

Calendar No. 270

111TH CONGRESS
2^D SESSION

S. 850

[Report No. 111–124]

To amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2009

Mr. KERRY (for himself, Mr. WHITEHOUSE, Mr. SANDERS, Mr. MERKLEY, Ms. CANTWELL, Mr. WYDEN, Mr. CARDIN, Mr. MENENDEZ, Mr. REED, Mr. BURRIS, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. CARPER, Mrs. BOXER, Mrs. GILLIBRAND, Ms. COLLINS, Mrs. FEINSTEIN, Mr. JOHNSON, Mr. MCCAIN, Mr. BINGAMAN, Mr. BAYH, Mr. VITTER, Ms. SNOWE, Mr. ROCKEFELLER, Mr. LEAHY, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

FEBRUARY 4, 2010

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

To amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

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 “Shark Conservation
 5 Act of 2009”.

6 **SEC. 2. AMENDMENT OF HIGH SEAS DRIFTNET FISHING**
 7 **MORATORIUM PROTECTION ACT.**

8 Subsection (a) of section 610 of the High Seas
 9 Driftnet Fishing Moratorium Protection Act (16 U.S.C.
 10 1826k) is amended—

11 (1) in the matter preceding paragraph (1), by
 12 striking “607, a nation if” and inserting “607—”;

13 (2) in paragraph (1)—

14 (A) by redesignating subparagraphs (A)
 15 and (B) as clauses (i) and (ii), respectively; and

16 (B) by moving clauses (i) and (ii) (as so
 17 redesignated) 2 ems to the right;

18 (3) by redesignating paragraphs (1) through
 19 (3) as subparagraphs (A) through (C), respectively;

20 (4) by moving subparagraphs (A) through (C)
 21 (as so redesignated) 2 ems to the right;

22 (5) by inserting before subparagraph (A) (as so
 23 redesignated) the following:

24 “(1) a nation if—”;

1 (6) in subparagraph (C) (as so redesignated) by
 2 striking the period at the end and inserting “; and”;
 3 and

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

5 “(2) a nation if—

6 “(A) fishing vessels of that nation are en-
 7 gaged, or have been engaged during the pre-
 8 ceding calendar year, in fishing activities or
 9 practices that target or incidentally catch
 10 sharks; and

11 “(B) the nation has not adopted a regu-
 12 latory program to provide for the conservation
 13 of sharks, including measures to prohibit re-
 14 moval of any of the fins of a shark (including
 15 the tail) and discarding the carcass of the shark
 16 at sea, that is comparable to that of the United
 17 States, taking into account different condi-
 18 tions.”.

19 **SEC. 3. AMENDMENT OF MAGNUSON-STEVENSON FISHERY**
 20 **CONSERVATION AND MANAGEMENT ACT.**

21 Paragraph (1) of section 307 of Magnuson-Stevens
 22 Fishery Conservation and Management Act (16 U.S.C.
 23 1857) is amended—

24 (1) by amending subparagraph (P) to read as
 25 follows:

1 “(P)(i) to remove any of the fins of a
2 shark (including the tail) at sea;

3 “(ii) to have custody, control, or possession
4 of any such fin aboard a fishing vessel unless
5 it is naturally attached to the corresponding
6 carcass;

7 “(iii) to transfer any such fin from one
8 vessel to another vessel at sea, or to receive any
9 such fin in such transfer, without the fin natu-
10 rally attached to the corresponding carcass; or

11 “(iv) to land any such fin that is not natu-
12 rally attached to the corresponding carcass, or
13 to land any shark carcass without such fins
14 naturally attached;” and

15 (2) by striking the matter following subpara-
16 graph (R) and inserting the following:

17 “For purposes of subparagraph (P), there shall be
18 a rebuttable presumption that if any shark fin (in-
19 cluding the tail) is found aboard a vessel, other than
20 a fishing vessel, without being naturally attached to
21 the corresponding carcass, such fin was transferred
22 in violation of subparagraph (P)(iii) and that if,
23 after landing, the total weight of shark fins (includ-
24 ing the tail) landed from any vessel exceeds five per-
25 cent of the total weight of shark carcasses landed;

1 such fins were taken, held, or landed in violation of
 2 subparagraph (P).”.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Shark Conservation Act*
 5 *of 2009”.*

6 **SEC. 2. AMENDMENT OF HIGH SEAS DRIFTNET FISHING**
 7 **MORATORIUM PROTECTION ACT.**

8 (a) *ACTIONS TO STRENGTHEN INTERNATIONAL FISH-*
 9 *ERY MANAGEMENT ORGANIZATIONS.*—Section 608 of the
 10 *High Seas Driftnet Fishing Moratorium Protection Act (16*
 11 *U.S.C. 1826i) is amended—*

