

Union Calendar No. 112

109TH CONGRESS
1ST SESSION**H. R. 2130****[Report No. 109–180]**

To amend the Marine Mammal Protection Act of 1972 to authorize research programs to better understand and protect marine mammals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2005

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

JULY 21, 2005

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Marine Mammal Protection Act of 1972 to authorize research programs to better understand and protect marine mammals, 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 “Marine Mammal Pro-
5 tection Act Amendments of 2005”.

1 **SEC. 2. AMENDMENT REFERENCES.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to such
6 section or other provision of the Marine Mammal Protec-
7 tion Act of 1972 (16 U.S.C. 1361 et seq.).

8 **SEC. 3. TECHNICAL CORRECTIONS.**

9 (a) COMMITTEE REFERENCES.—The Marine Mam-
10 mal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is
11 amended by striking “Committee on Merchant Marine and
12 Fisheries” each place it appears and inserting “Committee
13 on Resources”.

14 (b) OBSOLETE REFERENCE TO SECTION.—Section
15 118(c)(3)(A)(i) (16 U.S.C. 1387(c)(3)(A)(i)) is amended
16 by striking “, except that” and all that follows through
17 “is valid”.

18 **SEC. 4. LIMITED AUTHORITY TO EXPORT MARINE MAMMAL**
19 **PRODUCTS.**

20 (a) IN GENERAL.—Section 101(a)(6) (16 U.S.C.
21 1371(a)(6)) is amended by redesignating subparagraph
22 (B) as subparagraph (C), and by inserting after subpara-
23 graph (A) the following:

24 “(B) A marine mammal product may be ex-
25 ported from the United States if the product—

1 “(i) is legally possessed, and exported by,
2 a citizen of the United States for noncommer-
3 cial purposes in conjunction with travel outside
4 the United States and the product is imported
5 into the United States by the same person upon
6 the termination of travel;

7 “(ii) is legally possessed, and exported by,
8 a person that is not a citizen of the United
9 States for noncommercial purposes;

10 “(iii) is legally possessed and exported as
11 part of a cultural exchange, by an Indian,
12 Aleut, or Eskimo residing in Alaska; or

13 “(iv) is owned by a Native inhabitant of
14 Russia, Canada, or Greenland and is exported
15 for noncommercial purposes—

16 “(I) in conjunction with, and upon the
17 completion of, travel within the United
18 States; or

19 “(II) as part of a cultural exchange
20 with an Indian, Aleut, or Eskimo residing
21 in Alaska.”.

22 (b) CONFORMING AMENDMENT.—Section
23 101(a)(6)(A)(i) (16 U.S.C. 1371(a)(6)(A)(i)) is amended
24 by inserting “for noncommercial purposes” after “United
25 States” the first place it appears.

1 **SEC. 5. CAPTIVE RELEASE PROHIBITION.**

2 Section 102(a) (16 U.S.C. 1372(a)) is amended—

3 (1) in paragraph (4) by striking “subsection
4 104(c); and” and inserting “section 104(c);”;

5 (2) in paragraph (5) by striking the period and
6 inserting “; and”; and

7 (3) by adding at the end the following:

8 “(6) for any person that is subject to the juris-
9 diction of the United States to release any captive
10 marine mammal unless specifically authorized to do
11 so under section 104(c)(3)(A), 104(c)(4)(A), or
12 109(h), except that this paragraph shall not apply to
13 the temporary release of any marine mammal that
14 is—

15 “(A) maintained in captivity under section
16 7524 of title 10, United States Code (including
17 any progeny of a marine mammal maintained
18 under that section); or

19 “(B) the progeny of a marine mammal ex-
20 cluded from coverage under this Act by section
21 102(e).”.

22 **SEC. 6. ANNUAL REPORT REQUIREMENT.**

23 Section 103 (16 U.S.C. 1373(f)) is amended—

24 (1) in subsection (f) in the first sentence, by in-
25 serting “and notwithstanding Public Law 104–66,”
26 after “thereafter”; and

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

2 “(g) The head of each Federal agency that conducts
3 and provides funds for research on marine mammals shall
4 report annually to the Committee on Resources of the
5 House of Representatives and the Committee on Com-
6 merce, Science, and Transportation of the Senate on fund-
7 ing provided and research conducted regarding marine
8 mammals during the preceding year.”.

