary shall submit to the Committee on

1 Commerce, Science, and Transportation of the Sen-
2 ate and the Committee on Natural Resources of the
3 House of Representatives a report detailing the
4 health of the red snapper fishery in the Gulf of Mex-
5 ico. The report shall—

6 “(A) be based upon the boundaries pre-
7 scribed in paragraph (2);

8 “(B) describe the impact of the criteria
9 listed under paragraph (3); and

10 “(C) include results of the NOAA Fish-
11 eries Southeast Region head boat surveys.

12 “(7) RELATIONSHIP TO OTHER FEDERAL AU-
13 THORITY AND REQUIREMENTS.—Nothing in this
14 subsection affects the authority of the Secretary
15 under any other provision of law—

16 “(A) to establish the acceptable biological
17 catch and total allowable catch of red snapper
18 in the Gulf of Mexico; or

19 “(B) to establish any limited access privi-
20 lege program for the commercial harvest of red
21 snapper in the Gulf of Mexico.

22 “(8) RELATIONSHIP TO STATE AUTHORITY
23 OVER STATE WATERS.—Nothing in this subsection
24 affects the authority of a Gulf State over the terri-

1 torial waters of such State and fishing in such
2 waters.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) UNITED STATES SOVEREIGN RIGHTS TO
5 FISH AND FISHERY MANAGEMENT AUTHORITY.—

6 Section 101(a) of the Magnuson-Stevens Fishery
7 Conservation and Management Act (16 U.S.C.
8 1811) is amended by striking “102,” and inserting
9 “102 and section 407(e),”.

10 (2) GULF COUNCIL.—Section 302(a)(1)(E) of
11 the Magnuson-Stevens Fishery Conservation and
12 Management Act (16 U.S.C. 1852(a)(1)(E)) is
13 amended by striking “paragraph (3).” and inserting
14 “paragraph (3) of this subsection and section
15 407(e).”.

16 (c) EXTENSION OF STATE SEAWARD BOUNDARY.—
17 Section 407 of the Magnuson-Stevens Fishery Conserva-
18 tion and Management Act (16 U.S.C. 1883) is further
19 amended by adding at the end the following:

20 “(f) STATE SEAWARD BOUNDARY.—Notwithstanding
21 any other provision of law, for the purpose of management
22 of red snapper fisheries in the Gulf of Mexico, the seaward
23 boundary of a Gulf State is a line 9 nautical miles seaward
24 from the baseline from which the territorial sea of the
25 United States is measured.”.

1 **SEC. 3. FEDERAL GULF OF MEXICO RED SNAPPER MANAGE-**
 2 **MENT.**

3 (a) ALLOCATIONS OF PERCENTAGE OF TOTAL AL-
 4 LOWABLE CATCH AND SEASONS FOR OTHER SECTORS.—
 5 Section 407 of the Magnuson-Stevens Fishery Conserva-
 6 tion and Management Act (16 U.S.C. 1883) is further
 7 amended by adding at the end the following:

8 “(g) ACCEPTABLE BIOLOGICAL CATCH, TOTAL AL-
 9 LOWABLE CATCH, AND CERTIFIED STATE SURVEYS; AL-
 10 LOCATION.—

11 “(1) INCLUSION OF CERTIFIED STATE SUR-
 12 VEYS.—In establishing the acceptable biological
 13 catch and total allowable catch for red snapper in
 14 the Gulf of Mexico, the Secretary shall include—

15 “(A) Gulf State recreational fisheries sur-
 16 veys that are certified under subsection (h); and

17 “(B) data related to red snapper in the
 18 Gulf of Mexico collected by the Gulf States Ma-
 19 rine Fisheries Commission, nongovernmental
 20 organizations, and other nongovernmental
 21 sources, including universities and research in-
 22 stitutions.

23 “(2) ALLOCATION AND DURATION OF COMMER-
 24 CIAL AND FEDERALLY PERMITTED CHARTER SEA-
 25 SON.—Beginning in fishing year 2018, the percent-
 26 age of the total allowable catch of red snapper, and

1 the duration of the red snapper fishing season in the
2 Gulf of Mexico—

3 “(A) for the commercial fishing sector
4 shall be the same as such percentage and dura-
5 tion, respectively, that applied for the most re-
6 cent fishing year, unless amended by the Sec-
7 retary; and

8 “(B) for the federally permitted charter
9 fishing sector may not be less than the alloca-
10 tion and duration that applied to such sector
11 for the most recent fishing year, unless amend-
12 ed by the Secretary.