12 (1) *in paragraph (1)—*

13 (A) *in subparagraph (D), by striking “and”*
 14 *at the end;*

15 (B) *in subparagraph (E), by inserting*
 16 *“and” after the semicolon; and*

17 (C) *by adding at the end the following:*

18 *“(F) to adopt shark conservation measures,*
 19 *including measures to prohibit removal of any of*
 20 *the fins of a shark (including the tail) and dis-*
 21 *carding the carcass of the shark at sea;”;*

22 (2) *in paragraph (2), by striking “and” at the*
 23 *end;*

24 (3) *by redesignating paragraph (3) as para-*
 25 *graph (4); and*

1 (4) *by inserting after paragraph (2) the fol-*
 2 *lowing:*

3 “(3) *seeking to enter into international agree-*
 4 *ments that require measures for the conservation of*
 5 *sharks, including measures to prohibit removal of any*
 6 *of the fins of a shark (including the tail) and dis-*
 7 *carding the carcass of the shark at sea, that are com-*
 8 *parable to those of the United States, taking into ac-*
 9 *count different conditions; and”.*

10 (b) *ILLEGAL, UNREPORTED, OR UNREGULATED FISH-*
 11 *ING.—Subparagraph (A) of section 609(e)(3) of the High*
 12 *Seas Driftnet Fishing Moratorium Protection Act (16*
 13 *U.S.C. 1826j(e)(3)) is amended—*

14 (1) *by striking the “and” before “bycatch reduc-*
 15 *tion requirements”; and*

16 (2) *by striking the semicolon at the end and in-*
 17 *serting “, and shark conservation measures;”.*

18 (c) *EQUIVALENT CONSERVATION MEASURES.—*

19 (1) *IDENTIFICATION.—Subsection (a) of section*
 20 *610 of the High Seas Driftnet Fishing Moratorium*
 21 *Protection Act (16 U.S.C. 1826k) is amended—*

22 (A) *in the matter preceding paragraph (1),*
 23 *by striking “607, a nation if—”and inserting*
 24 *“607—”;*

25 (B) *in paragraph (1)—*

1 (i) by redesignating subparagraphs (A)
 2 and (B) as clauses (i) and (ii), respectively;
 3 and

4 (ii) by moving clauses (i) and (ii) (as
 5 so redesignated) 2 ems to the right;

6 (C) by redesignating paragraphs (1)
 7 through (3) as subparagraphs (A) through (C),
 8 respectively;

9 (D) by moving subparagraphs (A) through
 10 (C) (as so redesignated) 2 ems to the right;

11 (E) by inserting before subparagraph (A)
 12 (as so redesignated) the following:

13 “(1) a nation if—”;

14 (F) in subparagraph (C) (as so redesign-
 15 ated) by striking the period at the end and in-
 16 serting “; and”; and

17 (G) by adding at the end the following:

18 “(2) a nation if—

19 “(A) fishing vessels of that nation are en-
 20 gaged, or have been engaged during the preceding
 21 calendar year, in fishing activities or practices
 22 in waters beyond any national jurisdiction that
 23 target or incidentally catch sharks; and

24 “(B) the nation has not adopted a regu-
 25 latory program to provide for the conservation of

sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.”.

(2) *INITIAL IDENTIFICATIONS.*—The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

**SEC. 3. AMENDMENT OF MAGNUSON-STEVENSON FISHERY
CONSERVATION AND MANAGEMENT ACT.**

Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

“(P)(i) to remove any of the fins of a shark (including the tail) at sea;

“(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

1 “(iii) to transfer any such fin from one ves-
 2 sel to another vessel at sea, or to receive any such
 3 fin in such transfer, without the fin naturally
 4 attached to the corresponding carcass; or

5 “(iv) to land any such fin that is not natu-
 6 rally attached to the corresponding carcass, or to
 7 land any shark carcass without such fins natu-
 8 rally attached;”; and

9 (2) by striking the matter following subpara-
 10 graph (R) and inserting the following:

11 “For purposes of subparagraph (P), there shall be a
 12 rebuttable presumption that if any shark fin (includ-
 13 ing the tail) is found aboard a vessel, other than a
 14 fishing vessel, without being naturally attached to the
 15 corresponding carcass, such fin was transferred in
 16 violation of subparagraph (P)(iii) or that if, after
 17 landing, the total weight of shark fins (including the
 18 tail) landed from any vessel exceeds five percent of the
 19 total weight of shark carcasses landed, such fins were
 20 taken, held, or landed in violation of subparagraph
 21 (P). In such subparagraph, the term ‘naturally at-
 22 tached’, with respect to a shark fin, means attached
 23 to the corresponding shark carcass through some por-
 24 tion of uncut skin.”.

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