

115TH CONGRESS
2D SESSION

S. 3331

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2018

Mr. SCHUMER (for himself and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for an equitable management of summer flounder based on geographic, scientific, and economic data 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 “Fluke Fairness Act
5 of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Summer flounder is an important economic
9 fish stock for commercial and recreational fishermen

1 across the Northeast and Mid-Atlantic United
2 States.

3 (2) The Magnuson-Stevens Fishery Conserva-
4 tion and Management Act (16 U.S.C. 1801 et seq.)
5 was reauthorized in 2006 and instituted annual
6 catch limits and accountability measures for impor-
7 tant fish stocks.

8 (3) That reauthorization prompted fishery man-
9 agers to look at alternate management schemes to
10 rebuild depleted stocks like summer flounder.

11 (4) Summer flounder occur in both State and
12 Federal waters and are managed through a joint
13 fishery management plan between the Council and
14 the Commission.

15 (5) The Council and the Commission decided
16 that each State's recreational and commercial har-
17 vest limits for summer flounder would be based upon
18 landings in previous years.

19 (6) These historical landings were based on
20 flawed data sets that no longer provide fairness or
21 flexibility for fisheries managers to allocate resources
22 based on the best science.

23 (7) This allocation mechanism resulted in an
24 uneven split among the States along the East Coast
25 which is problematic.

1 (8) The fishery management plan for summer
2 flounder does not account for regional changes in
3 the location of the fluke stock even though the stock
4 has moved further to the north and changes in effort
5 by anglers along the East Coast.

6 (9) The States have been locked in a manage-
7 ment system based on data that occurred over a dec-
8 ade ago and the summer flounder stock is not being
9 managed using the best available science and mod-
10 ern fishery management techniques.

11 (10) It is in the interest of the Federal Govern-
12 ment to establish a new fishery management plan
13 for summer flounder that is based on current geo-
14 graphic, scientific, and economic realities.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) COMMISSION.—The term “Commission”
18 means the Atlantic States Marine Fisheries Commis-
19 sion.

20 (2) COUNCIL.—The term “Council” means the
21 Mid-Atlantic Fishery Management Council estab-
22 lished under section 302(a) of the Magnuson-Stevens
23 Fishery Conservation and Management Act (16
24 U.S.C. 1852(a)).

1 (3) NATIONAL STANDARDS.—The term “Na-
 2 tional Standards” means the national standards for
 3 fishery conservation and management set out in sec-
 4 tion 301(a) of the Magnuson-Stevens Fishery Con-
 5 servation and Management Act (16 U.S.C. 1851(a)).

6 (4) SECRETARY.—The term “Secretary” means
 7 the Secretary of Commerce.

8 (5) SUMMER FLOUNDER.—The term “summer
 9 flounder” means the species *Paralichthys dentatus*.

10 **SEC. 4. SUMMER FLOUNDER MANAGEMENT REFORM.**

11 (a) FISHERY MANAGEMENT PLAN MODIFICATION.—
 12 Not later than 1 year after the date of enactment of this
 13 Act, the Council shall submit to the Secretary, and the
 14 Secretary may approve, a modified fishery management
 15 plan for the commercial and recreational management of
 16 summer flounder under title III of the Magnuson-Stevens
 17 Fishery Conservation and Management Act (16 U.S.C.
 18 1851 et seq.) or an amendment to such plan that—

19 (1) shall be based on the best scientific infor-
 20 mation available;

21 (2) reflects changes in the distribution, abun-
 22 dance, and location of summer flounder in estab-
 23 lishing distribution of the commercial and rec-
 24 reational catch quotas;

1 (3) considers regional, coastwide, or other man-
2 agement measures for summer flounder that comply
3 with the National Standards; and

4 (4) prohibits the allocation of commercial or
5 recreational catch quotas for summer flounder on a
6 State-by-State basis using historical landings data
7 that does not reflect the status of the summer floun-
8 der stock, based on the most recent scientific infor-
9 mation.

10 (b) CONSULTATION WITH THE COMMISSION.—In
11 preparing the modified fishery management plan or an
12 amendment to such a plan as described in subsection (a),
13 the Council shall consult with the Commission to ensure
14 consistent management throughout the range of the sum-
15 mer flounder.

16 (c) FAILURE TO SUBMIT PLAN.—If the Council fails
17 to submit a modified fishery management plan or an
18 amendment to such a plan as described in subsection (a)
19 that may be approved by the Secretary, the Secretary shall
20 prepare and approve such a modified plan or amendment.

21 **SEC. 5. REPORT.**

22 Not later than 1 year after the date of the approval
23 under section 4 of a modified fishery management plan
24 for the commercial and recreational management of sum-
25 mer flounder or an amendment to such plan, the Comp-

1 troller General of the United States shall submit to Con-
2 gress a report on the implementation of such modified
3 plan or amendment that includes an assessment of wheth-
4 er such implementation complies with the National Stand-
5 ards.