9 **SEC. 7. PERMIT CLARIFICATIONS.**

10 (a) CLARIFICATIONS.—Section 104 (16 U.S.C. 1374)
11 is amended as follows:

12 (1) Subsection (c)(7) is amended by inserting
13 “notwithstanding any other provision of law” after
14 “requesting the permit”.

15 (2) Subsection (c)(9) is amended to read as fol-
16 lows:

17 “(9)(A) No marine mammal may be exported—
18 “(i) for the purpose of public display,
19 unless the Secretary of Agriculture evalu-
20 ates and verifies, and thereafter notifies
21 the Secretary, that the receiving facility
22 meets standards that are comparable to
23 the requirements that a person must meet
24 to receive a permit under this subsection
25 for that purpose; or

1 “(ii) for the purpose of scientific re-
2 search or enhancing the survival or recov-
3 ery of a species or stock, unless the receiv-
4 ing facility meets standards that are com-
5 parable to the requirements that a person
6 must meet to receive a permit under this
7 subsection for that purpose.

8 “(B) The Secretary may not require or request,
9 through comity or any other means, that any marine
10 mammal or its progeny remain subject to the juris-
11 diction of the United States when located in waters
12 or on lands that are subject to the jurisdiction of an-
13 other country.”.

14 (3) Subsection (c)(10) is amended—

15 (A) in the first sentence by inserting “held
16 within the lands and waters of the United
17 States” after “marine mammals” each place it
18 appears;

19 (B) by inserting after the first sentence
20 the following: “The Secretary shall update the
21 inventory on an annual basis.”; and

22 (C) in subparagraph (D) by inserting
23 “ownership, or other” after “date of”.

24 (b) REVIEW AND REPORT REGARDING INVEN-
25 TORY.—

1 (1) REVIEW.—The Secretaries of Commerce
2 and the Interior shall, by not later than 12 months
3 after date of the enactment of this Act, jointly con-
4 duct a review of the inventory maintained under sec-
5 tion 104(c)(10) of the Marine Mammal Protection
6 Act of 1972 (16 U.S.C. 1374(c)(10)), the use of the
7 information in the inventory, and the costs, benefits,
8 and issues associated with the development of an on-
9 line inventory.

10 (2) CONSULTATION.—In conducting the review,
11 the Secretary shall consult and solicit input from
12 persons who are required to provide information for
13 the inventory.

14 (3) REPORT.—The Secretary shall submit a re-
15 port to Committee on Resources of the House of
16 Representatives and the Committee on Commerce,
17 Science, and Transportation of the Senate on the
18 findings of the review under this subsection. The re-
19 port shall include the following:

20 (A) Recommendations on whether the in-
21 ventory should be maintained by the Secretary
22 or by another person under contract.

23 (B) How the Secretary would oversee
24 maintenance of the inventory carried out under
25 contract.

1 (C) How public access and access by Fed-
2 eral agencies to the inventory can be main-
3 tained if the inventory is maintained under con-
4 tract.

5 (D) How the Secretary can minimize dupli-
6 cation on the information the Secretary receives
7 from public display facilities and reduce the
8 paper work burden on those facilities.

9 (E) An estimate of the cost of maintaining
10 the inventory.

11 (F) A description of how the Secretary will
12 ensure the secure maintenance of the data in
13 the inventory.

14 (G) An analysis of the potential that online
15 availability of the information in the inventory
16 could adversely affect the safety of the animals.

17 (c) LIMITATION ON NOTIFICATION REQUIRE-
18 MENTS.—Section 104(c) (16 U.S.C. 1374(c)) is amended
19 in paragraph (2)(E) in the first sentence, and in para-
20 graph (8)(B)(II), by inserting before the period at the end
21 the following: “, except that if the transport is for pur-
22 poses of public display and the transfer is between facili-
23 ties where the ownership and care of the marine mammal
24 will be under the same license or registration issued under

1 the Animal Welfare Act (7 U.S.C. 2131 et seq.) then only
2 a notice of transport is required”.

3 **SEC. 8. FINES AND PENALTIES.**

4 (a) FINES AND PENALTIES, GENERALLY.—Section
5 105 (16 U.S.C. 1375) is amended—

6 (1) in subsection (a)(1) by striking “\$10,000”
7 and inserting “\$20,000”; and

8 (2) in subsection (b) by striking “\$20,000” and
9 inserting “\$30,000”.

10 (b) VESSEL PENALTY.—Section 106(b) (16 U.S.C.
11 1376(b)) is amended by striking “\$25,000” and inserting
12 “\$35,000”.

