

104TH CONGRESS  
2D SESSION

# H. R. 4144

To protect and enhance sportsmen's opportunities and enhance wildlife conservation.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1996

Mr. BREWSTER (for himself, Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. CHAMBLISS, and Mr. CUNNINGHAM) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect and enhance sportsmen's opportunities and enhance wildlife conservation.

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 "Sportsmen's Bill of  
5 Rights Act of 1996".

6 **SEC. 2. FINDINGS; POLICY.**

7 (a) FINDINGS.—Congress finds that—

1           (1) fishing is an important and traditional rec-  
2           reational activity in which 36,000,000 Americans 16  
3           years old and older participate;

4           (2) hunting is an important and traditional rec-  
5           reational activity in which 14,000,000 Americans 16  
6           years old and older participate;

7           (3) survey data from a recent comprehensive 3-  
8           year study entitled “Factors Related to Hunting and  
9           Fishing Participation in the United States” suggest  
10          that 95 percent of Americans agreed fishing should  
11          remain legal and 81 percent agreed hunting should  
12          remain legal;

13          (4) anglers and hunters have been and continue  
14          to be among the foremost supporters of sound wild-  
15          life management and conservation practices in the  
16          United States;

17          (5) persons who hunt or fish and organizations  
18          related to those activities provide direct assistance to  
19          wildlife managers and enforcement officers of Fed-  
20          eral, State, and local governments;

21          (6) funds raised through license, permit, and  
22          stamp purchases as well as through excise taxes on  
23          goods used by anglers and hunters have generated  
24          more than \$6,000,000,000 for wildlife research and  
25          management; and



1 (B) for reasons related to specific statutory  
2 requirements regarding the management and  
3 use of the land, if the requirements are clearly  
4 and directly incompatible with fishing or hunt-  
5 ing.

6 (b) NO PRIORITY.—This section does not require a  
7 Federal agency to give preference to fishing or hunting  
8 over other uses of Federal land or land management prior-  
9 ities established in Federal law.

10 (c) AUTHORITY OF THE STATES.—

11 (1) IN GENERAL.—Nothing in this Act impairs  
12 the primacy of State authority in regulating the tak-  
13 ing of fish and wildlife on land within the State, in-  
14 cluding Federal land.

15 (2) FEDERAL AUTHORITY.—Except as expressly  
16 provided by Act of Congress, the authority of a Fed-  
17 eral agency regarding the taking of fish and wildlife  
18 on Federal land managed by the Federal agency  
19 shall be no greater than the rights of a private  
20 owner of land.

21 **SEC. 4. PROTECTION OF THE INTEGRITY OF THE SPORTS-**  
22 **MEN'S TRUST ACCOUNTS.**

23 (a) FUNDING OF PLANS AND PROJECTS.—

24 (1) FEDERAL AID IN WILDLIFE RESTORATION  
25 ACT.—The Act entitled “An Act to provide that the

1 United States shall aid the States in wildlife-restora-  
2 tion projects, and for other purposes”, approved  
3 September 2, 1937 (16 U.S.C. 669 et seq.; com-  
4 monly known as the Federal Aid in Wildlife Restora-  
5 tion Act), is amended—

6 (A) by striking “Secretary of Agriculture”  
7 each place it appears and inserting “Secretary  
8 of the Interior”; and

9 (B) in section 4 by adding at the end the  
10 following:

11 “(c) The amount of funding made available to the  
12 Secretary of the Interior for expenses under this section  
13 shall not be available for use as a supplement to decreased  
14 funding for any other expense under the authority of the  
15 Secretary of the Interior.”.

16 (2) FEDERAL AID IN FISH RESTORATION  
17 ACT.—Section 4 of the Act entitled “An Act to pro-  
18 vide that the United States shall aid the States in  
19 fish restoration and management projects, and for  
20 other purposes”, approved August 9, 1950 (16  
21 U.S.C. 777e; commonly known as the Federal Aid in  
22 Fish Restoration Act), is amended by adding at the  
23 end the following:

24 “(f) The amount of funding made available to the  
25 Secretary of the Interior for expenses under this section

1 shall not be available for use as a supplement to decreased  
2 funding for any other expense under the authority of the  
3 Secretary of the Interior.”.

4 **SEC. 5. EVALUATION OF WILDLIFE MANAGEMENT EFFECTS.**

5 (a) STATEMENT.—No Federal agency action that  
6 may significantly diminish opportunities or access to en-  
7 gage in fishing or hunting on Federal land shall be effec-  
8 tive until the agency prepares a detailed statement evalu-  
9 ating the effect of the action on fishing and hunting.

10 (b) NOTICE AND HEARING.—Before taking an action  
11 described in subsection (a), a Federal agency shall—

12 (1) provide notice of the proposed agency action  
13 to the appropriate State agency responsible for the  
14 conduct or oversight of fish and wildlife manage-  
15 ment; and

16 (2) conduct a public hearing in the vicinity of  
17 the proposed action.

