

115TH CONGRESS  
2D SESSION

# S. 1520

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## AN ACT

To expand recreational fishing opportunities through enhanced marine fishery conservation and management, 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,*

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

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

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
 7 this Act is as follows:

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

**TITLE I—CONSERVATION AND MANAGEMENT**

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.

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

1 **SEC. 2. FINDINGS.**

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

4 “(13) While both provide significant cultural  
5 and economic benefits to the Nation, recreational  
6 fishing and commercial fishing are different activi-  
7 ties. Therefore, science-based conservation and man-  
8 agement approaches should be adapted to the char-  
9 acteristics of each sector.”.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

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

15 (A) the Committee on Commerce, Science,  
16 and Transportation of the Senate; and

17 (B) the Committee on Natural Resources  
18 of the House of Representatives.

19 (2) COUNCIL.—The term “Council” means any  
20 Regional Fishery Management Council established  
21 under section 302 of the Magnuson-Stevens Fishery  
22 Conservation and Management Act (16 U.S.C.  
23 1852).

24 (3) LIMITED ACCESS PRIVILEGE PROGRAM.—  
25 The term “limited access privilege program” means  
26 a program that meets the requirements of section

1       303A of the Magnuson-Stevens Fishery Conserva-  
2       tion and Management Act (16 U.S.C. 1853a).

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

6                       (A) Recreational fishing.

7                       (B) Charter fishing.

8                       (C) Commercial fishing.

## 9       **TITLE I—CONSERVATION AND** 10       **MANAGEMENT**

### 11   **SEC. 101. PROCESS FOR ALLOCATION REVIEW FOR SOUTH** 12       **ATLANTIC AND GULF OF MEXICO MIXED-USE** 13       **FISHERIES.**

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

20               (1) recommendations on criteria that could be  
21       used by such Councils for allocating or reallocating  
22       fishing privileges in the preparation of a fishery  
23       management plan or plan amendment, including  
24       consideration of the ecological, conservation, eco-

1        nomic, and social factors of each component of a  
2        mixed-use fishery;

3            (2) identification of the sources of information  
4        that could reasonably support the use of such cri-  
5        teria in allocation decisions;

6            (3) an assessment of the budgetary require-  
7        ments for performing periodic allocation reviews for  
8        each applicable Council; and

9            (4) developing recommendations of procedures  
10       for allocation reviews and potential adjustments in  
11       allocation.

12        (b) CONSULTATION WITH STAKEHOLDERS.—The  
13        Comptroller General of the United States shall consult  
14        with the National Oceanic and Atmospheric Administra-  
15        tion, the applicable Councils, the Science and Statistical  
16        Committees of such Councils, the applicable State fish-  
17        eries management commissions, the recreational fishing  
18        sector, the commercial fishing sector, the charter fishing  
19        sector, and other stakeholders, to the extent practicable,  
20        in conducting the study required under subsection (a).

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

23            (1) the South Atlantic Fishery Management  
24        Council; or

1           (2) the Gulf of Mexico Fishery Management  
2       Council.

3 **SEC. 102. FISHERY MANAGEMENT MEASURES.**

4       (a) MANAGEMENT.—Section 302(h) (16 U.S.C.  
5 1852(h)) is amended—

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

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

10          (3) by inserting after paragraph (7) the fol-  
11       lowing:

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

24       (b) REPORT.—Not later than 180 days after the date  
25       of enactment of this Act, the Secretary of Commerce shall

1 submit to the appropriate committees of Congress a report  
 2 that describes any actions pursuant to paragraph (8) of  
 3 section 302(h) of the Magnuson-Stevens Fishery Con-  
 4 servation and Management Act (16 U.S.C. 1852(h)), as  
 5 added by subsection (a).

6 (c) OTHER FISHERIES.—Nothing in paragraph (8) of  
 7 section 302(h) of the Magnuson-Stevens Fishery Con-  
 8 servation and Management Act (16 U.S.C. 1852(h)), as  
 9 added by subsection (a), shall be construed to affect man-  
 10 agement of any fishery not described in such paragraph  
 11 (8).

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

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

18 (1) complete a study on the use of limited ac-  
 19 cess privilege programs in mixed-use fisheries, in-  
 20 cluding—

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

23 (B) an assessment of the social, economic,  
 24 and ecological effects of the program, consid-  
 25 ering each sector of a mixed-use fishery and re-

1           lated businesses, coastal communities, and the  
2           environment;

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

6                 (D) recommendations of policies to address  
7           any impacts identified under subparagraph (C);

8                 (E) identification of and recommendation  
9           of the different factors and information that  
10          should be considered when designing, estab-  
11          lishing, or maintaining a limited access privilege  
12          program in a mixed-use fishery to mitigate any  
13          impacts identified in subparagraph (C), to the  
14          extent practicable; and

15                (F) a review of best practices and chal-  
16          lenges faced in the design and implementation  
17          of limited access privilege programs under the  
18          jurisdiction of each of the 8 Regional Fishery  
19          Management Councils; and

20                (2) submit to the appropriate committees of  
21          Congress a report on the study under paragraph (1),  
22          including the recommendations under subparagraphs  
23          (D) and (E) of paragraph (1).

24          (b) EXCLUSION.—Except as provided in subsection  
25          (a)(1)(F), the study described in this section shall not in-



1 clude the areas covered by the Pacific Fishery Manage-  
 2 ment Council and the North Pacific Fishery Management  
 3 Council.

## 4 **TITLE II—RECREATION FISHERY** 5 **INFORMATION, RESEARCH,** 6 **AND DEVELOPMENT**

### 7 **SEC. 201. COOPERATIVE DATA COLLECTION.**

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

11 “(e) IMPROVING DATA COLLECTION AND ANAL-  
 12 YSIS.—

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

1 the extent such information is consistent with sec-  
2 tion 301(a)(2), into fisheries management decisions.

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

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

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

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

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

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

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

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

1 **SEC. 202. RECREATIONAL DATA COLLECTION.**

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

3 (1) in subsection (g)—

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

6 (B) by inserting after paragraph (3) the  
7 following:

8 “(4) FEDERAL-STATE PARTNERSHIPS.—

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

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

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

22 “(i) the estimated accuracy of—

23 “(I) the information provided  
24 under subparagraphs (A) and (B) of  
25 paragraph (1) for each registry pro-

1                   gram established under that para-  
2                   graph; and

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

8                   “(ii) priorities for improving rec-  
9                   reational fishing data collection; and

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

13                  “(D) STATES GRANT PROGRAM.—

14                  “(i) IN GENERAL.—The Secretary  
15                  may make grants to States to—

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

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

23                  “(ii) USE OF FUNDS.—Any funds  
24                  awarded through such grants shall be used  
25                  to support data collection, quality assur-

1           ance, and outreach to entities submitting  
2           such data. The Secretary shall prioritize  
3           such grants based on the ability of the  
4           grant to improve the quality and accuracy  
5           of such programs.”; and

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

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

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

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

20               “(B) what actions the Secretary, Councils,  
21               and States could take to improve the accuracy  
22               and timeliness of data collection and analysis to  
23               improve the Marine Recreational Information  
24               Program and facilitate in-season management;  
25               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.

Passed the Senate December 17, 2018.

Attest:

*Secretary.*





115TH CONGRESS  
2D SESSION

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## AN ACT

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