

105TH CONGRESS
1ST SESSION

S. 751

To protect and enhance sportsmen's opportunities and conservation of wildlife,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 1997

Mr. SHELBY (for himself, Mr. MURKOWSKI, Mr. CRAIG, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public works

A BILL

To protect and enhance sportsmen's opportunities and
conservation of wildlife, 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 “Sportsmen’s Bill of
5 Rights Act of 1997”.

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

7 (a) FINDINGS.—Congress finds that—

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

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

4 (3) survey data from a recent comprehensive 3-
5 year study entitled “Factors Related to Hunting and
6 Fishing Participation in the United States” suggest
7 that 95 percent of Americans approve of fishing and
8 81 percent of Americans approve of hunting;

9 (4) anglers and hunters have been and continue
10 to be among the foremost supporters of sound wild-
11 life management and conservation practices in the
12 United States;

13 (5) persons who hunt or fish and organizations
14 related to those activities provide direct assistance
15 and support to wildlife managers and enforcement
16 officers of Federal, State, and local governments;

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

22 (7) fishing and hunting are essential compo-
23 nents of effective wildlife management in that they
24 tend to reduce conflicts between people and wildlife
25 and provide incentives for the conservation of wild-

1 life and the habitats and ecosystems on which wild-
 2 life depends; and

3 (8) each State—

4 (A) has established 1 or more agencies
 5 staffed by professionally trained fish and wild-
 6 life management personnel;

7 (B) has legal authority to manage the fish
 8 and wildlife found within the State; and

9 (C) carries out sound programs of fish and
 10 wildlife management.

11 (b) POLICY.—It is the policy of the United States
 12 that, in performing duties under Federal law, each Fed-
 13 eral agency that has authority to manage a natural re-
 14 source, or the land and water on which a natural resource
 15 depends, shall exercise the authority in a manner so as
 16 to support, promote, and enhance fishing and hunting and
 17 opportunities for fishing and hunting.

18 **SEC. 3. TAKING OF FISH AND WILDLIFE ON FEDERAL PUB-**
 19 **LIC LANDS.**

20 (a) IN GENERAL.—Federal public land shall be open
 21 to access and use for fishing and hunting of wildlife, un-
 22 less—

23 (1) the responsible agency of the State in which
 24 the Federal public land is located limits access to

1 and use of the land as part of wildlife management
 2 by the State; or

3 (2) the Federal agency responsible for the Fed-
 4 eral public land limits access and use—

5 (A) for reasons of national security; or

6 (B) for reasons related to specific statutory
 7 requirements regarding the management and
 8 use of the Federal public land, including public
 9 safety.

10 (b) CERTAIN LANDS ADMINISTERED BY THE NA-
 11 TIONAL PARK SERVICE.—Nothing in this section compels
 12 the opening to access and use for fishing and hunting of
 13 wildlife of any national park or monument administered
 14 by the National Park Service.

15 (c) NO PRIORITY.—This section does not require a
 16 Federal agency to give preference to fishing or hunting
 17 over other uses of Federal public land or land manage-
 18 ment priorities established by Federal law.

19 **SEC. 4. PROTECTION OF THE INTEGRITY OF SPORTSMEN'S**
 20 **TRUST ACCOUNTS.**

21 (a) FEDERAL AID IN WILDLIFE RESTORATION
 22 ACT.—The Act entitled “An Act to provide that the Unit-
 23 ed States shall aid the States in wildlife-restoration
 24 projects, and for other purposes”, approved September 2,

1 1937 (commonly known as the “Federal Aid in Wildlife
2 Restoration Act”) (16 U.S.C. 669 et seq.), is amended—

3 (1) by striking “Secretary of Agriculture” each
4 place it appears and inserting “Secretary of the In-
5 terior”; and

6 (2) in section 4 (16 U.S.C. 669c), by adding at
7 the end the following:

8 “(c) USE OF FUNDS.—The amount of funding made
9 available to the Secretary of the Interior for expenses
10 under this section shall not be available to replace funding
11 that is—

12 “(1) authorized for any other expense under the
13 jurisdiction of the Secretary of the Interior; and

14 “(2) decreased under any other provision of
15 law.”.

