

Calendar No. 671

108TH CONGRESS
2D SESSION

S. 2547

[Report No. 108–313]

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2004

Mr. VOINOVICH (for himself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

AUGUST 25, 2004

Reported, under authority of the order of the Senate of July 22, 2004, by
Mr. INHOFE, without amendment

A BILL

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, 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,*

1 **TITLE I—EXCLUSION OF NON-**
2 **NATIVE SPECIES FROM MI-**
3 **GRATORY BIRD TREATY ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Migratory Bird Treaty
6 Reform Act of 2004”.

7 **SEC. 102. EXCLUSION OF NONNATIVE SPECIES FROM AP-**
8 **PLICATION OF CERTAIN PROHIBITIONS**
9 **UNDER MIGRATORY BIRD TREATY ACT.**

10 Section 2 of the Migratory Bird Treaty Act (16
11 U.S.C. 703) is amended—

12 (1) in the first sentence, by striking “That un-
13 less and except as permitted” and inserting the fol-
14 lowing: “(a) In General.—Unless and except as per-
15 mitted”; and

16 (2) by adding at the end the following:

17 “(b) LIMITATION ON APPLICATION TO INTRODUCED
18 SPECIES.—

19 “(1) IN GENERAL.—This section applies only to
20 migratory bird species that are native to the United
21 States the occurrence of which in the United States
22 is entirely the result of natural biological or ecologi-
23 cal conditions.

24 “(2) TREATMENT OF INTRODUCED SPECIES.—
25 For purposes of paragraph (1)—

1 “(A) a bird species shall not be treated as
2 native to the United States if the species occurs
3 in the United States solely as a result of inten-
4 tional or unintentional human-assisted introduc-
5 tion; and

6 “(B) a migratory bird species shall be
7 treated as native to the United States if—

8 “(i) the species was native to the
9 United States and extant in 1918;

10 “(ii) the species was extirpated after
11 1918 throughout its range in the United
12 States; and

13 “(iii) after such extirpation, the spe-
14 cies was reintroduced in the United States
15 as a part of a program carried out by a
16 Federal agency.”.

17 **SEC. 103. PUBLICATION OF LIST.**

18 (a) IN GENERAL.—Not later than 90 days after the
19 date of enactment of this Act, the Secretary of the Interior
20 shall publish in the Federal Register a list of all nonnative,
21 human-introduced bird species to which the Migratory
22 Bird Treaty Act (16 U.S.C. 703 et seq.) does not apply
23 that belong to biological families of migratory birds cov-
24 ered under any of the migratory bird conventions with
25 Great Britain (for Canada), Mexico, Russia, or Japan.

1 (b) PUBLIC COMMENT.—Before publishing the list
 2 under subsection (a), the Secretary shall provide adequate
 3 time for public comment.

4 (c) EFFECT OF SECTION.—Nothing in this section
 5 shall delay implementation of other provisions of this Act
 6 or amendments made by this Act that exclude nonnative,
 7 human-introduced bird species from the application of the
 8 Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

9 **TITLE II—CONSERVATION OF**
 10 **NEOTROPICAL MIGRATORY**
 11 **BIRDS**

12 **SEC. 201. SHORT TITLE.**

13 This title may be cited as the “Neotropical Migratory
 14 Bird Conservation Improvement Act of 2004”.

15 **SEC. 202. AMENDMENTS TO NEOTROPICAL MIGRATORY**
 16 **BIRD CONSERVATION ACT.**

17 (a) FINDINGS.—Section 2(1) of the Neotropical Mi-
 18 gratory Bird Conservation Act (16 U.S.C. 6101(1)) is
 19 amended by inserting “, but breed in Canada and the
 20 United States” after “the Caribbean”.

21 (b) PURPOSES.—Section 3(2) of the Neotropical Mi-
 22 gratory Bird Conservation Act (16 U.S.C. 6102(2)) is
 23 amended by inserting “Canada,” after “United States,”.

1 (c) DEFINITION OF CARIBBEAN.—Section 4 of the
2 Neotropical Migratory Bird Conservation Act (16 U.S.C.
3 6103) is amended—

4 (1) by redesignating paragraph (3) as para-
5 graph (4);

6 (2) by striking paragraph (1) and inserting the
7 following:

8 “(1) CARIBBEAN.—The term ‘Caribbean’ in-
9 cludes Puerto Rico and the United States Virgin Is-
10 lands.”; and

11 (3) by inserting after paragraph (2) the fol-
12 lowing:

13 “(3) FUND.—The term ‘Fund’ means the
14 Neotropical Migratory Bird Conservation Fund es-
15 tablished by section 9(a).”.

16 (d) COST SHARING.—Section 5(e) of the Neotropical
17 Migratory Bird Conservation Act (16 U.S.C. 6104(e)) is
18 amended—

19 (1) in paragraph (1), by striking “25 percent”
20 and inserting “50 percent”; and

21 (2) in paragraph (2), by striking subparagraph
22 (B) and inserting the following:

23 “(B) FORM OF PAYMENT.—

24 “(i) PROJECTS IN THE UNITED
25 STATES AND CANADA.—The non-Federal

1 share required to be paid for a project car-
 2 ried out in the United States or Canada
 3 shall be paid in cash.

4 “(ii) PROJECTS IN LATIN AMERICA
 5 AND THE CARIBBEAN.—The non-Federal
 6 share required to be paid for a project car-
 7 ried out in Latin America or the Caribbean
 8 may be paid in cash or in kind.”.

9 (e) REPORT.—Section 8 of the Neotropical Migratory
 10 Bird Conservation Act (16 U.S.C. 6107) is amended—

11 (1) by striking “October 1, 2002,” and insert-
 12 ing “1 year after the date of enactment of the
 13 Neotropical Migratory Bird Conservation Improve-
 14 ment Act of 2004,”;

15 (2) by striking “this Act, including rec-
 16 ommendations” and inserting “this Act that in-
 17 cludes—

18 “(1) recommendations”;

19 (3) by striking the period at the end and insert-
 20 ing “; and”; and

21 (4) by adding at the end the following:

22 “(2) a description of the activities of the advi-
 23 sory group convened under section 7(b).”.

24 (f) NEOTROPICAL MIGRATORY BIRD CONSERVATION
 25 FUND.—

1 (1) IN GENERAL.—Section 9 of the Neotropical
 2 Migratory Bird Conservation Act (16 U.S.C. 6108)
 3 is amended—

4 (A) by striking the section heading and all
 5 that follows through subsection (b) and insert-
 6 ing the following:

7 **“SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION**
 8 **FUND.**

9 “(a) ESTABLISHMENT.—There is established in the
 10 Treasury a separate account to be known as the
 11 ‘Neotropical Migratory Bird Conservation Fund’, which
 12 shall consist of amounts deposited in the Fund by the Sec-
 13 retary of the Treasury under subsection (b).

14 “(b) DEPOSITS IN THE FUND.—The Secretary of the
 15 Treasury shall deposit into the Fund—

16 “(1) all amounts received by the Secretary in
 17 the form of donations under subsection (d); and

18 “(2) other amounts appropriated to the Fund.”;
 19 and

20 (B) in subsection (d), by striking “Ac-
 21 count” and inserting “Fund”.

22 (2) ADMINISTRATIVE EXPENSES.—Section
 23 9(c)(2) of the Neotropical Migratory Bird Conserva-
 24 tion Act (16 U.S.C. 6108(c)(2)) is amended by
 25 striking “\$80,000” and inserting “\$150,000”.

1 (3) TRANSFER.—The Secretary of the Treasury
 2 shall transfer to the Neotropical Migratory Bird
 3 Conservation Fund amounts that were in the
 4 Neotropical Migratory Bird Conservation Account
 5 immediately before the date of enactment of this
 6 Act.

7 (g) AUTHORIZATION OF APPROPRIATIONS.—Section
 8 10 of the Neotropical Migratory Bird Conservation Act
 9 (16 U.S.C. 6109) is amended to read as follows:

10 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

11 “(a) IN GENERAL.—There are authorized to be ap-
 12 propriated to the Fund to carry out this Act—

13 “(1) \$5,000,000 for each of fiscal years 2005
 14 and 2006;

15 “(2) \$10,000,000 for fiscal year 2007; and

16 “(3) \$15,000,000 for fiscal year 2008.

17 “(b) AVAILABILITY.—Amounts made available under
 18 this section shall remain available until expended.

19 “(c) ALLOCATION.—Of amounts made available
 20 under this section for a fiscal year, not less than 75 per-
 21 cent shall be expended for projects carried out outside the
 22 United States.

23 “(d) LIMITATION ON EXPENDITURES FOR PROJECTS
 24 IN CANADA.—Amounts made available under this section
 25 for a fiscal year shall not be used for any project in Can-

- 1 ada unless the amount available to carry out this Act for
- 2 that fiscal year is greater than \$10,000,000.”.

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