

109TH CONGRESS
2D SESSION

H. R. 4075

AN ACT

To amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, 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.

2 This Act may be cited as the “Marine Mammal Protection Act Amendments of 2006”.

4 SEC. 2. AMENDMENT REFERENCES.

5 Except as otherwise expressly provided, whenever in
6 this Act an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provision,
8 the reference shall be considered to be made to such
9 section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

11 SEC. 3. TECHNICAL CORRECTIONS.

12 (a) COMMITTEE REFERENCES.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by striking “Committee on Merchant Marine and Fisheries” each place it appears and inserting “Committee on Resources”.

17 (b) OBSOLETE REFERENCE TO SECTION.—Section 118(c)(3)(A)(i) (16 U.S.C. 1387(c)(3)(A)(i)) is amended by striking “, except that” and all that follows through “is valid”.

21 SEC. 4. LIMITED AUTHORITY TO EXPORT MARINE MAMMAL PRODUCTS.

23 (a) IN GENERAL.—Section 101(a)(6) (16 U.S.C. 1371(a)(6)) is amended by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

1 “(B) A marine mammal product may be ex-
2 ported from the United States if the product—

3 “(i) is legally possessed, and exported by,
4 a citizen of the United States for noncommer-
5 cial purposes in conjunction with travel outside
6 the United States and the product is imported
7 into the United States by the same person upon
8 the termination of travel;

9 “(ii) is legally possessed, and exported by,
10 a person that is not a citizen of the United
11 States for noncommercial purposes;

12 “(iii) is legally possessed and exported as
13 part of a cultural exchange, by an Indian,
14 Aleut, or Eskimo residing in Alaska; or

15 “(iv) is owned by a Native inhabitant of
16 Russia, Canada, or Greenland and is exported
17 for noncommercial purposes—

18 “(I) in conjunction with, and upon the
19 completion of, travel within the United
20 States; or

21 “(II) as part of a cultural exchange
22 with an Indian, Aleut, or Eskimo residing
23 in Alaska.”.

24 (b) CONFORMING AMENDMENT.—Section
25 101(a)(6)(A)(i) (16 U.S.C. 1371(a)(6)(A)(i)) is amended

1 by inserting “for noncommercial purposes” after “United
2 States” the first place it appears.

3 **SEC. 5. CAPTIVE RELEASE PROHIBITION.**

4 Section 102(a) (16 U.S.C. 1372(a)) is amended—

5 (1) in paragraph (4) by striking “subsection
6 104(c); and” and inserting “section 104(c);”;

7 (2) in paragraph (5) by striking the period and
8 inserting “; and”; and

9 (3) by adding at the end the following:

10 “(6) for any person that is subject to the juris-
11 diction of the United States to release any captive
12 marine mammal unless specifically authorized to do
13 so under section 104(c)(3)(A), 104(c)(4)(A), or
14 109(h), except that this paragraph shall not apply to
15 the temporary release of any marine mammal that
16 is maintained in captivity under section 7524 of title
17 10, United States Code (including any progeny of a
18 marine mammal maintained under that section).”.

19 **SEC. 6. ANNUAL REPORT REQUIREMENT.**

20 Section 103(f) (16 U.S.C. 1373(f)) is amended in the
21 first sentence, by inserting “and notwithstanding Public
22 Law 104–66” after “thereafter”.

23 **SEC. 7. PERMIT CLARIFICATIONS.**

24 (a) CLARIFICATIONS.—Section 104 (16 U.S.C. 1374)
25 is amended as follows:

1 (1) Subsection (c)(7) is amended by inserting
2 “notwithstanding any other provision of law” after
3 “requesting the permit”.

4 (2) Subsection (c)(9) is amended to read as fol-
5 lows:

6 “(9)(A) No marine mammal may be exported—
7 “(i) for the purpose of public display,
8 unless the Secretary of Agriculture eval-
9 uates and verifies, and thereafter notifies
10 the Secretary, that the receiving facility
11 meets standards that are comparable to
12 the requirements that a person must meet
13 to receive a permit under this subsection
14 for that purpose; or

15 “(ii) for the purpose of scientific re-
16 search or enhancing the survival or recov-
17 ery of a species or stock, unless the receiv-
18 ing facility meets standards that are com-
19 parable to the requirements that a person
20 must meet to receive a permit under this
21 subsection for that purpose.

22 “(B) The Secretary may not require or request,
23 through comity or any other means, that any marine
24 mammal or its progeny remain subject to the juris-
25 diction of the United States when located in waters

1 or on lands that are subject to the jurisdiction of an-
2 other country.”.

3 (3) Subsection (c)(10) is amended—

4 (A) in the first sentence by inserting “held
5 within the lands and waters of the United
6 States” after “marine mammals” each place it
7 appears;

8 (B) by inserting after the first sentence
9 the following: “The Secretary shall update the
10 inventory on an annual basis.”; and

11 (C) in subparagraph (D) by inserting
12 “ownership, or other” after “date of”.

13 (b) REVIEW AND REPORT REGARDING INVEN-
14 TORY.—

15 (1) REVIEW.—The Secretaries of Commerce
16 and the Interior shall, by not later than 12 months
17 after date of the enactment of this Act, jointly con-
18 duct a review of the inventory maintained under sec-
19 tion 104(c)(10) of the Marine Mammal Protection
20 Act of 1972 (16 U.S.C. 1374(c)(10)), the use of the
21 information in the inventory, and the costs, benefits,
22 and issues associated with the development of an on-
23 line inventory.