13 **SEC. 9. MARINE MAMMAL RESEARCH GRANTS.**

14 Section 110 (16 U.S.C. 1380) is amended—

15 (1) by amending subsection (a) to read as fol-
16 lows:

17 “(a) AUTHORIZATION OF ASSISTANCE; ANNUAL RE-
18 PORT.—

19 “(1) AUTHORIZATION OF ASSISTANCE.—The
20 Secretary may make grants, or provide financial as-
21 sistance in such other form as the Secretary con-
22 siders appropriate, to any Federal or State agency,
23 public or private institution, or other person for the
24 purpose of assisting such agency, institution, or per-
25 son to undertake research in subjects that are rel-

1 evant to the protection and conservation of marine
2 mammals, and the ecosystems upon which they de-
3 pend, including, but not limited to, the Bering/
4 Chukchi Sea ecosystem and the California coastal
5 marine ecosystem.

6 “(2) INCLUSION OF INFORMATION IN RE-
7 PORTS.—The Secretary shall include a description of
8 the annual results of research carried out with as-
9 sistance under this section in the report required
10 under section 103(f).

11 “(3) CONTRIBUTIONS.—For purposes of car-
12 rying out this section, the Secretary may accept, so-
13 licit, receive, hold, administer, and use gifts, devises,
14 and bequests.”; and

15 (2) by striking subsections (c) and (d) and in-
16 serting the following:

17 “(c) AUTHORIZATION OF APPROPRIATIONS.—To
18 carry out this section there is authorized to be appro-
19 priated to the Secretary \$1,500,000 for each of fiscal
20 years 2006 through 2010.”.

21 **SEC. 10. FISHERIES GEAR DEVELOPMENT.**

22 Section 111 (16 U.S.C. 1381) is amended as follows:

23 (1) Subsection (a) is amended to read as fol-
24 lows:

25 “(a) RESEARCH AND DEVELOPMENT PROGRAM.—

1 “(1) IN GENERAL.—The Secretary of Com-
2 merce (in this section referred to as the ‘Secretary’)
3 shall—

4 “(A) carry out a program of research and
5 development for the purpose of devising im-
6 proved fishing methods and gear so as to re-
7 duce to the maximum extent practicable the in-
8 cidental taking of marine mammals in connec-
9 tion with fishing operations; and

10 “(B) make every practicable effort to de-
11 velop, evaluate, and make available to owners
12 and operators of fishing vessels such gear and
13 fishing method improvements as quickly as pos-
14 sible.

15 “(2) COORDINATION WITH OTHER COUN-
16 TRIES.—The Secretary may coordinate with other
17 countries to foster gear technology transfer initia-
18 tives to reduce to the maximum extent practicable
19 the incidental mortality and serious injury of marine
20 mammals throughout the full extent of their range.”.

21 (2) By adding at the end the following:

22 “(e) GEAR RESEARCH MINI-GRANT PROGRAM.—

23 “(1) IN GENERAL.—Subject to the availability
24 of appropriations, the Secretary may establish a
25 grant program to provide financial assistance for de-

1 veloping, manufacturing, testing, or designing new
2 types of fishing gear designed to reduce to the max-
3 imum extent practicable the incidental taking (in-
4 cluding incidental mortality and serious injury) of
5 marine mammals.

6 “(2) GRANT AMOUNT AND PURPOSES.—The
7 amount of a grant under this subsection may not ex-
8 ceed \$20,000.

9 “(3) GRANT APPLICATIONS.—To receive a
10 grant under this section, an applicant must submit
11 an application in such form and manner as the Sec-
12 retary may prescribe.

13 “(4) CONSULTATION REGARDING CRITERIA.—
14 The Secretary shall consult with the Secretary of the
15 Interior and the Marine Mammal Commission re-
16 garding the development of criteria for the awarding
17 of grants under this subsection.

18 “(5) ADMINISTRATIVE COSTS.—Of amounts
19 available each fiscal year to carry out this sub-
20 section, the Secretary may expend not more than
21 \$40,000 to pay the administrative expenses nec-
22 essary to carry out this subsection.

23 “(6) CONTRIBUTIONS.—For purposes of car-
24 rying out this section, the Secretary may accept, so-

1 licit, receive, hold, administer, and use gifts, devises,
2 and bequests.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—To
4 carry out this section there is authorized to be appro-
5 priated to the Secretary \$1,500,000 for each of fiscal
6 years 2006 through 2010.”.

