

108TH CONGRESS
2D SESSION

H. R. 4959

To recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land, to protect the public's ability to fish for sport, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2004

Mr. JOHN introduced the following bill; which was referred to the Committee on Resources

A BILL

To recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land, to protect the public's ability to fish for sport, 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 “Hunting Heritage and
5 Fishing Preservation Act of 2004”.

TITLE I—HUNTING HERITAGE PROTECTION

SEC. 101. SHORT TITLE.

This title may be cited as the “Hunting Heritage Protection Act”.

SEC. 102. FINDINGS.

The Congress finds the following:

(1) Recreational hunting is an important and traditional recreational activity in which 13,000,000 people in the United States 16 years of age and older participate.

(2) Hunters have been and continue to be among the foremost supporters of sound wildlife management and conservation practices in the United States.

(3) Persons who hunt and organizations relating to hunting provide direct assistance to wildlife managers and enforcement officers of the Federal Government and State and local governments.

(4) Purchases of hunting licenses, permits, and stamps and excise taxes on goods used by hunters have generated billions of dollars for wildlife conservation, research, and management.

(5) Recreational hunting is an essential component of effective wildlife management by—

1 (A) reducing conflicts between people and
2 wildlife; and

3 (B) providing incentives for the conserva-
4 tion of—

5 (i) wildlife; and

6 (ii) habitats and ecosystems on which
7 wildlife depend.

8 (6) Each State has established at least 1 agen-
9 cy staffed by professionally trained wildlife manage-
10 ment personnel that has legal authority to manage
11 the wildlife in the State.

12 (7) Recreational hunting is an environmentally
13 acceptable activity that occurs and can be provided
14 for on Federal public land without adverse effects on
15 other uses of the land.

16 **SEC. 103. DEFINITIONS.**

17 In this title:

18 (1) AGENCY HEAD.—The term “agency head”
19 means the head of any Federal agency that has au-
20 thority to manage a natural resource or Federal
21 public land on which a natural resource depends.

22 (2) FEDERAL PUBLIC LAND.—

23 (A) IN GENERAL.—The term “Federal
24 public land” means any land or water that is—

25 (i) publicly accessible;

- 1 (ii) owned by the United States; and
2 (iii) managed by an executive agency
3 for purposes that include the conservation
4 of natural resources.

5 (B) EXCLUSION.—The term “Federal pub-
6 lic land” does not include any land held in trust
7 for the benefit of an Indian tribe or member of
8 an Indian tribe.

9 (3) HUNTING.—The term “hunting” means the
10 lawful—

11 (A) pursuit, trapping, shooting, capture,
12 collection, or killing of wildlife; or

13 (B) attempt to pursue, trap, shoot, cap-
14 ture, collect, or kill wildlife.

15 **SEC. 104. RECREATIONAL HUNTING.**

16 (a) IN GENERAL.—Subject to valid existing rights,
17 Federal public land shall be open to access and use for
18 recreational hunting except as limited by—

19 (1) the agency head with jurisdiction over the
20 Federal public land—

21 (A) for reasons of national security;

22 (B) for reasons of public safety; or

23 (C) for any other reasons for closure au-
24 thorized by applicable Federal law; and

1 (2) any law (including regulations) of the State
2 in which the Federal public land is located that is
3 applicable to recreational hunting.

4 (b) MANAGEMENT.—Consistent with subsection (a),
5 each agency head shall manage Federal public land under
6 the jurisdiction of the agency head—

7 (1) in a manner that supports, promotes, and
8 enhances recreational hunting opportunities;

9 (2) to the extent authorized under State law
10 (including regulations); and

11 (3) in accordance with applicable Federal law
12 (including regulations).

13 (c) NO NET LOSS.—

14 (1) IN GENERAL.—Federal public land manage-
15 ment decisions and actions should, to the maximum
16 extent practicable, result in no net loss of land area
17 available for hunting opportunities on Federal public
18 land.

19 (2) ANNUAL REPORT.—Not later than October
20 1 of each year, each agency head with authority to
21 manage Federal public land on which recreational
22 hunting occurs shall submit to the Committee on
23 Resources of the House of Representatives and the
24 Committee on Energy and Natural Resources of the
25 Senate a report that describes—

1 (A)(i) any Federal public land adminis-
2 tered by the agency head that was closed to rec-
3 reational hunting at any time during the pre-
4 ceding year; and

5 (ii) the reason for the closure; and

6 (B) areas administered by the agency head
7 that were opened to recreational hunting to
8 compensate for the closure of the areas de-
9 scribed in subparagraph (A)(i).

10 (3) CLOSURES OF 5,000 OR MORE ACRES.—The
11 withdrawal, change of classification, or change of
12 management status that effectively closes 5,000 or
13 more acres of Federal public land to access or use
14 for recreational hunting shall take effect only if, be-
15 fore the date of withdrawal or change, the agency
16 head that has jurisdiction over the Federal public
17 land submits to the Committee on Resources of the
18 House of Representatives and the Committee on En-
19 ergy and Natural Resources of the Senate written
20 notice of the withdrawal or change.

21 (d) AREAS NOT AFFECTED.—Nothing in this title
22 compels the opening to recreational hunting of national
23 parks or national monuments under the jurisdiction of the
24 Secretary of the Interior.

1 (e) NO PRIORITY.—Nothing in this title requires a
2 Federal agency to give preference to hunting over other
3 uses of Federal public land or over land or water manage-
4 ment priorities established by Federal law.