24 (2) CONSULTATION.—In conducting the review,
25 the Secretary shall consult and solicit input from

1 persons who are required to provide information for
2 the inventory.

3 (3) REPORT.—The Secretary shall submit a re-
4 port to Committee on Resources of the House of
5 Representatives and the Committee on Commerce,
6 Science, and Transportation of the Senate on the
7 findings of the review under this subsection. The re-
8 port shall include the following:

9 (A) Recommendations on whether the in-
10 ventory should be maintained by the Secretary
11 or by another person under contract.

12 (B) How the Secretary would oversee
13 maintenance of the inventory carried out under
14 contract.

15 (C) How public access and access by Fed-
16 eral agencies to the inventory can be main-
17 tained if the inventory is maintained under con-
18 tract.

19 (D) How the Secretary can minimize dupli-
20 cation on the information the Secretary receives
21 from public display facilities and reduce the
22 paper work burden on those facilities.

23 (E) An estimate of the cost of maintaining
24 the inventory.

(G) An analysis of the potential that online availability of the information in the inventory could adversely affect the safety of the animals.

7 (c) LIMITATION ON NOTIFICATION REQUIRE-
8 MENTS.—Section 104(c) (16 U.S.C. 1374(c)) is amended
9 in paragraph (2)(E) in the first sentence, and in para-
10 graph (8)(B)(i)(II), by inserting before the period at the
11 end the following: “, except that if the transport is for
12 purposes of public display and the transfer is between fa-
13 cilities where the ownership and care of the marine mam-
14 mal will be under the same license or registration issued
15 under the Animal Welfare Act (7 U.S.C. 2131 et seq.)
16 then only a notice of transport is required”.

17 SEC. 8. FINES AND PENALTIES.

18 (a) FINES AND PENALTIES, GENERALLY.—Section

19 105 (16 U.S.C. 1375) is amended—

20 (1) in subsection (a)(1) by striking “\$10,000”

21 and inserting “\$20,000”; and

1 (b) VESSEL PENALTY.—Section 106(b) (16 U.S.C.
2 1376(b)) is amended by striking “\$25,000” and inserting
3 “\$35,000”.

4 **SEC. 9. MARINE MAMMAL GRANTS.**

5 Section 110(a) (16 U.S.C. 1380(a)) is amended to
6 read as follows:

7 “(a) AUTHORIZATION OF ASSISTANCE; ANNUAL RE-
8 PORT.—

9 “(1) AUTHORIZATION OF ASSISTANCE.—The
10 Secretary may make grants, or provide financial as-
11 sistance in such other form as the Secretary con-
12 siders appropriate, to any Federal or State agency,
13 public or private institution, or other person for the
14 purpose of assisting such agency, institution, or per-
15 son to undertake research in subjects that are rel-
16 evant to the protection and conservation of marine
17 mammals.

18 “(2) REPORTS.—

19 “(A) REPORTS BY SECRETARY.—The Sec-
20 retary shall include a description of the results
21 of research carried out with assistance under
22 this section in the annual report required under
23 section 103(f).

24 “(B) REPORTS BY FEDERAL AGENCIES.—
25 The head of each Federal agency that conducts

1 and provides funds for research on marine
2 mammals shall report annually to the Com-
3 mittee on Resources of the House of Represent-
4 atives and the Committee on Commerce,
5 Science, and Transportation of the Senate on
6 funding provided and research conducted re-
7 garding marine mammals during the preceding
8 year.

9 “(3) CONTRIBUTIONS.—For purposes of car-
10 rying out this section, the Secretary may accept, so-
11 licit, receive, hold, administer, and use gifts, devises,
12 and bequests.”.

13 **SEC. 10. FISHERIES GEAR DEVELOPMENT.**

14 Section 111 (16 U.S.C. 1381) is amended as follows:

15 (1) Subsection (a) is amended to read as fol-
16 lows:

17 “(a) FISHING GEAR DEVELOPMENT PROGRAM.—

18 “(1) IN GENERAL.—The Secretary of Com-
19 merce (in this section referred to as the ‘Secretary’)
20 shall—

21 “(A) carry out a program for the purpose
22 of devising improved fishing gear and methods
23 so as to reduce to the maximum extent prac-
24 ticable the incidental taking of marine mam-
25 mals in connection with fishing operations; and

1 “(B) make every practicable effort to de-
2 velop, evaluate, and make available to owners
3 and operators of fishing vessels such gear and
4 fishing method improvements as quickly as pos-
5 sible.

6 “(2) COORDINATION WITH OTHER COUN-
7 TRIES.—The Secretary may coordinate with other
8 countries to foster gear technology transfer initia-
9 tives to reduce to the maximum extent practicable
10 the incidental mortality and serious injury of marine
11 mammals throughout the full extent of their range.”.

12 (2) By adding at the end the following:

13 “(e) GEAR IMPROVEMENT MINI-GRANT PROGRAM.—
14 “(1) IN GENERAL.—Subject to the availability
15 of appropriations, the Secretary may establish a
16 grant program to provide financial assistance for de-
17 veloping, manufacturing, testing, or designing new
18 types of fishing gear designed to reduce to the max-
19 imum extent practicable the incidental taking (in-
20 cluding incidental mortality and serious injury) of
21 marine mammals.

22 “(2) GRANT AMOUNT AND PURPOSES.—The
23 amount of a grant under this subsection may not ex-
24 ceed \$20,000.

