

Union Calendar No. 431

116TH CONGRESS
2D SESSION

H. R. 5126

[Report No. 116–531]

To require individuals fishing for Gulf reef fish to use certain descending devices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2019

Mr. GRAVES of Louisiana (for himself, Mr. HUFFMAN, and Mr. PALAZZO) introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 24, 2020

Additional sponsors: Mr. CUNNINGHAM, Mr. ROONEY of Florida, Mr. VEASEY, and Mr. WEBSTER of Florida

SEPTEMBER 24, 2020

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on November 15, 2019]

A BILL

To require individuals fishing for Gulf reef fish to use certain
descending devices, 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 “Direct Enhancement of*
5 *Snapper Conservation and the Economy through Novel De-*
6 *vices Act of 2020” or the “DESCEND Act of 2020”.*

7 **SEC. 2. SENSE OF CONGRESS.**

8 *It is the sense of Congress that commercial and rec-*
9 *reational fishermen (which, for the purpose of this Act shall*
10 *include charter fishing) for Gulf reef fish are expected to*
11 *use a venting tool or a descending device required for posses-*
12 *sion under section 3 when releasing fish that are exhibiting*
13 *signs of barotrauma. The Secretary of Commerce (referred*
14 *to in this Act as the “Secretary”), in coordination with the*
15 *Gulf of Mexico Fishery Management Council, should de-*
16 *velop and disseminate to fishermen education and outreach*
17 *materials related to proper use of venting tools and descend-*
18 *ing devices, and strongly encourage their use by commercial*
19 *and recreational fishermen when releasing fish that are ex-*
20 *hibiting signs of barotrauma.*

21 **SEC. 3. REQUIRED POSSESSION OF DESCENDING DEVICES.**

22 *(a) REQUIRED GEAR IN THE GULF REEF FISH FISH-*
23 *ERY.—Title III of the Magnuson-Stevens Fishery Conserva-*
24 *tion and Management Act (16 U.S.C. 1851 et seq.) is*
25 *amended by adding at the end the following:*

1 **“SEC. 321. REQUIRED POSSESSION OF DESCENDING DE-**
 2 **VICES.**

3 “(a) *REQUIRE GEAR IN THE GULF REEF FISH FISH-*
 4 *ERY.—It shall be unlawful for a person on board a commer-*
 5 *cial or recreational vessel to fish for Gulf reef fish in the*
 6 *Gulf of Mexico Exclusive Economic Zone without possessing*
 7 *on board the vessel a venting tool or a descending device*
 8 *that is rigged and ready for use while fishing is occurring.*

9 “(b) *SAVINGS CLAUSE.—No provision of this section*
 10 *shall be interpreted to affect any program or activity car-*
 11 *ried out by the Gulf Coast Ecosystem Restoration Council*
 12 *established by the Resources and Ecosystems Sustainability,*
 13 *Tourist Opportunities, and Revived Economies of the Gulf*
 14 *Coast States Act of 2012 (33 U.S.C. 1321 note), or any*
 15 *project contained in an approved Restoration Plan devel-*
 16 *oped by any Natural Resources Damage Assessment Trustee*
 17 *Implementation Group to reduce post-release mortality*
 18 *from barotrauma in Gulf of Mexico Reef Fish Recreational*
 19 *Fisheries.*

20 “(c) *DEFINITIONS.—In this section:*

21 “(1) *DESCENDING DEVICE.—The term ‘descend-*
 22 *ing device’ means an instrument that—*

23 “(A) *will release fish at a depth sufficient*
 24 *for the fish to be able to recover from the effects*
 25 *of barotrauma;*

1 “(B) is a weighted hook, lip clamp, or box
2 that will hold the fish while it is lowered to
3 depth, or another device determined to be appro-
4 priate by the Secretary; and

5 “(C) is capable of—

6 “(i) releasing the fish automatically;

7 “(ii) releasing the fish by actions of the
8 operator of the device; or

9 “(iii) allowing the fish to escape on its
10 own.

11 “(2) VENTING TOOL.—The term ‘venting tool’
12 has the meaning given to it by the Gulf of Mexico
13 Fishery Management Council.

14 “(3) GULF REEF FISH.—The term ‘Gulf reef fish’
15 means any fish chosen by the Gulf of Mexico Fishery
16 Management Council that is in the reef Fishery Man-
17 agement Plan for the purposes of this Act.”.

18 (b) CIVIL PENALTIES.—Section 308(a) of the Magnu-
19 son-Stevens Fishery Conservation and Management Act (16
20 U.S.C. 1858(a)) is amended by inserting “or section 321”
21 after “section 307”.

22 (c) EFFECTIVE DATE.—The amendments made by this
23 Act shall take effect 1 year after the date of enactment of
24 this Act.

1 (d) *CONFORMING AMENDMENT.*—*Title III of the table*
 2 *of contents of the Magnuson-Stevens Fishery Conservation*
 3 *and Management Act (16 U.S.C. 1851 et seq.) is amended*
 4 *by striking the item relating to section 305 and all that*
 5 *follows through the end of the items relating to such title*
 6 *and inserting the following:*

“Sec. 305. Other requirements and authority.

“Sec. 306. State jurisdiction.

“Sec. 307. Prohibited acts.

“Sec. 308. Civil penalties and permit sanctions.

“Sec. 309. Criminal offenses.

“Sec. 310. Civil forfeitures.

“Sec. 311. Enforcement.

“Sec. 312. Transition to sustainable fisheries.

“Sec. 313. North Pacific fisheries conservation.

“Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

“Sec. 315. Regional Coastal Disaster Assistance, Transition, and Recovery Program.

“Sec. 316. Bycatch Reduction Engineering Program.

“Sec. 317. Shark Feeding.

“Sec. 318. Cooperative Research and Management Program.

“Sec. 319. Herring Study.

“Sec. 320. Restoration Study.

“Sec. 321. Required possession of descending devices.”.

7 (e) *SUNSET.*—*Five years after the date of enactment*
 8 *of this Act, the Magnuson-Stevens Fishery Conservation*
 9 *and Management Act (16 U.S.C. 1851 et seq.) is amended—*
 10 (1) *in the table of contents, by striking the item*
 11 *relating to section 321;*
 12 (2) *in section 308(a), by striking “or section*
 13 *321”; and*
 14 (3) *by striking section 321.*

15 **SEC. 4. IMPROVING DISCARD MORTALITY DATA.**

16 (a) *AGREEMENT.*—*Within 60 days of the date of enact-*
 17 *ment of this Act, the Secretary shall enter into an agree-*

1 *ment with the National Academy of Sciences to conduct a*
2 *study and produce a report on discard mortality in the Gulf*
3 *of Mexico reef fish fisheries. Such study shall include—*

4 *(1) assessment of gaps and biases in reporting of*
5 *discards and associated discard mortality;*

6 *(2) assessment of uncertainty and likely impacts*
7 *of such uncertainty in discard mortality;*

8 *(3) assessment of the effectiveness and usage rates*
9 *of barotrauma-reducing devices;*

10 *(4) recommendations for future research prior-*
11 *ities; and*

12 *(5) recommendations for standardized reporting*
13 *and quantification of discards in the same metric as*
14 *landings for fisheries under the Gulf of Mexico Reef*
15 *Fish Fishery Management Plan.*

16 *(b) DEADLINE.—The National Academy of Sciences*
17 *shall complete the study described in subsection (a) and*
18 *transmit the final report to the Secretary within 2 years*
19 *of the date of enactment of this Act. The Secretary shall,*
20 *within 3 months of receiving such study and report, submit*
21 *such study and report in (a) to the Committee on Com-*
22 *merce, Science, and Transportation of the Senate and the*
23 *Committee on Natural Resources of the House of Represent-*
24 *atives.*

1 (c) *PLAN*.—Within 1 year of receiving the study and
2 report in described in subsection (a), the Gulf of Mexico
3 Fishery Management Council and the Secretary shall—

4 (1) develop guidance for minimum standards for
5 quantifying and reporting discards and associated
6 mortality in the Gulf of Mexico Reef Fish Fishery
7 Management Plan; and

8 (2) develop a plan to assess and monitor the ef-
9 fectiveness and usage of barotrauma-reducing devices
10 and the impact on discard mortality rates in Gulf of
11 Mexico reef fish fisheries.

12 (d) *FOLLOW-UP REPORT*.—Within 3 years of devel-
13 oping minimum standards and developing the assessment
14 and monitoring plan in subsection (c), the Secretary shall
15 provide a detailed report on implementation to the Com-
16 mittee on Commerce, Science, and Transportation of the
17 Senate and the Committee on Natural Resources of the
18 House of Representatives.

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