16 (b) FEDERAL AID IN FISH RESTORATION ACT.—Sec-
17 tion 4 of the Act entitled “An Act to provide that the Unit-
18 ed States shall aid the States in fish restoration and man-
19 agement projects, and for other purposes”, approved Au-
20 gust 9, 1950 (commonly known as the “Federal Aid in
21 Fish Restoration Act”) (16 U.S.C. 777c), is amended by
22 adding at the end the following:

23 “(f) USE OF FUNDS.—The amount of funding made
24 available to the Secretary of the Interior for expenses

1 under this section shall not be available to replace funding
2 that is—

3 “(1) authorized for any other expense under the
4 jurisdiction of the Secretary of the Interior; and
5 “(2) decreased under any other provision of
6 law.”.

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

8 (a) STATEMENT.—No Federal agency action that
9 may significantly diminish opportunities for, or access to,
10 engaging in fishing or hunting on Federal public land shall
11 be effective until the agency prepares a detailed statement
12 evaluating the effect of the action on fishing or hunting.

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

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

19 (2) conduct a public hearing in the vicinity of
20 the proposed action.

21 (c) JUDICIAL REVIEW.—A person that may be ad-
22 versely affected by a loss of fishing or hunting opportuni-
23 ties on Federal public land as a result of an agency action
24 described in subsection (a) may bring a civil action in

1 United States district court for review of the adequacy of
 2 the statement required by subsection (a) .

3 (d) EMERGENCIES.—Nothing in this section pre-
 4 cludes an agency from exercising statutory authority to
 5 close to access and use for fishing and hunting of wildlife
 6 any Federal public land in an emergency or other exigent
 7 circumstance.

8 (e) EFFECT ON OTHER LAW.—Nothing in this sec-
 9 tion affects or has application to the Migratory Bird Trea-
 10 ty Act (16 U.S.C. 703 et seq.) or the Magnuson Fishery
 11 Conservation and Management Act (16 U.S.C. 1801 et
 12 seq.).

13 **SEC. 6. CIVIL ACTIONS.**

14 (a) INTERVENTION.—A person interested in engaging
 15 in fishing or hunting shall be entitled to intervene as a
 16 matter of right in a civil action, brought under any other
 17 Federal law relating to the use of any Federal public land,
 18 in which the plaintiff seeks an order that would require
 19 the use (or nonuse) of the land in such a manner as to
 20 impair such access to or use of the land for the purpose
 21 of fishing or hunting as is required by this Act.

22 (b) CONSIDERATION OF INTERESTS.—If an interve-
 23 nor under subsection (a) shows that the application of an-
 24 other Federal law as sought by the plaintiff would be likely
 25 to impair such access to or use of the land for the purpose

1 of fishing or hunting as is required by this Act, the court
2 shall not grant the relief sought unless the plaintiff shows
3 that the interest intended to be advanced by the other
4 Federal law clearly outweighs the interest of protecting
5 access to and use of Federal public land for fishing and
6 hunting.

7 **SEC. 7. STANDING TO BRING A CIVIL ACTION.**

8 An individual who is licensed by a State to engage
9 in fishing or hunting, or an organization representing the
10 interests of such individuals, may bring a civil action in
11 United States district court to seek declaratory or injunc-
12 tive relief regarding the implementation of any provision
13 of this Act, including—

14 (1) a declaration that a civil action brought by
15 a person may significantly disrupt or eliminate op-
16 portunities for fishing or hunting; and

17 (2) an injunction against the prosecution of the
18 civil action.

19 **SEC. 8. AUTHORITY OF THE STATES.**

20 (a) IN GENERAL.—Nothing in this Act impairs the
21 primacy of State authority in regulating the taking of fish
22 and wildlife on land within the State, including Federal
23 public land.

24 (b) FEDERAL AUTHORITY.—Except as expressly pro-
25 vided by Act of Congress, the authority of a Federal agen-

1 cy regarding the taking of fish and wildlife on Federal
2 public land managed by the Federal agency shall be no
3 greater than the rights of a private owner of land.