7 **SEC. 11. TROPICAL TREATY CONFORMING AMENDMENT.**

8 Subsection (c) of the Dolphin Protection Consumer
9 Information Act (16 U.S.C. 1385) is amended in para-
10 graph (2) by striking “160 degrees west longitude” and
11 inserting “150 degrees west longitude”.

12 **SEC. 12. TAKE REDUCTION PLANS.**

13 (a) IN GENERAL.—Section 118 (16 U.S.C. 1387) is
14 amended as follows:

15 (1) In subsection (a) by striking “commercial”
16 each place it appears in paragraphs (1) and (5).

17 (2) In subsection (c)(1) by striking so much as
18 precedes subparagraph (B) and inserting the fol-
19 lowing:

20 “(c) REGISTRATION AND AUTHORIZATION.—(1) The
21 Secretary shall, within 90 days after the date of enactment
22 of the Marine Mammal Protection Act Amendments of
23 2005—

24 “(A) publish in the Federal Register for public
25 comment, for a period of not less than 90 days, any

1 necessary changes to the Secretary’s list of fisheries
2 published under section 114(b)(1) in the Federal
3 Register on August 24, 1994 (along with an expla-
4 nation of such changes and a statement describing
5 the marine mammal stocks interacting with, and the
6 approximate number of vessels or persons actively
7 involved in, each such fishery), with respect to—

8 “(i) commercial and recreational fisheries
9 that have frequent incidental mortality and seri-
10 ous injury of marine mammals;

11 “(ii) commercial and recreational fisheries
12 that have occasional incidental mortality and
13 serious injury of marine mammals; or

14 “(iii) commercial fisheries that have a re-
15 mote likelihood of or no known incidental mor-
16 tality or serious injury of marine mammals;”.

17 (3) In subsection (c)(1) in subparagraphs (B)
18 and (C) by striking “commercial”.

19 (4) In subsection (c)(2)(A) by striking “com-
20 mercial”.

21 (5) In subsection (c)(3)(A) in the matter pre-
22 ceding clause (i) by striking “a commercial fishery”
23 and inserting “that fishery”.

24 (6) In subsection (c)(3)(E) by inserting “com-
25 mercial” after “any”.

1 (7) In subsection (c)(5)(B) by striking “com-
2 mercial”.

3 (8) In subsection (d)(1) in the matter preceding
4 subparagraph (A) by striking “commercial fishing
5 operations” and inserting “fishing operations in a
6 fishery listed under subsection (c)(1)(A)(i) or (ii)”.

7 (9) In subsection (d)(3) in the matter preceding
8 subparagraph (A) by striking “commercial fisheries”
9 and inserting “fisheries listed under subsection
10 (c)(1)(A)(i) or (ii)”.

11 (10) In subsection (d)(4) as follows:

12 (A) In the matter preceding subparagraph
13 (A) by striking “commercial fisheries” and in-
14 serting “fisheries listed under subsection
15 (c)(1)(A)(i) or (ii)”.

16 (B) In subparagraph (A) by striking “com-
17 mercial fisheries” and inserting “fisheries listed
18 under subsection (c)(1)(A)(i) or (ii)”.

19 (C) In subparagraph (B) by striking “com-
20 mercial fisheries” and inserting “fisheries listed
21 under subsection (c)(1)(A)(i) or (ii)”.

22 (D) In subparagraph (C) by striking “com-
23 mercial fisheries” and inserting “fisheries listed
24 under subsection (c)(1)(A)(i) or (ii)”.

1 (11) In subsection (d)(5) by striking “commer-
2 cial fishing operations” and inserting “fishing oper-
3 ations in fisheries listed under subsection
4 (c)(1)(A)(i) or (ii)”.

5 (12) In subsection (e) in the matter preceding
6 paragraph (1)—

7 (A) by striking “commercial” each place it
8 appears; and

9 (B) by striking “this Act” and inserting
10 “this section”.

11 (13) In subsection (f) by striking so much as
12 precedes paragraph (2) and inserting the following:

13 “(f) TAKE REDUCTION PLANS.—(1) The Secretary
14 shall develop and implement a take reduction plan de-
15 signed to assist in the recovery or prevent the depletion
16 of each strategic stock which interacts with a fishery listed
17 under subsection (c)(1)(A)(i) or (ii), unless the Secretary
18 determines, after notice and opportunity for public com-
19 ment, that the level of fishery related mortality and seri-
20 ous injury is having a negligible impact on that stock. The
21 Secretary may develop and implement a take reduction
22 plan for any other marine mammal stocks which interact
23 with a fishery listed under subsection (c)(1)(A)(i) which
24 the Secretary determines, after notice and opportunity for

1 public comment, has a high level of mortality and serious
2 injury across a number of such marine mammal stocks.”.