1 “(3) GRANT APPLICATIONS.—To receive a
2 grant under this section, an applicant must submit
3 an application in such form and manner as the Sec-
4 retary may prescribe.

5 “(4) CONSULTATION REGARDING CRITERIA.—
6 The Secretary shall consult with the Secretary of the
7 Interior and the Marine Mammal Commission re-
8 garding the development of criteria for the awarding
9 of grants under this subsection.

10 “(5) ADMINISTRATIVE COSTS.—Of amounts
11 available each fiscal year to carry out this sub-
12 section, the Secretary may expend not more than
13 \$40,000 to pay the administrative expenses nec-
14 essary to carry out this subsection.

15 “(6) CONTRIBUTIONS.—For purposes of car-
16 rying out this section, the Secretary may accept, so-
17 licit, receive, hold, administer, and use gifts, devises,
18 and bequests.”.

19 **SEC. 11. CONFORMING AMENDMENT.**

20 Subsection (c) of the Dolphin Protection Consumer
21 Information Act (16 U.S.C. 1385) is amended in para-
22 graph (2) by striking “160 degrees west longitude” and
23 inserting “150 degrees west longitude”.

1 **SEC. 12. TAKE REDUCTION PLANS.**

2 (a) IN GENERAL.—Section 118 (16 U.S.C. 1387) is
3 amended as follows:

4 (1) In subsection (a) by striking “commercial”
5 each place it appears in paragraphs (1) and (5).

6 (2) In subsection (c)(1) by striking so much as
7 precedes subparagraph (B) and inserting the fol-
8 lowing:

9 “(c) REGISTRATION AND AUTHORIZATION.—(1) The
10 Secretary shall, within 90 days after the date of enactment
11 of the Marine Mammal Protection Act Amendments of
12 2006—

13 “(A) publish in the Federal Register for public
14 comment, for a period of not less than 90 days, any
15 necessary changes to the Secretary’s list of fisheries
16 published under section 114(b)(1) in the Federal
17 Register on August 24, 1994 (along with an expla-
18 nation of such changes and a statement describing
19 the marine mammal stocks interacting with, and the
20 approximate number of vessels or persons actively
21 involved in, each such fishery), with respect to—

22 “(i) commercial and recreational fisheries
23 that have frequent incidental mortality and seri-
24 ous injury of marine mammals;

1 “(ii) commercial and recreational fisheries
2 that have occasional incidental mortality and
3 serious injury of marine mammals; or

4 “(iii) commercial fisheries that have a re-
5 mote likelihood of or no known incidental mor-
6 tality or serious injury of marine mammals;”.

7 (3) In subsection (c)(1) in subparagraphs (B)
8 and (C) by striking “commercial”.

9 (4) In subsection (c)(2)(A) by striking “com-
10 mercial”.

11 (5) In subsection (c)(3)(A) in the matter pre-
12 ceding clause (i) by striking “a commercial fishery”
13 and inserting “that fishery”.

14 (6) In subsection (c)(3)(E) by inserting “com-
15 mercial” after “any”.

16 (7) In subsection (c)(5)(B) by striking “com-
17 mercial”.

18 (8) In subsection (d)(1) in the matter preceding
19 subparagraph (A) by striking “commercial fishing
20 operations” and inserting “fishing operations in a
21 fishery listed under subsection (c)(1)(A)(i) or (ii)”.

22 (9) In subsection (d)(3) in the matter preceding
23 subparagraph (A) by striking “commercial fisheries”
24 and inserting “fisheries listed under subsection
25 (c)(1)(A)(i) or (ii)”.

1 (10) In subsection (d)(4) as follows:

2 (A) In the matter preceding subparagraph
3 (A) by striking “commercial fisheries” and in-
4 serting “fisheries listed under subsection
5 (c)(1)(A)(i) or (ii)”.

6 (B) In subparagraph (A) by striking “com-
7 mercial fisheries” and inserting “fisheries listed
8 under subsection (c)(1)(A)(i) or (ii)”.

9 (C) In subparagraph (B) by striking “com-
10 mercial fisheries” and inserting “fisheries listed
11 under subsection (c)(1)(A)(i) or (ii)”.

12 (D) In subparagraph (C) by striking “com-
13 mercial fisheries” and inserting “fisheries listed
14 under subsection (c)(1)(A)(i) or (ii)”.

15 (11) In subsection (d)(5) by striking “commer-
16 cial fishing operations” and inserting “fishing oper-
17 ations in fisheries listed under subsection
18 (c)(1)(A)(i) or (ii)”.

19 (12) In subsection (e) in the matter preceding
20 paragraph (1)—

21 (A) by striking “commercial” each place it
22 appears; and

23 (B) by striking “this Act” and inserting
24 “this section”.

1 (13) In subsection (f) by striking so much as
2 precedes paragraph (2) and inserting the following:
3 “(f) TAKE REDUCTION PLANS.—(1) The Secretary
4 shall develop and implement a take reduction plan de-
5 signed to assist in the recovery or prevent the depletion
6 of each strategic stock which interacts with a fishery listed
7 under subsection (c)(1)(A)(i) or (ii), unless the Secretary
8 determines, after notice and opportunity for public com-
9 ment, that the level of fishery related mortality and seri-
10 ous injury is having a negligible impact on that stock. The
11 Secretary may develop and implement a take reduction
12 plan for any other marine mammal stocks which interact
13 with a fishery listed under subsection (c)(1)(A)(i) which
14 the Secretary determines, after notice and opportunity for
15 public comment, has a high level of mortality and serious
16 injury across a number of such marine mammal stocks.”.

