

**Calendar No. 213**117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1747**

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 2021

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

DECEMBER 17, 2021

Reported by Ms. CANTWELL, with an amendment

[Insert the part printed in italic]

**A BILL**

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data, 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 “Fluke Fairness Act  
5 of 2021”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Summer flounder is an important economic  
4 fish stock for commercial and recreational fishermen  
5 across the Northeast and Mid-Atlantic United  
6 States.

7 (2) The Magnuson-Stevens Fishery Conserva-  
8 tion and Management Act (16 U.S.C. 1801 et seq.)  
9 was reauthorized in 2006 and instituted annual  
10 catch limits and accountability measures for impor-  
11 tant fish stocks.

12 (3) That reauthorization prompted fishery man-  
13 agers to look at alternate management schemes to  
14 rebuild depleted stocks like summer flounder.

15 (4) Summer flounder occur in both State and  
16 Federal waters and are managed through a joint  
17 fishery management plan between the Council and  
18 the Commission.

19 (5) The Council and the Commission decided  
20 that each State's recreational and commercial har-  
21 vest limits for summer flounder would be based upon  
22 landings in previous years.

23 (6) These historical landings were based on  
24 flawed data sets that no longer provide fairness or  
25 flexibility for fisheries managers to allocate resources  
26 based on the best science.

1           (7) This allocation mechanism resulted in an  
2 uneven split among the States along the East Coast  
3 which is problematic.

4           (8) The fishery management plan for summer  
5 flounder does not account for regional changes in  
6 the location of the fluke stock even though the stock  
7 has moved further to the north and changes in effort  
8 by anglers along the East Coast.

9           (9) The States have been locked in a manage-  
10 ment system based on data collected from 1981 to  
11 1989, thus, the summer flounder stock is not being  
12 managed using the best available science and mod-  
13 ern fishery management techniques.

14           (10) It is in the interest of the Federal Govern-  
15 ment to establish a new fishery management plan  
16 for summer flounder that is based on current geo-  
17 graphic, scientific, and economic realities.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20           (1) COMMISSION.—The term “Commission”  
21 means the Atlantic States Marine Fisheries Commis-  
22 sion.

23           (2) COUNCIL.—The term “Council” means the  
24 Mid-Atlantic Fishery Management Council estab-  
25 lished under section 302(a) of the Magnuson-Stevens

1 Fishery Conservation and Management Act (16  
2 U.S.C. 1852(a)).

3 (3) NATIONAL STANDARDS.—The term “Na-  
4 tional Standards” means the national standards for  
5 fishery conservation and management set out in sec-  
6 tion 301(a) of the Magnuson-Stevens Fishery Con-  
7 servation and Management Act (16 U.S.C. 1851(a)).

8 (4) SECRETARY.—The term “Secretary” means  
9 the Secretary of Commerce.

10 (5) SUMMER FLOUNDER.—The term “summer  
11 flounder” means the species *Paralichthys dentatus*  
12 (*commonly known as “Fluke”*).

13 **SEC. 4. SUMMER FLOUNDER MANAGEMENT REFORM.**

14 (a) FISHERY MANAGEMENT PLAN MODIFICATION.—  
15 Not later than 1 year after the date of enactment of this  
16 Act, the Council shall submit to the Secretary, and the  
17 Secretary may approve, a modified fishery management  
18 plan for the commercial management of summer flounder  
19 under title III of the Magnuson-Stevens Fishery Conserva-  
20 tion and Management Act (16 U.S.C. 1851 et seq.) or an  
21 amendment to such plan that—

22 (1) shall be based on the best scientific infor-  
23 mation available;

24 (2) establishes commercial quotas in direct pro-  
25 portion to the distribution, abundance, and location

1 of summer flounder as reflected by fishery inde-  
2 pendent surveys conducted by the National Marine  
3 Fisheries Service and State agencies;

4 (3) considers regional, coastwide, or other man-  
5 agement measures for summer flounder that comply  
6 with the National Standards; and

7 (4) prohibits the establishment of commercial  
8 catch quotas for summer flounder on a State-by-  
9 State basis using historical landings data that does  
10 not reflect the status of the summer flounder stock,  
11 based on the most recent scientific information.

12 (b) CONSULTATION WITH THE COMMISSION.—In  
13 preparing the modified fishery management plan or an  
14 amendment to such a plan as described in subsection (a),  
15 the Council shall consult with the Commission to ensure  
16 consistent management throughout the range of the sum-  
17 mer flounder.

18 (c) FAILURE TO SUBMIT PLAN.—If the Council fails  
19 to submit a modified fishery management plan or an  
20 amendment to such a plan as described in subsection (a)  
21 that may be approved by the Secretary, the Secretary shall  
22 prepare and consider such a modified plan or amendment.

23 **SEC. 5. REPORT.**

24 Not later than 1 year after the date of the approval  
25 under section 4 of a modified fishery management plan

1 for the commercial management of summer flounder or  
2 an amendment to such plan, the Comptroller General of  
3 the United States shall submit to Congress a report on  
4 the implementation of such modified plan or amendment  
5 that includes an assessment of whether such implementa-  
6 tion complies with the National Standards.



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