5 (f) AUTHORITY OF THE STATES.—

6 (1) SAVINGS.—Nothing in this title affects the
7 authority, jurisdiction, or responsibility of a State to
8 manage, control, or regulate fish and wildlife under
9 State law (including regulations) on land or water in
10 the State, including Federal public land.

11 (2) FEDERAL LICENSES.—Nothing in this title
12 authorizes an agency head to require a license or
13 permit to hunt, fish, or trap on land or water in a
14 State, including on Federal public land in the State.

15 (3) STATE RIGHT OF ACTION.—

16 (A) IN GENERAL.—Any State aggrieved by
17 the failure of an agency head or employee to
18 comply with this title may bring a civil action
19 in the United States District Court for the dis-
20 trict in which the failure occurs for a perma-
21 nent injunction.

22 (B) PRELIMINARY INJUNCTION.—If the
23 district court determines, based on the facts,
24 that a preliminary injunction is appropriate, the

1 district court may grant a preliminary injunc-
2 tion.

3 (C) COURT COSTS.—If the district court
4 issues an injunction under this paragraph or
5 otherwise finds in favor of the State, the dis-
6 trict court shall award to the State any reason-
7 able costs of bringing the civil action (including
8 an attorney’s fee).

9 **TITLE II—FREEDOM TO FISH**

10 **SEC. 201. SHORT TITLE.**

11 This title may be cited as the “Freedom to Fish Act”.

12 **SEC. 202. FINDINGS.**

13 The Congress finds the following:

14 (1) Recreational fishing is traditionally the
15 most popular outdoor sport with more than
16 50,000,000 participants of all ages, in all regions of
17 the country.

18 (2) Recreational anglers makes a substantial
19 contribution to local, State, and national economies
20 and infuse \$116,000,000,000 annually into the na-
21 tional economy.

22 (3) In the United States, more than 1,200,000
23 jobs are related to recreational fishing, a number
24 that is approximately 1 percent of the entire civilian
25 workforce in the United States. In communities that

1 rely on seasonal tourism, the expenditures of rec-
2 reational anglers result in substantial benefits to the
3 local economies and small businesses in those com-
4 munities.

5 (4) Recreational anglers have long dem-
6 onstrated a conservation ethic. In addition to pay-
7 ment of Federal excise taxes on fishing equipment,
8 motorboats and fuel, as well as license fees, rec-
9 reational anglers contribute more than \$500,000,000
10 annually to State fisheries conservation management
11 programs and projects.

12 (5) It is a long-standing policy of the Federal
13 Government to allow public access to public lands
14 and waters for recreational purposes in a manner
15 that is consistent with principles of sound conserva-
16 tion. This policy is reflected in the National Forest
17 Management Act of 1976, the Wilderness Act, the
18 Wild and Scenic Rivers Act, and the National Parks
19 and Recreation Act of 1978.

20 (6) In most instances, recreational fishery re-
21 sources can be maintained without restricting public
22 access to fishing areas through a variety of manage-
23 ment measures including take limits, minimum size
24 requirements, catch and release requirements, gear
25 adaptations, and closed seasons.

1 (7) A clear policy is required to demonstrate to
2 recreational anglers that recreational fishing can be
3 managed without unnecessarily prohibiting such
4 fishing.

5 (8) A comprehensive policy on the implementa-
6 tion, use, and monitoring of marine protected areas
7 is required to maintain the optimum balance be-
8 tween recreational fishing and sustaining rec-
9 reational fishery resources.

10 **SEC. 203. POLICY.**

11 It is the policy of the United States to promote sound
12 conservation of fishery resources by ensuring that—

13 (1) Federal regulations promote access to fish-
14 ing areas by recreational anglers to the maximum
15 extent practicable;

16 (2) recreational anglers are actively involved in
17 the formulation of any regulatory procedure that
18 contemplates imposing restrictions on access to a
19 fishing area; and

20 (3) limitations on access to fishing areas by rec-
21 reational anglers are not imposed unless such limita-
22 tions are scientifically necessary to provide for the
23 conservation of a fishery resource.

1 **SEC. 204. LIMITATION ON CLOSURES UNDER MAGNUSON-**
2 **STEVENS FISHERY CONSERVATION AND MAN-**
3 **AGEMENT ACT.**

4 Section 303(a) of the Magnuson-Stevens Fishery
5 Conservation and Management Act (16 U.S.C. 1853(a))
6 is amended by striking “and” after the semicolon at the
7 end of paragraph (13), by striking the period at the end
8 of paragraph (14) and inserting “; and”, and by adding
9 at the end the following:

10 “(15) not establish geographic areas where rec-
11 reational fishing is prohibited unless—

12 “(A) clear indication exists that rec-
13 reational fishing in such area is the cause of a
14 specific conservation problem in the fishery;

15 “(B) no alternative conservation measures
16 related to recreational fishing, such as gear re-
17 strictions, quotas, or closed seasons will ade-
18 quately provide for conservation and manage-
19 ment of the fishery;

20 “(C) the management plan—

21 “(i) provides for specific measurable
22 criteria to assess whether the prohibition
23 provides conservation benefits to the fish-
24 ery; and

1 “(ii) requires a periodic review to as-
2 sess the continued need for the prohibition
3 not less than once every 3 years;

4 “(D) the best available scientific informa-
5 tion supports the need to close the area to rec-
6 reational fishing; and

7 “(E) the prohibition is terminated as soon
8 as the condition in subparagraph (A) that was
9 the basis of the prohibition no longer exists.”.

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