17 (14) In subsection (f)(2)—

18 (A) by striking “6 months” and inserting

19 “9 months”; and

20 (B) by striking “commercial fishing oper-
21 ations” each place it appears and inserting
22 “fishing operations in fisheries listed under sub-
23 section (c)(1)(A)(i) or (ii)”.

24 (15) In subsection (f)(3) by striking “commer-
25 cial”.

1 (16) In subsection (f)(4)(B) by striking “com-
2 mercial fishing operations” and inserting “fishing
3 operations in fisheries listed under subsection
4 (c)(1)(A)(i) or (ii)”.

5 (17) In subsection (f)(5)—

6 (A) in subparagraph (A) by striking “6
7 months” and inserting “9 months”; and
8 (B) in subparagraphs (A) and (B) by
9 striking “commercial” each place it appears.

10 (18) In subsection (f)(6)(A)—

11 (A) by striking “(not later than 30 days)”;
12 and

13 (B) in clause (ii) by striking “commercial
14 fisheries” and inserting “fisheries listed under
15 subsection (c)(1)(A)(i) or (ii)”.

16 (19) In subsection (f)(6)(C) in the second sen-
17 tence, by inserting before “, and others” the fol-
18 lowing: “, where appropriate a representative of the
19 office of General Counsel of the National Oceanic
20 and Atmospheric Administration, a representative of
21 the National Marine Fisheries Service having re-
22 sponsibilities related to fisheries science, a represent-
23 ative of the National Marine Fisheries Service hav-
24 ing responsibilities related to law enforcement, and

1 a representative of the appropriate National Marine
2 Fisheries Service Regional Administrator".

3 (20) In subsection (f)(7)—

4 (A) in subparagraph (A)(i) by striking “6
5 months” and inserting “9 months”;

6 (B) in subparagraph (B)(i)—

7 (i) by striking “not later than 60
8 days” and inserting “not later than 120
9 days”; and

10 (ii) by adding at the end the fol-
11 lowing: “Before publishing any plan that is
12 different than the draft plan proposed by
13 a take reduction team, the Secretary shall
14 reconvene the team and explain to the
15 team the differences between the published
16 plan and the draft plan proposed by the
17 team.”; and

18 (C) in subparagraph (B)(ii)—

19 (i) by striking “6 months” and insert-
20 ing “9 months”; and

21 (ii) by striking “not later than 8
22 months” and inserting “not later than 11
23 months”.

1 (21) In subsection (f)(7)(C) by striking “Not
2 later than 60 days” and inserting “Not later than
3 90 days”.

4 (22) In subsection (f)(7)(D) by striking “com-
5 mercial”.

6 (23) In subsection (f)(8)—

7 (A) in subparagraph (C) by striking “Not
8 later than 60 days” and inserting “Not later
9 than 180 days”; and

10 (B) by striking “commercial” each place it
11 appears.

12 (24) In subsection (f)(9) as follows:

13 (A) In subparagraph (A) by striking “com-
14 mercial fisheries or restrict commercial fish-
15 eries” and inserting “fisheries listed under sub-
16 section (c)(1)(A)(i) or (ii) or restrict such fish-
17 eries”.

18 (B) In subparagraphs (B) and (C) by
19 striking “commercial” each place it appears.

20 (C) In subparagraph (D) by striking “com-
21 mercial fishing operations” and inserting “par-
22 ticipation in a fishery listed under subsection
23 (c)(1)(A)(i) or (ii)”.

1 (25) In subsection (g)(1) by striking “commer-
2 cial fisheries” and inserting “fisheries listed under
3 subsection (c)(1)(A)(i) or (ii)”.

4 (26) In subsection (g)(3)(B) by striking “com-
5 mercial”.

6 (27) In subsection (g)(4) by striking “commer-
7 cial fishery” and inserting “fishery listed under sub-
8 section (c)(1)(A)(i) or (ii)”.

9 (28) In subsection (j) by inserting “including
10 observer, research, and education and outreach pro-
11 grams,” after “For purposes of carrying out this
12 section.”.

13 (29) By amending subsection (d)(1)(C) to read
14 as follows:

15 “(C) identify current fishery regulations and
16 changes in fishing methods or technology that may
17 increase or decrease incidental mortality and serious
18 injury.”.

19 (30) In subsection (f)(2) in the last sentence by
20 inserting “conservation benefits of” before “State or
21 regional fishery management plans.”.

22 (31) By amending subsection (f)(4)(A) to read
23 as follows:

24 “(A) a review of the information in the final
25 stock assessment published under section 117(b),

1 any substantial new information, a review of the
2 conservation benefits from current State and re-
3 gional fishery management regulations;”.

4 (b) STOCK ASSESSMENTS.—Section 117(a)(4) is
5 amended—

6 (1) by striking “and” at the end of subpara-
7 graph (C);

8 (2) by inserting “and” at the end of subpara-
9 graph (D); and

10 (3) by adding at the end the following:

11 “(E) potential conservation benefits pro-
12 vided by State and regional fishery manage-
13 ment regulations;”.

14 (c) CONFORMING AMENDMENT.—Section
15 101(a)(5)(E) (16 U.S.C. 1371(a)(5)(E)) is amended by
16 inserting “or recreational” after “commercial” each place
17 it appears.

