

111TH CONGRESS
1ST SESSION

S. 1124

To amend title 46, United States Code, to modify the vessels eligible for a fishery endorsement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2009

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 46, United States Code, to modify the vessels eligible for a fishery endorsement, 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. VESSEL SIZE LIMITS FOR FISHERY ENDORSE-**
4 **MENTS.**

5 (a) LENGTH, TONNAGE, AND HORSEPOWER.—Sec-
6 tion 12113(d)(2) of title 46, United States Code, is
7 amended—

8 (1) in subparagraph (A)—

9 (A) in clause (i), by adding “and” at the
10 end;

1 (B) in clause (ii) by striking “and” at the
2 end; and

3 (C) by striking clause (iii);

4 (2) in subparagraph (B), by striking the period
5 at the end and inserting “; or”; and

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

7 “(C) the vessel is either a rebuilt vessel or
8 a replacement vessel under section 208(g) of
9 the American Fisheries Act (title II of division
10 C of Public Law 105–277; 112 Stat. 2681–
11 627) and is eligible for a fishery endorsement
12 under this section.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) VESSEL REBUILDING AND REPLACE-
15 MENT.—Subsection (g) of section 208 of the Amer-
16 ican Fisheries Act (title II of division C of Public
17 Law 105–277; 112 Stat. 2681–627) is amended to
18 read as follows:

19 “(g) VESSEL REBUILDING AND REPLACEMENT.—

20 “(1) IN GENERAL.—

21 “(A) REBUILD OR REPLACE.—Notwith-
22 standing any limitation to the contrary on re-
23 placing, rebuilding, or lengthening vessels or
24 transferring permits or licenses to a replace-
25 ment vessel contained in sections 679.2 and

679.4 of title 50, Code of Federal Regulations,
 as in effect on the date of enactment of this
 subsection and except as provided in paragraph
 (4), the owner of a vessel eligible under sub-
 section (a), (b), (c), (d), or (e) (other than
 paragraph (21)), in order to improve vessel
 safety and operational efficiencies (including
 fuel efficiency), may rebuild or replace that ves-
 sel (including fuel efficiency) with a vessel docu-
 mented with a fishery endorsement under sec-
 tion 12113 of title 46, United States Code.

“(B) SAME REQUIREMENTS.—The rebuilt
 or replacement vessel shall be eligible in the
 same manner and subject to the same restric-
 tions and limitations under such subsection as
 the vessel being rebuilt or replaced.

“(C) TRANSFER OF PERMITS AND LI-
 CENSES.—Each fishing permit and license held
 by the owner of a vessel or vessels to be rebuilt
 or replaced under subparagraph (A) shall be
 transferred to the rebuilt or replacement vessel.

“(2) RECOMMENDATIONS OF NORTH PACIFIC
 COUNCIL.—The North Pacific Council may rec-
 ommend for approval by the Secretary such con-
 servation and management measures, including size

limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

“(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

“(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

“(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and

mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

“(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

“(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

“(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

“(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

“(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

“(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this sub-

1 section shall thereafter not be eligible for a fishery
2 endorsement under section 12113 of title 46, United
3 States Code, unless that vessel is also a replacement
4 vessel described in paragraph (1).

5 “(6) GULF OF ALASKA LIMITATION.—Notwith-
6 standing paragraph (1), the Secretary shall prohibit
7 from participation in the groundfish fisheries of the
8 Gulf of Alaska any vessel that is rebuilt or replaced
9 under this subsection and that exceeds the maximum
10 length overall specified on the license that authorizes
11 fishing for groundfish pursuant to the license limita-
12 tion program under part 679 of title 50, Code of
13 Federal Regulations, as in effect on the date of en-
14 actment of this subsection.

15 “(7) AUTHORITY OF PACIFIC COUNCIL.—Noth-
16 ing in this section shall be construed to diminish or
17 otherwise affect the authority of the Pacific Council
18 to recommend to the Secretary conservation and
19 management measures to protect fisheries under its
20 jurisdiction (including the Pacific whiting fishery)
21 and participants in such fisheries from adverse im-
22 pacts caused by this Act.”.

23 (2) EXEMPTION OF CERTAIN VESSELS.—Sec-
24 tion 203(g) of the American Fisheries Act (title II

1 of division C of Public Law 105–277; 112 Stat.
2 2681–620) is amended—

3 (A) by inserting “and” after “(United
4 States official number 651041)”;

5 (B) by striking “, NORTHERN TRAV-
6 ELER (United States official number 635986),
7 and NORTHERN VOYAGER (United States
8 official number 637398) (or a replacement ves-
9 sel for the NORTHERN VOYAGER that com-
10 plies with paragraphs (2), (5), and (6) of sec-
11 tion 208(g) of this Act)”;

12 (C) by striking “, in the case of the
13 NORTHERN” and all that follows through
14 “PHOENIX,”.

15 (3) FISHERY COOPERATIVE EXIT PROVI-
16 SIONS.—Section 210(b) of the American Fisheries
17 Act (title II of division C of Public Law 105–277;
18 112 Stat. 2681–629) is amended—

19 (A) by moving the matter beginning with
20 “the Secretary shall” in paragraph (1) 2 ems to
21 the right; and

22 (B) by adding at the end the following:

23 “(7) FISHERY COOPERATIVE EXIT PROVI-
24 SIONS.—

“(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

“(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this paragraph; and

“(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

“(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph

(C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

“(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Man-

1 agement Council established, respectively,
2 under subparagraphs (A) and (B) of sec-
3 tion 302(a)(1) of the Magnuson-Stevens
4 Act; or

5 “(ii) to allow the vessels referred to in
6 clause (i) to participate in any fishery
7 under the authority of the Councils re-
8 ferred to in clause (i) in any manner that
9 is not consistent with the fishery manage-
10 ment plan for the fishery developed by the
11 Councils under section 303 of the Magnu-
12 son-Stevens Act.”.

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