3 (14) In subsection (f)(2)—

4 (A) by striking “6 months” and inserting
5 “9 months”; and

6 (B) by striking “commercial fishing oper-
7 ations” each place it appears and inserting
8 “fishing operations in fisheries listed under sub-
9 section (c)(1)(A)(i) or (ii)”.

10 (15) In subsection (f)(3) by striking “commer-
11 cial”.

12 (16) In subsection (f)(4)(B) by striking “com-
13 mercial fishing operations” and inserting “fishing
14 operations in fisheries listed under subsection
15 (c)(1)(A)(i) or (ii)”.

16 (17) In subsection (f)(5)—

17 (A) in subparagraph (A) by striking “6
18 months” and inserting “9 months”; and

19 (B) in subparagraphs (A) and (B) by
20 striking “commercial” each place it appears.

21 (18) In subsection (f)(6)(A)—

22 (A) by striking “(not later than 30 days)”;
23 and

1 (B) in clause (ii) by striking “commercial
2 fisheries” and inserting “fisheries listed under
3 subsection (c)(1)(A)(i) or (ii)”.

4 (19) In subsection (f)(6)(C) in the second sen-
5 tence, by inserting before “, and others” the fol-
6 lowing: “, where appropriate a representative of the
7 office of General Counsel of the National Oceanic
8 and Atmospheric Administration, a representative of
9 the National Marine Fisheries Service having re-
10 sponsibilities related to fisheries science, a represent-
11 ative of the National Marine Fisheries Service hav-
12 ing responsibilities related to law enforcement, and
13 a representative of the appropriate National Marine
14 Fisheries Service Regional Administrator”.

15 (20) In subsection (f)(7)—

16 (A) in subparagraph (A)(i) by striking “6
17 months” and inserting “9 months”;

18 (B) in subparagraph (B)(i)—

19 (i) by striking “not later than 60
20 days” and inserting “not later than 120
21 days”; and

22 (ii) by adding at the end the fol-
23 lowing: “Before publishing any plan that is
24 different than the draft plan proposed by
25 a take reduction team, the Secretary shall

1 reconvene the team and explain to the
2 team the differences between the published
3 plan and the draft plan proposed by the
4 team.”; and

5 (C) in subparagraph (B)(ii)—

6 (i) by striking “6 months” and insert-
7 ing “9 months”; and

8 (ii) by striking “not later than 8
9 months” and inserting “not later than 11
10 months”.

11 (21) In subsection (f)(7)(C) by striking “Not
12 later than 60 days” and inserting “Not later than
13 90 days”.

14 (22) In subsection (f)(7)(D) by striking “com-
15 mercial”.

16 (23) In subsection (f)(8)—

17 (A) in subparagraph (C) by striking “Not
18 later than 60 days” and inserting “Not later
19 than 180 days”; and

20 (B) by striking “commercial” each place it
21 appears.

22 (24) In subsection (f)(9) as follows:

23 (A) In subparagraph (A) by striking “com-
24 mercial fisheries or restrict commercial fish-
25 eries” and inserting “fisheries listed under sub-

1 section (c)(1)(A)(i) or (ii) or restrict such fish-
2 eries”.

3 (B) In subparagraphs (B) and (C) by
4 striking “commercial” each place it appears.

5 (C) In subparagraph (D) by striking “com-
6 mercial fishing operations” and inserting “par-
7 ticipation in a fishery listed under subsection
8 (c)(1)(A)(i) or (ii)”.

9 (25) In subsection (g)(1) by striking “commer-
10 cial fisheries” and inserting “fisheries listed under
11 subsection (c)(1)(A)(i) or (ii)”.

12 (26) In subsection (g)(3)(B) by striking “com-
13 mercial”.

14 (27) In subsection (g)(4) by striking “commer-
15 cial fishery” and inserting “fishery listed under sub-
16 section (c)(1)(A)(i) or (ii)”.

17 (28) In subsection (j) by inserting “including
18 observer, research, and education and outreach pro-
19 grams,” after “For purposes of carrying out this
20 section,”.