18 (c) JUDICIAL REVIEW.—An individual or entity that  
19 may be adversely affected by a loss of fishing or hunting  
20 opportunities on Federal land as a result of an agency ac-  
21 tion described in subsection (a) may bring a civil action  
22 in a United States district court for review of the action.

23 (d) EMERGENCIES.—Nothing in this section pre-  
24 cludes an agency from exercising statutory authority to

1 close Federal lands in an emergency or other exigent cir-  
2 cumstances.

3 (e) EFFECT ON OTHER LAW.—Nothing in this sec-  
4 tion affects or has application to the Migratory Bird Trea-  
5 ty Act (16 U.S.C. 703 et seq.) or the Magnuson Fishery  
6 Conservation and Management Act (16 U.S.C. 1801 et  
7 seq.).

8 **SEC. 6. CLARIFICATIONS RELATING TO MAINTENANCE OF**  
9 **FISHING AND HUNTING OPPORTUNITIES.**

10 (a) DEFINITION OF POINT SOURCE.—Section  
11 502(14) of the Federal Water Pollution Control Act (33  
12 U.S.C. 1362(14)) is amended—

13 (1) by striking “means” and inserting the fol-  
14 lowing:

15 “(A) means”;

16 (2) by striking “discharged.” and inserting  
17 “discharged; but”; and

18 (3) by striking “This term does not include ag-  
19 ricultural stormwater” and all that follows through  
20 the end of the sentence and inserting the following:

21 “(B) does not include—

22 “(i) agricultural stormwater dis-  
23 charges and return flows from irrigated  
24 agriculture; or

1                   “(ii) any conveyance that serves the  
2                   purposes of directly assisting individuals  
3                   engaged in fishing, hunting, or recreational  
4                   shooting.”.

5           (b) DREDGED OR FILL MATERIAL.—Section  
6 404(f)(1) of the Federal Water Pollution Control Act (33  
7 U.S.C. 1344(f)(1)) is amended—

8                   (1) by striking the comma at the end of sub-  
9                   paragraph (F) and inserting “; or”; and

10                   (2) by inserting after subparagraph (F) the fol-  
11                   lowing:

12                               “(G) resulting from the conduct of fishing,  
13                   hunting, or recreational shooting.”.

14 **SEC. 7. PROMOTION OF FISHING AND HUNTING BY FED-**  
15 **ERAL AGENCIES.**

16           Each Federal agency, in carrying out the Act entitled  
17 “An Act to provide that the United States shall aid States  
18 in wildlife-restoration projects, and for other purposes”,  
19 approved September 2, 1937 (16 U.S.C. 669 et seq.; com-  
20 monly known as the Federal Aid in Wildlife Restoration  
21 Act), or the Act entitled “An Act to provide that the Unit-  
22 ed States shall aid the States in fish restoration and man-  
23 agement projects, and for other purposes”, approved Au-  
24 gust 9, 1950 (16 U.S.C. 777 et seq.; commonly known  
25 as the Federal Aid in Fish Restoration Act), shall seek

1 to enhance existing programs and services and establish  
2 new programs and services that promote fishing and hunt-  
3 ing.

4 **SEC. 8. CIVIL ACTIONS.**

5 (a) INTERVENTION.—A person interested in fishing  
6 or hunting shall be entitled to intervene as a matter of  
7 right in a civil action brought under any other Federal  
8 law relating to the use of any Federal land in which the  
9 plaintiff seeks an order that would require the use (or  
10 nonuse) of the land in such a manner as to impair access  
11 to or use of the land for the purpose of fishing or hunting  
12 as required by this Act.

13 (b) CONSIDERATION OF INTERESTS.—If an interve-  
14 nor under subsection (a) shows that the application of an-  
15 other Federal law as sought by the plaintiff would be likely  
16 to impair access to or use of the land for the purpose of  
17 fishing or hunting as required by this Act, the court shall  
18 not grant the relief sought unless the plaintiff shows that  
19 the interest intended to be advanced by the other Federal  
20 law clearly outweighs the interest of protecting access to  
21 and use of Federal land for fishing and hunting.

22 **SEC. 9. STANDING TO BRING A CIVIL ACTION.**

23 An individual who is licensed by a State to engage  
24 in fishing or hunting, or an organization representing the  
25 interests of such individuals, may bring a civil action in

1 a United States district court to seek declaratory or in-  
2 junctive relief regarding the implementation of any provi-  
3 sion of this Act, including a declaration that a civil action  
4 brought by another person may significantly disrupt or  
5 eliminate opportunities for fishing or hunting and an in-  
6 junction against the prosecution of the civil action.

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