

113TH CONGRESS
1ST SESSION

S. 246

To prevent the escapement of genetically altered salmon in the United States,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2013

Mr. BEGICH (for himself and Ms. MURKOWSKI) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To prevent the escapement of genetically altered salmon in
the United States, 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 “Prevention of
5 Escapement of Genetically Altered Salmon in the United
6 States Act”.

7 **SEC. 2. PROHIBITION ON SALE OF GENETICALLY ALTERED**
8 **SALMON.**

9 (a) PROHIBITION.—It shall be unlawful for a per-
10 son—

1 (1) to ship, transport, offer for sale, sell, or
2 purchase a covered fish, or a product containing cov-
3 ered fish, in interstate or foreign commerce;

4 (2) to have custody, control, or possession of,
5 with the intent to ship, transport, offer for sale, sell,
6 or purchase a covered fish, or a product containing
7 covered fish, in interstate or foreign commerce;

8 (3) to release a covered fish into a natural envi-
9 ronment; or

10 (4) to have custody, control, or possession of a
11 covered fish with the intent to release it into a nat-
12 ural environment.

13 (b) EXCEPTION.—Subsection (a) shall not apply to
14 a fish, fish part, or product—

15 (1) under confined use, or intended for confined
16 use, for scientific research;

17 (2) collected for the purpose of enforcing this
18 Act; or

19 (3) if the Under Secretary of Commerce for
20 Oceans and Atmosphere, in consultation with the
21 Director of the U.S. Fish and Wildlife Service and
22 any other Federal, State, or tribal entity the Under
23 Secretary considers appropriate, reviews any applica-
24 tion requesting an action by a department or agency
25 of the Federal government to permit an act prohib-

1 ited under subsection (a), including any environ-
2 mental assessment prepared as part of that applica-
3 tion, and—

4 (A) prepares a finding of no significant im-
5 pact in accordance with the National Environ-
6 mental Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.); or

8 (B) finds the application to be consistent
9 with an environmental impact statement pre-
10 pared by the Under Secretary in accordance
11 with section 102(2)(C) of the National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4332)
13 that includes—

14 (i) an environmental risk analysis that
15 assesses the potential direct and indirect
16 impacts from escapement of covered fish
17 on wild and cultured fish stocks and envi-
18 ronments that may be exposed to such cov-
19 ered fish;

20 (ii) a failure mode and effects analysis
21 that quantitatively assesses the best- and
22 worst-case probabilities of failure of each
23 applicable confinement technique;

1 (iii) an assessment of the costs of con-
2 trol or eradication of escaped covered fish;
3 and

4 (iv) an assessment of the potential
5 economic damage in terms of loss of pro-
6 duction or sales to relevant wild and cul-
7 tured fish stocks and environments from
8 the escapement of covered fish.

9 (c) ENVIRONMENTAL IMPACT CONSIDERATIONS.—

10 (1) NOTICE.—Each agency, department, or
11 other unit of the Federal government shall promptly
12 notify the Under Secretary of Commerce for Oceans
13 and Atmosphere when an action involving covered
14 fish, or a product containing covered fish is first
15 identified.

16 (2) ENSURING COMPLIANCE.—The Under Sec-
17 retary of Commerce for Oceans and Atmosphere, in
18 cooperation with each Federal, State, or tribal entity
19 that the Under Secretary considers appropriate, may
20 monitor any mitigation measures proposed under
21 subsection (b)(3) to ensure implementation and com-
22 pliance therewith.

23 (3) PROVISIONS AS COMPLEMENTARY.—The
24 provisions of this Act are in addition to, and shall
25 not affect the operation of, other Federal, State, or

1 local laws regulating a covered fish, or a product
2 containing covered fish.

3 (d) RULES AND REGULATIONS.—The Secretary shall
4 prescribe such rules and regulations as the Secretary con-
5 siders necessary to carry out the provisions of this Act.

6 **SEC. 3. ENFORCEMENT AND PENALTIES.**

7 (a) ENFORCEMENT.—The Secretary of Commerce
8 may enforce section 2 in the same manner, by the same
9 means, and with the same jurisdiction, powers, and duties
10 provided under sections 308, 309, 310, and 311 of the
11 Magnuson-Stevens Fishery Conservation and Manage-
12 ment Act (16 U.S.C. 1858, 1859, 1860, and 1861).

13 (b) PENALTIES.—A person who violates section 2
14 shall be subject to the penalties, and entitled to the privi-
15 leges and immunities, under sections 308, 309, 310, and
16 311 of the Magnuson-Stevens Fishery Conservation and
17 Management Act (16 U.S.C. 1858, 1859, 1860, and
18 1861).

19 **SEC. 4. REPORT ON RISKS TO WILD FISH STOCKS.**

20 Not later than 180 days after the date of enactment
21 of this Act, the Under Secretary of Commerce for Oceans
22 and Atmosphere shall transmit to the Committee on Com-
23 merce, Science, and Transportation of the Senate and the
24 Committee on Natural Resources of the House of Rep-
25 resentatives the report under section 1007 of the Food

1 and Drug Administration Amendments Act of 2007 (21
2 U.S.C. 2106).

3 **SEC. 5. DEFINITIONS.**

4 In this Act:

5 (1) **CONFINED USE.**—The term “confined use”
6 means any operation, undertaken within a secured,
7 land-based facility, that involves a covered fish con-
8 trolled by specific measures that effectively prevent
9 the covered fish from having contact with and im-
10 pact on the external environment, including biologi-
11 cal and physical confinement measures.

12 (2) **COVERED FISH.**—The term “covered fish”
13 means a salmon or other anadromous or marine
14 fish, live or dead, including the gametes, fertilized
15 eggs, offspring, and descendants thereof, that is
16 modified or produced through the application of re-
17 combinant deoxyribonucleic acid (DNA) tech-
18 nologies, using DNA from an organism’s own ge-
19 nome or that of another species, which overcome
20 natural physiological reproductive barriers and which
21 are not techniques used in traditional breeding and
22 selection.

23 (3) **FINDING OF NO SIGNIFICANT IMPACT.**—The
24 term “finding of no significant impact” has the

1 meaning given the term in section 1508.13 of title
2 40, Code of Federal Regulations.

3 (4) PRODUCT.—The term “product” means an
4 item manufactured or produced for sale or use as
5 food.

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