21 (29) By amending subsection (d)(1)(C) to read
22 as follows:

23 “(C) identify current fishery regulations and
24 changes in fishing methods or technology that may

1 increase or decrease incidental mortality and serious
2 injury.”.

3 (30) In subsection (f)(2) in the last sentence by
4 inserting “conservation benefits of” before “State or
5 regional fishery management plans.”.

6 (31) By amending subsection (f)(4)(A) to read
7 as follows:

8 “(A) a review of the information in the final
9 stock assessment published under section 117(b),
10 any substantial new information, a review of the
11 conservation benefits from current State and re-
12 gional fishery management regulations;”.

13 (b) STOCK ASSESSMENTS.—Section 117(a)(4) is
14 amended—

15 (1) by striking “and” at the end of subpara-
16 graph (C);

17 (2) by inserting “and” at the end of subpara-
18 graph (D); and

19 (3) by adding at the end the following:

20 “(E) potential conservation benefits pro-
21 vided by State and regional fishery manage-
22 ment regulations;”.

23 (c) ZERO MORTALITY RATE GOAL AMENDMENTS.—
24 Section 118 (16 U.S.C. 1387) is amended in subsections

1 (a)(1) and (b)(1) by striking “within 7 years after the date
2 of enactment of this section” each place it appears.

3 (d) CONFORMING AMENDMENT.—Section
4 101(a)(5)(E) (16 U.S.C. 1371(a)(5)(E)) is amended by
5 inserting “or recreational” after “commercial” each place
6 it appears.

7 **SEC. 13. PINNIPED RESEARCH.**

8 Section 120 (16 U.S.C. 1389) is amended by adding
9 at the end the following:

10 “(k) RESEARCH ON NONLETHAL REMOVAL AND
11 CONTROL.—(1) The Secretary shall conduct research on
12 the nonlethal removal and control of nuisance pinnipeds.
13 The research shall include a review of measures that have
14 been taken to effect such removal and control, the effec-
15 tiveness of these measures, and the development of new
16 technologies to deter nuisance pinnipeds.

17 “(2) The Secretary shall include, among the individ-
18 uals that develop the research program under this sub-
19 section, representatives of the commercial and recreational
20 fishing industries.

21 “(3) The Secretary is encouraged, where appropriate,
22 to use independent marine mammal research institutions
23 in developing and in conducting the research program.

24 “(4) The Secretary shall, by December 31 of each
25 year, submit an annual report on the results of research

1 under this subsection to the Committee on Resources of
2 the House of Representatives and the Committee on Com-
3 merce, Science, and Transportation of the Senate.

4 “(1) QUALIFIED NONLETHAL CONTROL PROJECTS.—

5 “(1) IN GENERAL.—The Secretary may, to the
6 extent amounts are available to carry out this sub-
7 section, provide a grant to any eligible applicant to
8 carry out a qualified nonlethal control project in ac-
9 cordance with this subsection.

10 “(2) APPLICATIONS.—The Secretary shall—

11 “(A) publish guidelines for and solicit ap-
12 plications for grants under this subsection not
13 later than 6 months after the date of enactment
14 of this subsection; and

15 “(B) receive, review, evaluate, and approve
16 applications for grants under this subsection.

17 “(3) ELIGIBLE APPLICANT.—To be an eligible
18 applicant for purposes of paragraph (1), an appli-
19 cant must—

20 “(A) be a State, local government, or
21 interstate or regional agency; and

22 “(B) have adequate personnel, funding,
23 and authority to carry out and monitor or
24 maintain a nonlethal control of nuisance
25 pinnipeds project.

1 “(4) QUALIFIED CONTROL PROJECT.—To be a
2 qualified control project under this subsection, a
3 project must—

4 “(A) by humane and nonlethal means, re-
5 move, deter, and control nuisance pinnipeds in
6 areas where they are a recurrent and persistent
7 threat to public health and safety; and

8 “(B) encourage public notice, education,
9 and outreach on project activities in the af-
10 fected community.

11 “(5) GRANT DURATION.—Each grant under
12 this subsection shall be to provide funding for the
13 Federal share of the cost of a project carried out
14 with the grant for up to 2 fiscal years.

15 “(6) REPORTING BY GRANTEE.—

16 “(A) IN GENERAL.—A grantee carrying
17 out a control project with a grant under this
18 subsection shall report to the Secretary at the
19 expiration of the grant.

