

Public Law 105-146
105th Congress

An Act

Dec. 16, 1997
[H.R. 1658]

To reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Atlantic Striped
Bass
Conservation Act
Amendments of
1997.
Inter-
governmental
relations.
16 USC 1851
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Atlantic Striped Bass Conservation Act Amendments of 1997”.

SEC. 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC STRIPED BASS CONSERVATION ACT.

The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

16 USC 668dd
note.

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Atlantic Striped Bass Conservation Act’.

“SEC. 2. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds and declares the following:

“(1) Atlantic striped bass are of historic commercial and recreational importance and economic benefit to the Atlantic coastal States and to the Nation.

“(2) No single government entity has full management authority throughout the range of the Atlantic striped bass.

“(3) The population of Atlantic striped bass—

“(A) has been subject to large fluctuations due to natural causes, fishing pressure, environmental pollution, loss and alteration of habitat, inadequacy of fisheries conservation and management practices, and other causes; and

“(B) risks potential depletion in the future without effective monitoring and conservation and management measures.

“(4) It is in the national interest to implement effective procedures and measures to provide for effective interjurisdictional conservation and management of this species.

“(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to support and encourage the development, implementation, and enforcement of effective interstate action regarding the conservation and management of the Atlantic striped bass.

“SEC. 3. DEFINITIONS.

“As used in this Act—

“(1) the term ‘Magnuson Act’ means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

“(2) The term ‘Atlantic striped bass’ means members of stocks or populations of the species *Morone saxatilis*, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).

“(3) The term ‘coastal waters’ means—

“(A) for each coastal State referred to in paragraph (4)(A)—

“(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

“(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

“(B) for the District of Columbia, those waters within its jurisdiction; and

“(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

“(4) The term ‘coastal State’ means—

“(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

“(B) the District of Columbia; and

“(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.

“(5) The term ‘Commission’ means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

“(6) The term ‘exclusive economic zone’ has the meaning given such term in section 3(6) of the Magnuson Act (16 U.S.C. 1802(6)).

“(7) The term ‘fishing’ means—

“(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

“(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

“(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

“(8) The term ‘moratorium area’ means the coastal waters with respect to which a declaration under section 5(a) applies.

“(9) The term ‘moratorium period’ means the period beginning on the day on which moratorium is declared under section 5(a) regarding a coastal State and ending on the day on which the Commission notifies the Secretaries that that State has

taken appropriate remedial action with respect to those matters that were the case of the moratorium being declared.

“(10) The term ‘Plan’ means a plan for managing Atlantic striped bass, or an amendment to such plan, that is prepared and adopted by the Commission.

“(11) The term ‘Secretary’ means the Secretary of Commerce or a designee of the Secretary of Commerce.

“(12) The term ‘Secretaries’ means the Secretary of Commerce and the Secretary of the Interior or their designees.

“SEC. 4. MONITORING OF IMPLEMENTATION AND ENFORCEMENT BY COASTAL STATES.

“(a) DETERMINATION.—During December of each fiscal year, and at any other time it deems necessary the Commission shall determine—

“(1) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

“(2) whether the enforcement of the Plan by each coastal State is satisfactory.

“(b) SATISFACTORY STATE ENFORCEMENT.—For purposes of subsection (a)(2), enforcement by a coastal State shall not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within the coastal waters of the State is being, or will likely be, substantially and adversely affected.

“(c) NOTIFICATION OF SECRETARIES.—The Commission shall immediately notify the Secretaries of each negative determination made by it under subsection (a).

“SEC. 5. MORATORIUM.

“(a) SECRETARIAL ACTION AFTER NOTIFICATION.—Upon receiving notice from the Commission under section 4(c) of a negative determination regarding a coastal State, the Secretaries shall determine jointly, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

“(b) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium period, it is unlawful for any person—

“(1) to engage in fishing within the moratorium area;

“(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

“(3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under subsection (a) applies to that State; or

“(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

“(c) CIVIL PENALTIES.—

“(1) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (b) shall be liable to the

United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

“(2) CIVIL FORFEITURES.—

“(A) IN GENERAL.—Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (b) shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

“(B) DISPOSAL OF FISH.—Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed in regulations.

“(d) ENFORCEMENT.—A person authorized by the Secretaries or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (a) that an officer authorized by the Secretary under section 311(b) of the Magnuson Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). The Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

“(e) REGULATIONS.—The Secretaries may issue regulations to implement this section.

