

116TH CONGRESS  
1ST SESSION

# S. 908

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 27, 2019

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

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## A BILL

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data 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 “Fluke Fairness Act  
5 of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Summer flounder is an important economic  
9 fish stock for commercial and recreational fishermen

1 across the Northeast and Mid-Atlantic United  
2 States.

3 (2) The Magnuson-Stevens Fishery Conserva-  
4 tion and Management Act (16 U.S.C. 1801 et seq.)  
5 was reauthorized in 2006 and instituted annual  
6 catch limits and accountability measures for impor-  
7 tant fish stocks.

8 (3) That reauthorization prompted fishery man-  
9 agers to look at alternate management schemes to  
10 rebuild depleted stocks like summer flounder.

11 (4) Summer flounder occur in both State and  
12 Federal waters and are managed through a joint  
13 fishery management plan between the Council and  
14 the Commission.

15 (5) The Council and the Commission decided  
16 that each State's recreational and commercial har-  
17 vest limits for summer flounder would be based upon  
18 landings in previous years.

19 (6) These historical landings were based on  
20 flawed data sets that no longer provide fairness or  
21 flexibility for fisheries managers to allocate resources  
22 based on the best science.

23 (7) This allocation mechanism resulted in an  
24 uneven split among the States along the East Coast  
25 which is problematic.

1           (8) The fishery management plan for summer  
2 flounder does not account for regional changes in  
3 the location of the fluke stock even though the stock  
4 has moved further to the north and changes in effort  
5 by anglers along the East Coast.

6           (9) The States have been locked in a manage-  
7 ment system based on data collected from 1981 to  
8 1989, thus, the summer flounder stock is not being  
9 managed using the best available science and mod-  
10 ern fishery management techniques.

11           (10) It is in the interest of the Federal Govern-  
12 ment to establish a new fishery management plan  
13 for summer flounder that is based on current geo-  
14 graphic, scientific, and economic realities.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17           (1) COMMISSION.—The term “Commission”  
18 means the Atlantic States Marine Fisheries Commis-  
19 sion.

20           (2) COUNCIL.—The term “Council” means the  
21 Mid-Atlantic Fishery Management Council estab-  
22 lished under section 302(a) of the Magnuson-Stevens  
23 Fishery Conservation and Management Act (16  
24 U.S.C. 1852(a)).

1           (3) NATIONAL STANDARDS.—The term “Na-  
2           tional Standards” means the national standards for  
3           fishery conservation and management set out in sec-  
4           tion 301(a) of the Magnuson-Stevens Fishery Con-  
5           servation and Management Act (16 U.S.C. 1851(a)).

6           (4) SECRETARY.—The term “Secretary” means  
7           the Secretary of Commerce.

8           (5) SUMMER FLOUNDER.—The term “summer  
9           flounder” means the species *Paralichthys dentatus*.

10 **SEC. 4. SUMMER FLOUNDER MANAGEMENT REFORM.**

11           (a) FISHERY MANAGEMENT PLAN MODIFICATION.—  
12 Not later than 1 year after the date of enactment of this  
13 Act, the Council shall submit to the Secretary, and the  
14 Secretary may approve, a modified fishery management  
15 plan for the commercial management of summer flounder  
16 under title III of the Magnuson-Stevens Fishery Conserva-  
17 tion and Management Act (16 U.S.C. 1851 et seq.) or an  
18 amendment to such plan that—

19           (1) shall be based on the best scientific infor-  
20           mation available;

21           (2) establishes commercial quotas in direct pro-  
22           portion to the distribution, abundance, and location  
23           of summer flounder as reflected by fishery inde-  
24           pendent surveys conducted by the National Marine  
25           Fisheries Service and State agencies;

1           (3) considers regional, coastwide, or other man-  
2           agement measures for summer flounder that comply  
3           with the National Standards; and

4           (4) prohibits the establishment of commercial  
5           catch quotas for summer flounder on a State-by-  
6           State basis using historical landings data that does  
7           not reflect the status of the summer flounder stock,  
8           based on the most recent scientific information.

9           (b) CONSULTATION WITH THE COMMISSION.—In  
10          preparing the modified fishery management plan or an  
11          amendment to such a plan as described in subsection (a),  
12          the Council shall consult with the Commission to ensure  
13          consistent management throughout the range of the sum-  
14          mer flounder.

15          (c) FAILURE TO SUBMIT PLAN.—If the Council fails  
16          to submit a modified fishery management plan or an  
17          amendment to such a plan as described in subsection (a)  
18          that may be approved by the Secretary, the Secretary shall  
19          prepare and consider such a modified plan or amendment.

20          **SEC. 5. REPORT.**

21          Not later than 1 year after the date of the approval  
22          under section 4 of a modified fishery management plan  
23          for the commercial management of summer flounder or  
24          an amendment to such plan, the Comptroller General of  
25          the United States shall submit to Congress a report on

- 1 the implementation of such modified plan or amendment
- 2 that includes an assessment of whether such implementa-
- 3 tion complies with the National Standards.

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