20 “(B) REPORT CONTENTS.—Each report
21 under this subsection shall include specific in-
22 formation on the methods and techniques used
23 to control nuisance pinniped species in the
24 project area, and on the ensuing results.

25 “(7) COST SHARING.—

1 “(A) FEDERAL SHARE.—Except as pro-
2 vided in paragraphs (2) and (3), the Federal
3 share of the cost of a project carried out with
4 a grant under this subsection shall not exceed
5 75 percent of such cost.

6 “(B) APPLICATION OF IN-KIND CONTRIBU-
7 TIONS.—The Secretary may apply to the non-
8 Federal share of costs of a control project car-
9 ried out with a grant under this subsection the
10 fair market value of services or any other form
11 of in-kind contribution to the project made by
12 non-Federal interests that the Secretary deter-
13 mines to be an appropriate contribution equiva-
14 lent to the monetary amount required for the
15 non-Federal share of the activity.

16 “(C) DERIVATION OF NON-FEDERAL
17 SHARE.—The non-Federal share of the cost of
18 a control project carried out with a grant under
19 this subsection may not be derived from a Fed-
20 eral grant program or other Federal funds.

21 “(8) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to the Sec-
23 retary \$1,500,000 for each of fiscal years 2006
24 through 2010.

1 “(9) CLARIFICATION.—Nothing in this sub-
 2 section shall be interpreted as suspending or waiving
 3 any requirement under any other provision of this
 4 Act.”.

5 **SEC. 14. MARINE MAMMAL COMMISSION.**

6 (a) NUMBER OF EMPLOYEES.—Section 206(5) (16
 7 U.S.C. 1406(5)) is amended by striking “; except that no
 8 fewer than 11 employees must be employed under para-
 9 graph (1) at any time”.

10 (b) ADMINISTRATION.—Section 206 (16 U.S.C.
 11 1406) is amended—

12 (1) in paragraph (4) by striking “(but at rates
 13 for individuals not to exceed \$100 per diem)”; and

14 (2) in paragraph (5) by striking “Financial”
 15 and all that follows through the end of that sen-
 16 tence.

17 **SEC. 15. STRANDING AND ENTANGLEMENT RESPONSE.**

18 (a) COLLECTION AND UPDATING OF INFORMA-
 19 TION.—Section 402(b)(1)(A) (16 U.S.C. 1421a(b)(1)(A))
 20 is amended by inserting “or entangled” after “stranded”.

21 (b) ENTANGLEMENT RESPONSE AGREEMENTS.—

22 (1) IN GENERAL.—Section 403 (16 U.S.C.
 23 1421b) is amended—

24 (A) by amending the section heading to
 25 read as follows:

1 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**
2 **AGREEMENTS.”; and**

3 (B) in subsection (a) by inserting “or en-
4 tanglement” before the period.

5 (2) CLERICAL AMENDMENT.—The table of con-
6 tents at the end of the first section is amended by
7 striking the item relating to section 403 and insert-
8 ing the following:

“403. Stranding or entanglement response agreements.”.

9 (c) LIABILITY.—Section 406(a) (16 U.S.C. 1421e(a))
10 is amended by inserting “or entanglement” after “strand-
11 ing”.

12 (d) ENTANGLEMENT DEFINED.—

13 (1) IN GENERAL.—Section 410 (16 U.S.C.
14 1421h) is amended—

15 (A) by redesignating paragraphs (1)
16 through (6) in order as paragraphs (2) through
17 (7); and

18 (B) by inserting before paragraph (2) (as
19 so redesignated) the following:

20 “(1) The term ‘entanglement’ means an event
21 in the wild in which a living or dead marine mammal
22 has gear, rope, line, net, or other material wrapped
23 around or attached to it and is—

24 “(A) on a beach or shore of the United
25 States; or

1 “(B) in waters under the jurisdiction of
2 the United States.”.

3 (2) CONFORMING AMENDMENT.—Section
4 408(a)(2)(B)(i) (16 U.S.C. 1421f–1(a)(2)(B)(i)) is
5 amended by striking “section 410(6)” and inserting
6 “section 410(7)”.