“SEC. 6. CONTINUING STUDIES OF STRIPED BASS POPULATIONS.

“(a) IN GENERAL.—For the purposes of carrying out this Act, the Secretaries shall conduct continuing, comprehensive studies of Atlantic striped bass stocks. These studies shall include, but shall not be limited to, the following:

“(1) Annual stock assessments, using fishery-dependent and fishery-independent data, for the purposes of extending the long-term population record generated by the annual striped bass study conducted by the Secretaries before 1994 and understanding the population dynamics of Atlantic striped bass.

“(2) Investigations of the causes of fluctuations in Atlantic striped bass populations.

“(3) Investigations of the effects of water quality, land use, and other environmental factors on the recruitment, spawning potential, mortality, and abundance of Atlantic striped bass populations, including the Delaware River population.

“(4) Investigations of—

“(A) the interactions between Atlantic striped bass and other fish, including bluefish, menhaden, mackerel, and other forage fish or possible competitors, stock assessments of these species, to the extent appropriate; and

“(B) the effects of interspecies predation and competition on the recruitment, spawning potential mortality, and abundance of Atlantic striped bass.

“(b) SOCIO-ECONOMIC STUDY.—The Secretaries, in consultation with with the Atlantic States Marine Fisheries Commission, shall conduct a study of the socio-economic benefits of the Atlantic striped bass resource. The Secretaries shall issue a report to the Congress

concerning the findings of this study no later than September 30, 1998.

“(c) **REPORTS.**—The Secretaries shall make biennial reports to the Congress and to the Commission concerning the progress and findings of studies conducted under subsection (a) and shall make those reports public. Such reports shall, to the extent appropriate, contain recommendations of actions which could be taken to encourage the sustainable management of Atlantic striped bass.

“SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.

“(a) **AUTHORIZATION.**—For each of fiscal years 1998, 1999, and 2000, there are authorized to be appropriated to carry out this Act—

“(1) \$800,000 to the Secretary of Commerce; and

“(2) \$250,000 to the Secretary of the Interior.

“(b) **COOPERATIVE AGREEMENTS.**—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission or with States, for the purpose of using amounts appropriated pursuant to this section to provide financial assistance for carrying out the purposes of this Act.

“SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF MANAGEMENT PLANS AND AMENDMENTS.

“(a) **STANDARDS AND PROCEDURES.**—In order to ensure the opportunity for public participation in the preparation of management plans and amendments to management plans for Atlantic striped bass, the Commission shall prepare such plans and amendments in accordance with the standards and procedures established under section 805(a)(2) of the Atlantic Coastal Fisheries Cooperative Management Act.

“(b) **APPLICATION.**—Subsection (a) shall apply to management plans and amendments adopted by the Commission after the 6-month period beginning on the date of enactment of the Atlantic Striped Bass Conservation Act Amendments of 1997.

“SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

“(a) **REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.**—The Secretary shall promulgate regulations governing fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines—

“(1) are consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851);

“(2) are compatible with the Plan and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal State;

“(3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

“(4) are sufficient to assure the long-term conservation of Atlantic striped bass populations.

“(b) **CONSULTATION; PERIODIC REVIEW OF REGULATIONS.**—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection

(a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

“(c) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) of this section as if such regulations or plan were issued under the Magnuson Act.”

SEC. 3. REPEALS.

(a) ANADROMOUS FISH CONSERVATION ACT.—Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is repealed.

(b) ALBEMARLE SOUND-ROANOKE RIVER BASIN.—Section 5 of the Act entitled “An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes”, approved November 3, 1988 (16 U.S.C. 1851 note; 102 Stat. 2984), relating to studies of the Albermarle Sound-Roanoke River Basin striped bass stock, is repealed.

(c) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—Section 6 of the Act entitled “An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes”, approved November 3, 1988 (16 U.S.C. 1851 note; 102 Stat. 2986) is repealed.

Approved December 16, 1997.

LEGISLATIVE HISTORY—H.R. 1658:

HOUSE REPORTS: No. 105-169 (Comm. on Resources).

SENATE REPORTS: Nos. 105-148 (Comm. on Commerce, Science, and Transportation) and 105-149 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 143 (1997):

July 8, considered and passed House.

Nov. 10, considered and passed Senate, amended.

Nov. 13, House concurred in Senate amendments.