18 **SEC. 13. PINNIPED CONTROL PROGRAM.**

19 Section 120 (16 U.S.C. 1389) is amended by adding
20 at the end the following:

21 “(k) NONLETHAL REMOVAL AND CONTROL.—(1)
22 The Secretary shall conduct a program on the nonlethal
23 removal and control of nuisance pinnipeds. The program
24 shall include a review of measures that have been taken
25 to effect such removal and control, the effectiveness of

1 these measures, and the development of new technologies
2 to deter nuisance pinnipeds.

3 “(2) The Secretary shall include, among the individ-
4 uals that develop the program under this subsection, rep-
5 resentatives of the commercial and recreational fishing in-
6 dustries and, as appropriate, individuals with scientific
7 proficiency, technical credentials, and expertise.

8 “(3) The Secretary is encouraged, where appropriate,
9 to use independent marine mammal research institutions
10 in developing and in conducting the program.

11 “(4) The Secretary shall, by December 31 of each
12 year, submit an annual report on the results of research
13 under this subsection to the Committee on Resources of
14 the House of Representatives and the Committee on Com-
15 merce, Science, and Transportation of the Senate.

16 “(l) QUALIFIED NONLETHAL CONTROL PROJECTS.—
17 “(1) IN GENERAL.—The Secretary may, to the
18 extent amounts are available to carry out this sub-
19 section, provide a grant to any eligible applicant to
20 carry out a qualified nonlethal control project in ac-
21 cordance with this subsection.

22 “(2) APPLICATIONS.—The Secretary shall—

23 “(A) publish guidelines for and solicit ap-
24 plications for grants under this subsection not

1 later than 6 months after the date of enactment
2 of this subsection; and

3 “(B) receive, review, evaluate, and approve
4 applications for grants under this subsection.

5 “(3) ELIGIBLE APPLICANT.—To be an eligible
6 applicant for purposes of paragraph (1), an appli-
7 cant must—

8 “(A) be a State, local government, or
9 interstate or regional agency; and

10 “(B) have adequate personnel, funding,
11 and authority to carry out and monitor or
12 maintain a nonlethal control of nuisance
13 pinnipeds project.

14 “(4) QUALIFIED CONTROL PROJECT.—To be a
15 qualified control project under this subsection, a
16 project must—

17 “(A) by humane and nonlethal means, re-
18 move, deter, and control nuisance pinnipeds in
19 areas where they are a recurrent and persistent
20 threat to public health and safety; and

21 “(B) encourage public notice, education,
22 and outreach on project activities in the af-
23 fected community.

24 “(5) GRANT DURATION.—Each grant under
25 this subsection shall be to provide funding for the

1 Federal share of the cost of a project carried out
2 with the grant for up to 2 fiscal years.

3 “(6) REPORTING BY GRANTEE.—

4 “(A) IN GENERAL.—A grantee carrying
5 out a control project with a grant under this
6 subsection shall report to the Secretary at the
7 expiration of the grant.

8 “(B) REPORT CONTENTS.—Each report
9 under this subsection shall include specific in-
10 formation on the methods and techniques used
11 to control nuisance pinniped species in the
12 project area, and on the ensuing results.

13 “(7) COST SHARING.—

14 “(A) FEDERAL SHARE.—Except as pro-
15 vided in paragraphs (2) and (3), the Federal
16 share of the cost of a project carried out with
17 a grant under this subsection shall not exceed
18 75 percent of such cost.

19 “(B) APPLICATION OF IN-KIND CONTRIBU-
20 TIONS.—The Secretary may apply to the non-
21 Federal share of costs of a control project car-
22 ried out with a grant under this subsection the
23 fair market value of services or any other form
24 of in-kind contribution to the project made by
25 non-Federal interests that the Secretary deter-

1 mines to be an appropriate contribution equiva-
2 lent to the monetary amount required for the
3 non-Federal share of the activity.

4 “(C) DERIVATION OF NON-FEDERAL
5 SHARE.—The non-Federal share of the cost of
6 a control project carried out with a grant under
7 this subsection may not be derived from a Fed-
8 eral grant program or other Federal funds.

9 “(8) CLARIFICATION.—Nothing in this sub-
10 section shall be interpreted as suspending or waiving
11 any requirement under any other provision of this
12 Act.”.

13 **SEC. 14. MARINE MAMMAL COMMISSION.**

14 (a) NUMBER OF EMPLOYEES.—Section 206(5) (16
15 U.S.C. 1406(5)) is amended by striking “; except that no
16 fewer than 11 employees must be employed under para-
17 graph (1) at any time”.

18 (b) ADMINISTRATION.—Section 206 (16 U.S.C.
19 1406) is amended—

20 (1) in paragraph (4) by striking “(but at rates
21 for individuals not to exceed \$100 per diem)”; and
22 (2) in paragraph (5) by striking “Financial”
23 and all that follows through the end of that sen-
24 tence.

1 **SEC. 15. STRANDING AND ENTANGLEMENT RESPONSE.**

2 (a) COLLECTION AND UPDATING OF INFORMATION.—Section 402(b)(1)(A) (16 U.S.C. 1421a(b)(1)(A))
3 is amended by inserting “or entangled” after “stranded”.

4 (b) ENTANGLEMENT RESPONSE AGREEMENTS.—

5 (1) IN GENERAL.—Section 403 (16 U.S.C.
6 1421b) is amended—

7 (A) by amending the section heading to
8 read as follows:

9
10 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE
11 AGREEMENTS.”; and**

12 (B) in subsection (a) by inserting “or entanglement” before the period.

13 (2) CLERICAL AMENDMENT.—The table of contents at the end of the first section is amended by
14 striking the item relating to section 403 and inserting
15 the following:

16 “See. 403. Stranding or entanglement response agreements”.

17 (c) LIABILITY.—Section 406(a) (16 U.S.C. 1421e(a))
18 is amended by inserting “or entanglement” after “stranding”.

19 (d) ENTANGLEMENT DEFINED.—

20 (1) IN GENERAL.—Section 410 (16 U.S.C.
21 1421h) is amended—

1 (A) by redesignating paragraphs (1)
2 through (6) in order as paragraphs (2) through
3 (7); and

4 (B) by inserting before paragraph (2) (as
5 so redesignated) the following:

6 “(1) The term ‘entanglement’ means an event
7 in the wild in which a living or dead marine mammal
8 has gear, rope, line, net, or other material wrapped
9 around or attached to it and is—

10 “(A) on a beach or shore of the United
11 States; or

12 “(B) in waters under the jurisdiction of
13 the United States.”.

14 (2) CONFORMING AMENDMENT.—Section
15 408(a)(2)(B)(i) (16 U.S.C. 1421f-1(a)(2)(B)(i)) is
16 amended by striking “section 410(6)” and inserting
17 “section 410(7)”.

18 (e) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
19 ASSISTANCE GRANT PROGRAM.—

20 (1) AUTHORIZATION OF APPROPRIATIONS FOR
21 GRANT PROGRAM.—Section 408(h) (16 U.S.C.
22 1421f-1(h)) is amended by striking “\$5,000,000 for
23 each of fiscal years 2001 through 2003” and insert-
24 ing “\$5,000,000 for each of fiscal years 2007
25 through 2010”.

2 Section 408 (16 U.S.C. 1421f-1) is amended—

(B) by amending subsection (f) to read as follows:

“(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of the amounts available each fiscal year to carry out this section, the Secretary may expend not more than 5 percent or \$80,000, whichever is greater, to pay the administrative costs and administrative expenses to implement the grant program under subsection (a). Any such funds retained by the Secretary for a fiscal year for such costs and expenses that are not used for such costs and expenses before the end of the fiscal year shall be provided as grants under subsection (a).”.

21 (3) EMERGENCY ASSISTANCE.—Section 408 (16)

22 U.S.C. 1421f-1) is amended—

1 “(2) Subject to the availability of appropriations, the
2 Secretary may also enter into cooperative agreements, con-
3 tracts, or such other agreements or arrangements as the
4 Secretary considers appropriate to address stranding
5 events requiring emergency assistance.”;

(B) in subsection (d) by inserting “(1)” before the text, and by adding at the end the following:

9 “(2) Funding for emergency stranding projects shall
10 not be subject to the funding limit established in para-
11 graph (1).”;

12 (C) in subsection (e)—

21 “(2) EMERGENCY ASSISTANCE.—No non-Fed-
22 eral contribution shall be required for funding for a
23 response to an emergency stranding event.”; and

4 “(2) EMERGENCY ASSISTANCE.—The term
5 ‘emergency assistance’ means assistance provided for
6 a stranding event that—

7 “(A) is not an unusual mortality event as
8 defined in section 409(6);

9 “(B) leads to an immediate increase in re-
10 quired costs for stranding response, recovery, or
11 rehabilitation in excess of regularly scheduled
12 costs;

13 “(C) may be cyclical or endemic; and

14 “(D) may involve out-of-habitat animals.”.

18 "(i) CONTRIBUTIONS.—For purposes of carrying out
19 this section, the Secretary may solicit, accept, receive,
20 hold, administer, and use gifts, devises, and bequests.".

21 (f) AUTHORIZATION OF APPROPRIATIONS FOR MA-
22 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—
23 Section 409(3) (16 U.S.C. 1421g(3)) is amended by strik-
24 ing “\$500,000 for fiscal year 1993” and inserting
25 “\$125,000 for each of fiscal years 2007 through 2010”.

1 **SEC. 16. SCRIMSHAW EXEMPTION.**

2 Any valid certificate of exemption referred to in section
3 18 of Public Law 103–238 (16 U.S.C. 1539 note)
4 that was valid under that section on April 29, 1999, shall
5 be valid during the 11-year period beginning October 31,
6 1999.

7 **SEC. 17. POLAR BEARS.**

8 (a) IN GENERAL.—The Marine Mammal Protection
9 Act of 1972 (16 U.S.C. 1361 et seq.) is amended by add-
10 ing at the end thereof the following:

11 **“TITLE V—POLAR BEARS**

12 **“SEC. 501. DEFINITIONS.**

13 “In this title:

14 “(1) AGREEMENT.—The term ‘Agreement’
15 means the Agreement Between the Government of
16 the United States of America and the Government
17 of the Russian Federation on the Conservation and
18 Management of the Alaska-Chukotka Polar Bear
19 Population, signed at Washington, D.C., on October
20 16, 2000.

21 “(2) ALASKA NANUUQ COMMISSION.—The term
22 ‘Alaska Nanuuq Commission’ means the Alaska Na-
23 tive entity, in existence on the date of enactment of
24 this title, that represents all villages in the State of
25 Alaska that engage in the annual subsistence taking

1 of polar bears from the Alaska-Chukotka population
2 and any successor entity.