7 (e) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
8 ASSISTANCE GRANT PROGRAM.—

9 (1) AUTHORIZATION OF APPROPRIATIONS FOR
10 GRANT PROGRAM.—Section 408(h) (16 U.S.C.
11 1421f–1(h)) is amended—

12 (A) by striking “\$5,000,000 for each of
13 fiscal years 2001 through 2003” and inserting
14 “\$7,000,000 for each of fiscal years 2006
15 through 2010”; and

16 (B) in paragraph (1) by striking
17 “\$4,000,000” and inserting “\$6,000,000” .

18 (2) ADMINISTRATIVE COSTS AND EXPENSES.—
19 Section 408 (16 U.S.C. 1421f–1) is amended—

20 (A) by adding at the end of subsection
21 (a)(1) the following: “All funds available to im-
22 plement this section shall be distributed to eligi-
23 ble stranding network participants for the pur-
24 poses set forth in this paragraph and paragraph
25 (2), except as provided in subsection (f).”; and

1 (B) by amending subsection (f) to read as
2 follows:

3 “(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of
4 the amounts available each fiscal year to carry out this
5 section, the Secretary may expend not more than 5 per-
6 cent or \$80,000, whichever is greater, to pay the adminis-
7 trative costs and administrative expenses to implement the
8 grant program under subsection (a). Any such funds re-
9 tained by the Secretary for a fiscal year for such costs
10 and expenses that are not used for such costs and ex-
11 penses before the end of the fiscal year shall be provided
12 as grants under subsection (a).”.

13 (3) EMERGENCY ASSISTANCE.—Section 408 (16
14 U.S.C. 1421f–1) is amended—

15 (A) in subsection (a) by redesignating
16 paragraphs (2) and (3) as paragraph (3) and
17 (4), respectively, and by inserting after para-
18 graph (1) the following:

19 “(2) Subject to the availability of appropriations, the
20 Secretary may also enter into cooperative agreements, con-
21 tracts, or such other agreements or arrangements as the
22 Secretary considers appropriate to address stranding
23 events requiring emergency assistance.”;

1 (B) in subsection (d) by inserting “(1)”
2 before the first sentence, and by adding at the
3 end the following:

4 “(2) Funding for emergency stranding projects shall
5 not be subject to the funding limit established in para-
6 graph (1).”;

7 (C) in subsection (e)—

8 (i) in paragraph (1) by striking “The
9 non-Federal” and inserting “Except as
10 provided in paragraph (2), the non-Fed-
11 eral”;

12 (ii) by redesignating paragraph (2) as
13 paragraph (3); and

14 (iii) by inserting after paragraph (1)
15 the following:

16 “(2) EMERGENCY ASSISTANCE.—No non-Fed-
17 eral contribution shall be required for funding for a
18 response to an emergency stranding event.”; and

19 (D) in subsection (g) by redesignating
20 paragraph (2) as paragraph (3) and inserting
21 after paragraph (1) the following:

22 “(2) EMERGENCY ASSISTANCE.—The term
23 ‘emergency assistance’ means assistance provided for
24 a stranding event that—

1 “(A) is not an unusual mortality event as
2 defined in section 409(6);

3 “(B) leads to an immediate increase in re-
4 quired costs for stranding response, recovery, or
5 rehabilitation in excess of regularly scheduled
6 costs;

7 “(C) may be cyclical or endemic; and

8 “(D) may involve out-of-habitat animals.”.

9 (4) CONTRIBUTIONS.—Section 408 (16 U.S.C.
10 1421f–1) is amended by adding at the end the fol-
11 lowing:

12 “(i) CONTRIBUTIONS.—For purposes of carrying out
13 this section, the Secretary may solicit, accept, receive,
14 hold, administer, and use gifts, devises, and bequests.”.

15 (f) AUTHORIZATION OF APPROPRIATIONS FOR MA-
16 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—
17 Section 409(3) (16 U.S.C. 1421g(3)) is amended by strik-
18 ing “\$500,000 for fiscal year 1993” and inserting
19 “\$125,000 for each of fiscal years 2006 through 2010”.

20 **SEC. 16. SCRIMSHAW EXEMPTION.**

21 Any valid certificate of exemption referred to in sec-
22 tion 18 of Public Law 103–238 (16 U.S.C. 1539 note)
23 that was valid under that section on April 29, 1999, shall
24 be valid during the 11-year period beginning October 31,
25 1999.

Union Calendar No. 112

109TH CONGRESS
1ST Session

H.R. 2130

[Report No. 109-180]

A BILL

To amend the Marine Mammal Protection Act of 1972 to authorize research programs to better understand and protect marine mammals, and for other purposes.

JULY 21, 2005

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed