

108TH CONGRESS  
2D SESSION

# S. 2244

To protect the public's ability to fish for sport, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 26, 2004

Mrs. HUTCHISON (for herself and Mr. BREAUX) 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 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 bill may be cited as the "Freedom to Fish Act".

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) Recreational fishing is traditionally the  
8 most popular outdoor sport with more than  
9 50,000,000 participants of all ages, in all regions of  
10 the country.

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

5           (3) In the United States, more than 1,200,000  
6 jobs are related to recreational fishing, a number  
7 that is approximately 1 percent of the entire civilian  
8 workforce in the United States. In communities that  
9 rely on seasonal tourism, the expenditures of rec-  
10 reational anglers result in substantial benefits to the  
11 local economies and small businesses in those com-  
12 munities.

13           (4) Recreational anglers have long dem-  
14 onstrated a conservation ethic. In addition to pay-  
15 ment of Federal excise taxes on fishing equipment,  
16 motorboats and fuel, as well as license fees, rec-  
17 reational anglers contribute more than \$500,000,000  
18 annually to State fisheries conservation management  
19 programs and projects.

20           (5) It is a long standing policy of the Federal  
21 Government to allow public access to public lands  
22 and waters for recreational purposes in a manner  
23 that is consistent with principals of sound conserva-  
24 tion. This policy is reflected in the National Forest  
25 Management Act of 1976, the Wilderness Act, the

1 Wild and Scenic Rivers Act, and the National Parks  
2 and Recreation Act of 1978.

3 (6) In most instances, recreational fishery re-  
4 sources can be maintained without restricting public  
5 access to fishing areas through a variety of manage-  
6 ment measures including take limits, minimum size  
7 requirements, catch and release requirements, gear  
8 adaptations, and closed seasons.

9 (7) A clear policy is required to demonstrate to  
10 recreational anglers that recreational fishing can be  
11 managed without unnecessarily prohibiting such  
12 fishing.

13 (8) A comprehensive policy on the implementa-  
14 tion, use, and monitoring of marine protected areas  
15 is required to maintain the optimum balance be-  
16 tween recreational fishing and sustaining rec-  
17 reational fishery resources.

18 **SEC. 3. POLICY.**

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

21 (1) Federal regulations promote access to fish-  
22 ing areas by recreational anglers to the maximum  
23 extent practicable;

24 (2) recreational anglers are actively involved in  
25 the formulation of any regulatory procedure that

1 contemplates imposing restrictions on access to a  
2 fishing area; and

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

7 **SEC. 4. MAGNUSON-STEVENSON FISHERY CONSERVATION AND**  
8 **MANAGEMENT ACT AMENDMENTS.**

9 (a) **LIMITATION ON CLOSURES.**—Section 303(a) of  
10 the Magnuson-Stevens Fishery Conservation and Manage-  
11 ment Act (16 U.S.C. 1853(a)) is amended by adding at  
12 the end the following:

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

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

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

23 “(C) the management plan—

24 “(i) provides for specific measurable  
25 criteria to assess whether the prohibition

1 provides conservation benefits to the fish-  
2 ery; and

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

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

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

12 (b) TECHNICAL AMENDMENTS.—Such section is fur-  
13 ther amended—

14 (1) in paragraph (13), by striking “and” after  
15 the semicolon; and

16 (2) in paragraph (14), by striking “fishery.”  
17 and inserting “fishery; and”.

18 **SEC. 5. NATIONAL MARINE SANCTUARIES ACT AMEND-**  
19 **MENT.**

20 Section 304(a)(5) of the National Marine Sanctuaries  
21 Act (16 U.S.C. 1434(a)(5)) is amended to read as follows:

22 “(5) FISHING REGULATIONS.—

23 “(A) IN GENERAL.—The Secretary shall  
24 provide the appropriate Regional Fishery Man-  
25 agement Council with the opportunity to pre-

1           pare, and to revise from time to time, draft reg-  
2           ulations for fishing within the exclusive eco-  
3           nomic zone as the Council may deem necessary  
4           to implement the proposed designation.

5           “(B) RELATIONSHIP TO MAGNUSON.—

6           Draft regulations prepared by the Council  
7           under subparagraph (A) shall be made in ac-  
8           cordance with the standards and procedures of  
9           the Magnuson Act.

10          “(C) REGULATION WITHIN A STATE.—

11          Such regulations may regulate a fishery within  
12          the boundaries of a State (other than the  
13          State’s internal waters) if—

14                 “(i) the Governor of the State ap-  
15                 proves such regulation; or

16                 “(ii) the Secretary determines, after  
17                 notice and an opportunity for a hearing in  
18                 accordance with section 554 of title 5,  
19                 United States Code, that the State has  
20                 taken any action, or omitted to take any  
21                 action, the results of which will substan-  
22                 tially and adversely affect the fulfillment of  
23                 the purposes and policies of this Act and  
24                 the goals and objectives of the proposed  
25                 designation.

1           “(D) NOTIFICATION AND HEARING.—If  
2 the Secretary makes a determination under  
3 subparagraph (C)(ii) to regulate a fishery with-  
4 in the boundaries of such State (other than  
5 State’s internal waters)—

6           “(i) the Secretary shall promptly no-  
7 tify the State and the appropriate Council  
8 of such determination;

9           “(ii) the State may request that a  
10 hearing be held pursuant to section 554 of  
11 title 5, United States Code; and

12           “(iii) the Secretary shall conduct a  
13 hearing requested under clause (ii) prior to  
14 taking any action to regulate a fishery  
15 within the boundaries of such State (other  
16 than the State’s internal waters) under  
17 subparagraph (C)(ii).

18           “(E) TERMINATION OF REGULATION  
19 WITHIN A STATE.—If the Secretary, pursuant  
20 to a determination under subparagraph (C)(ii),  
21 assumes responsibility for the regulation of any  
22 fishery, the State involved may at any time  
23 thereafter apply to the Secretary for reinstatement  
24 of its authority over such fishery. If the  
25 Secretary finds that the reasons for which the

1 Secretary assumed such regulation no longer  
2 prevail, the Secretary shall promptly terminate  
3 such regulation.”.

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