3 “(3) IMPORT.—The term ‘import’ means to
4 land on, bring into, or introduce into, or attempt to
5 land on, bring into, or introduce into, any place sub-
6 ject to the jurisdiction of the United States, without
7 regard to whether the landing, bringing, or introduc-
8 tion constitutes an importation within the meaning
9 of the customs laws of the United States.

10 “(4) POLAR BEAR PART OR PRODUCT.—The
11 term ‘part or product of a polar bear’ means any
12 polar bear part or product, including the gall bile
13 and gall bladder.

14 “(5) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of the Interior.

16 “(6) TAKING.—The term ‘taking’ has the
17 meaning given the term in the Agreement.

18 “(7) COMMISSION.—The term ‘Commission’
19 means the commission established under article 8 of
20 the Agreement.

21 **“SEC. 502. PROHIBITIONS.**

22 “(a) IN GENERAL.—It is unlawful for any person
23 who is subject to the jurisdiction of the United States—

24 “(1) to take any polar bear in violation of the
25 Agreement;

1 “(2) to take any polar bear in violation of the
2 Agreement or any annual taking limit or other re-
3 striction on the taking of polar bears that is adopted
4 by the Commission pursuant to the Agreement;

5 “(3) to import, export, possess, transport, sell,
6 receive, acquire, or purchase, exchange, barter, or
7 offer to sell, purchase, exchange, or barter any polar
8 bear, or any part or product of a polar bear, that
9 is taken in violation of paragraph (2);

10 “(4) to import, export, sell, purchase, exchange,
11 barter, or offer to sell, purchase, exchange, or bar-
12 ter, any polar bear gall bile or polar bear gall blad-
13 der;

14 “(5) to commit, solicit another person to com-
15 mit, or cause to be committed, any offense under
16 this subsection; or

17 “(6) to violate any regulation promulgated by
18 the Secretary to implement any of the prohibitions
19 established in this subsection.

20 “(b) EXCEPTIONS.—For the purpose of forensic test-
21 ing or any other law enforcement purpose, the Secretary,
22 and Federal law enforcement officials, and any State or
23 local law enforcement official authorized by the Secretary,
24 may import a polar bear or any part or product of a polar
25 bear.

1 **“SEC. 503. ADMINISTRATION.**

2 “(a) IN GENERAL.—The Secretary, acting through
3 the Director of the United States Fish and Wildlife Serv-
4 ice, shall do all things necessary and appropriate, includ-
5 ing the promulgation of regulations, to implement, en-
6 force, and administer the provisions of the Agreement on
7 behalf of the United States. The Secretary shall consult
8 with the Secretary of State and the Alaska Nanuuq Com-
9 mission on matters involving the implementation of the
10 Agreement.

11 “(b) UTILIZATION OF OTHER GOVERNMENT RE-
12 SOURCES AND AUTHORITIES.—

13 “(1) OTHER GOVERNMENT RESOURCES.—The
14 Secretary may utilize by agreement, with or without
15 reimbursement, the personnel, services, and facilities
16 of any other Federal agency, any State agency, or
17 the Alaska Nanuuq Commission for purposes of car-
18 rying out this title or the Agreement.

19 “(2) OTHER POWERS AND AUTHORITIES.—Any
20 person authorized by the Secretary under this sub-
21 section to enforce this title or the Agreement shall
22 have the authorities that are enumerated in section
23 6(b) of the Lacey Act Amendments of 1981 (16
24 U.S.C. 3375(b)).

25 “(c) ENSURING COMPLIANCE.—

1 “(1) TITLE I AUTHORITIES.—The Secretary
2 may use authorities granted under title I to enforce
3 this title.

4 “(2) ADDITIONAL AUTHORITIES.—Any gun,
5 trap, net, or other equipment used, to aid in the vio-
6 lation or attempted violation of this title shall be
7 subject to seizure and forfeiture under section 106.

8 “(d) REGULATIONS.—

9 “(1) IN GENERAL.—The Secretary shall pro-
10 mulgate such regulations as are necessary to carry
11 out this title and the Agreement.

12 “(2) ORDINANCES AND REGULATIONS.—If nec-
13 essary to carry out this title and the Agreement, and
14 to improve compliance with any annual taking limit
15 or other restriction on taking adopted by the Com-
16 mission and implemented by the Secretary in accord-
17 ance with this title, the Secretary may promulgate
18 regulations that adopt any ordinance or regulation
19 that restricts the taking of polar bears for subsist-
20 ence purposes if the ordinance or regulation has
21 been promulgated by the Alaska Nanuuq Commis-
22 sion.

4 “(a) IN GENERAL.—The Secretary, acting through
5 the Director of the United States Fish and Wildlife Serv-
6 ice, may share authority under this title for the manage-
7 ment of the taking of polar bears for subsistence purposes
8 with the Alaska Nanuuq Commission if such commission
9 is eligible under subsection (b).

10 "(b) DELEGATION.—To be eligible for the manage-
11 ment authority described in subsection (a), the Alaska
12 Nanuug Commission shall—

13 “(1) enter into a cooperative agreement with
14 the Secretary under section 119 for the conservation
15 of polar bears:

16 “(2) meaningfully monitor compliance with this
17 title and the Agreement by Alaska Natives; and

18 “(3) administer its co-management program for
19 polar bears in accordance with—

20 “(A) this title; and

21 “(B) the Agreement.

22 "SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION,
23 TRAVEL EXPENSES, AND CLAIMS.