13 “(3) FISHING BY FEDERALLY PERMITTED
14 CHARTER SECTOR WITHIN GULF STATE SEAWARD
15 BOUNDARIES.—Nothing in this Act shall be con-
16 strued to authorize limiting fishing for red snapper
17 by the federally permitted charter sector within a
18 Gulf State’s seaward boundary in any period in
19 which such fishing in the exclusive economic zone is
20 not prohibited.”.

21 (b) STATE SURVEYS.—Section 407 of the Magnuson-
22 Stevens Fishery Conservation and Management Act (16
23 U.S.C. 1883) is further amended by adding at the end
24 the following:

25 “(h) STATE SURVEYS.—

1 “(1) SUBMISSION.—A Gulf State that conducts
2 a recreational fisheries survey in the Gulf of Mexico
3 to make catch estimates for red snapper landed in
4 such State may submit such survey to the Secretary
5 for certification.

6 “(2) CERTIFICATION.—

7 “(A) IN GENERAL.—The Secretary shall
8 make a certification or a denial of certification
9 for any survey submitted under paragraph (1)
10 not later than the end of the 6-month period
11 beginning on the date the survey is submitted.

12 “(B) DEEMED CERTIFIED.—A recreational
13 fisheries survey is deemed to be certified effec-
14 tive upon the expiration of such period if the
15 Secretary has not made a certification or denial
16 of certification.

17 “(3) MODIFICATION OF SURVEYS DENIED CER-
18 TIFICATION.—

19 “(A) IN GENERAL.—If a survey of a Gulf
20 State is denied certification under paragraph
21 (2), the Secretary shall, not later than 60 days
22 after the date of the denial, provide the Gulf
23 State a proposal for modifications to the survey.

1 “(B) PROPOSAL.—A proposal provided to
2 a Gulf State for a survey under subparagraph
3 (A)—

4 “(i) shall be specific to the survey
5 submitted by such Gulf State and may not
6 be construed to apply to any other Gulf
7 State;

8 “(ii) shall require revision to the few-
9 est possible provisions of the survey; and

10 “(iii) may not unduly burden the abil-
11 ity of such Gulf State to revise the survey.

12 “(C) MODIFIED SURVEY.—

13 “(i) AUTHORITY TO SUBMIT.—If a
14 survey of a Gulf State was denied certifi-
15 cation under paragraph (2), the Gulf State
16 may modify the survey and submit the
17 modified survey to the Secretary for certifi-
18 cation or denial of certification.

19 “(ii) SCHEDULE.—The Secretary shall
20 make a certification or denial of certifi-
21 cation for any modified survey not later
22 than the end of the 30-day period begin-
23 ning on the date the modified survey is
24 submitted.

1 “(iii) DEEMED CERTIFIED.—A modi-
2 fied survey is deemed to be certified effec-
3 tive upon the expiration of the period de-
4 scribed in clause (ii) if the Secretary has
5 not made a certification or denial of certifi-
6 cation.”.

7 (c) REDUCTION OF BAROTRAUMA.—Section 407 of
8 the Magnuson-Stevens Fishery Conservation and Manage-
9 ment Act (16 U.S.C. 1883) is further amended by adding
10 at the end the following:

11 “(i) REDUCTION OF BAROTRAUMA.—Each Gulf State
12 shall develop and promote best practices for use in the
13 red snapper fishery in the Gulf of Mexico to reduce
14 barotrauma.”.

15 (d) CONSTRUCTION.—Section 407 of the Magnuson-
16 Stevens Fishery Conservation and Management Act (16
17 U.S.C. 1883) is further amended by adding at the end
18 the following:

19 “(j) CONSTRUCTION.—Nothing in this section may be
20 construed to alter—

21 “(1) any commercial catch share program for
22 Gulf of Mexico red snapper;

23 “(2) any Federal program related to charter
24 fishing; or

1 “(3) the fishing gear that may be used in the
2 red snapper fishery in the Gulf of Mexico.”.

3 (e) DEFINITIONS.—Section 407 of the Magnuson-
4 Stevens Fishery Conservation and Management Act (16
5 U.S.C. 1883), as amended by this section, is further
6 amended by adding at the end the following:

7 “(k) DEFINITIONS.—In this section:

8 “(1) GULF STATE.—The term ‘Gulf State’
9 means each of the States of Texas, Louisiana, Mis-
10 sissippi, Alabama, or Florida.

11 “(2) RED SNAPPER.—The term ‘red snapper’
12 means the species *Lutjanus campechanus*.”.

13 **SEC. 4. SENSE OF CONGRESS.**

14 It is the sense of Congress that in order to supple-
15 ment State data collection efforts, Gulf States should con-
16 tinue modernizing fishery harvest data for red snapper
17 through the development and implementation of voluntary
18 electronic reporting applications for use by the private rec-
19 reational fishing sector to determine red snapper catch
20 rates and effort in the Gulf of Mexico.

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