24 "(a) APPOINTMENT OF U.S. COMMISSIONERS.—

“(1) APPOINTMENT.—The United States commissioners on the Commission shall be appointed by

1 the President, in accordance with paragraph 2 of ar-
2 ticle 8 of the Agreement, after taking into consider-
3 ation the recommendations of—

- 4 “(A) the Secretary;
5 “(B) the Secretary of State; and
6 “(C) the Alaska Nanuuq Commission.

7 “(2) QUALIFICATIONS.—Both of the United
8 States commissioners shall have knowledge or exper-
9 tise in polar bears.

10 “(3) SERVICE AND TERM.—Each United States
11 commissioner shall serve—

- 12 “(A) at the pleasure of the President; and
13 “(B) for an initial 4-year term and such
14 additional terms as the President shall deter-
15 mine.

16 “(4) VACANCIES.—

17 “(A) IN GENERAL.—Any individual ap-
18 pointed to fill a vacancy occurring before the
19 expiration of any term of office of a United
20 States commissioner shall be appointed for the
21 remainder of that term.

22 “(B) MANNER.—Any vacancy on the Com-
23 mission shall be filled in the same manner as
24 the original appointment.

25 “(b) ALTERNATE COMMISSIONERS.—

1 “(1) IN GENERAL.—The Secretary, in consulta-
2 tion with the Secretary of State and the Alaska
3 Nanuuq Commission, shall designate an alternate
4 commissioner for each member of the United States
5 section.

6 “(2) DUTIES.—In the absence of a United
7 States commissioner, an alternate commissioner may
8 exercise all functions of the United States commis-
9 sioner at any meetings of the Commission or of the
10 United States section.

11 “(3) REAPPOINTMENT.—An alternate commis-
12 sioner—

13 “(A) shall be eligible for reappointment by
14 the President; and

15 “(B) may attend all meetings of the
16 United States section.

17 “(c) DUTIES.—The members of the United States
18 section may carry out the functions and responsibilities
19 described in article 8 of the Agreement in accordance with
20 this title and the Agreement.

21 “(d) COMPENSATION AND EXPENSES.—

22 “(1) COMPENSATION.—A member of the United
23 States section shall serve without compensation.

24 “(2) TRAVEL EXPENSES.—A member of the
25 United States section shall be allowed travel ex-

1 penses, including per diem in lieu of subsistence, at
2 rates authorized for an employee of an agency under
3 subchapter I of chapter 57 of title 5, United States
4 Code, while away from the home or regular place of
5 business of the member in the performance of the
6 duties of the United States-Russia Polar Bear Com-
7 mission.

8 "(e) AGENCY DESIGNATION.—The United States sec-
9 tion shall, for the purpose of title 28, United States Code,
10 relating to claims against the United States and tort
11 claims procedure, be considered to be a Federal agency.

12 "SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION
13 ON MATTERS BEFORE THE COMMISSION.

14 “In accordance with paragraph 3 of article 8 of the
15 Agreement, the United States section , made up of com-
16 missioners appointed by the President, shall vote on any
17 issue before the United States-Russia Polar Bear Commis-
18 sion only if there is no disagreement between the United
19 States commissioners regarding the vote.

20 "SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE
21 COMMISSION.

22 “(a) IN GENERAL.—The Secretary shall take all nec-
23 essary actions to implement the decisions and determina-
24 tions of the Commission under paragraph 7 of article 8
25 of the Agreement.

1 “(b) TAKING LIMITATION.—Not later than 60 days
2 after the date on which the Secretary receives notice of
3 the determination of the Commission of an annual taking
4 limit, or of the adoption by the Commission of other re-
5 striction on the taking of polar bears for subsistence pur-
6 poses, the Secretary shall publish a notice in the Federal
7 Register announcing the determination or restriction.

8 **“SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.**

9 “The authority of the Secretary under this title is in
10 addition to, and shall not affect the authority of the Sec-
11 retary under, the other titles of this Act or the Lacey Act
12 Amendments of 1981 (16 U.S.C. 3371 et seq.) or the ex-
13 emption for Alaskan natives under section 101(b) of this
14 Act.

15 **“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

16 “There is authorized to be appropriated to the Sec-
17 retary to carry out this title and the Agreement
18 \$2,000,000 for each of fiscal years 2007 through 2010.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in the first section of the Marine Mammal Protection Act
21 of 1972 (16 U.S.C. 1361 et seq.) is amended by adding
22 at the end the following:

“TITLE V—POLAR BEARS

“Sec. 501. Definitions.

“Sec. 502. Prohibitions.

“Sec. 503. Administration.

“Sec. 504. Cooperative management agreement; authority to delegate enforcement authority.

“Sec. 505. Commission appointments; compensation, travel expenses, and claims.

“Sec. 506. Votes taken by the United States Section on matters before the Commission.

“Sec. 507. Implementation of actions taken by the Commission.

“Sec. 508. Application with other titles of Act.

“Sec. 509. Authorization of appropriations.”.

1 (c) TREATMENT OF CONTAINERS.—Section

2 107(d)(2) of the Marine Mammal Protection Act of 1972

3 (16 U.S.C. 1377(d)(2)) is amended—

4 (1) by striking “or other conveyance” and in-

5 serting “, other conveyance, or container”; and

6 (2) by striking “or conveyance” and inserting

7 “conveyance, or container”.

Passed the House of Representatives July 17, 2006.

Attest:

Clerk.

109TH CONGRESS
2D SESSION

H. R. 4075

AN ACT

To amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes.