

119TH CONGRESS  
2D SESSION

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To support healthy fisheries in dynamic ocean conditions, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. BLUMENTHAL (for himself, Mr. MURPHY, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To support healthy fisheries in dynamic ocean conditions, 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 “Supporting Healthy  
5       Interstate Fisheries in Transition Act” or the “SHIFT  
6       Act”.

7       **SEC. 2. SHIFTING STOCKS.**

8       Section 805(a) of the Atlantic Coastal Fisheries Co-  
9       operative Management Act (16 U.S.C. 5104(a)) is amend-  
10      ed by adding at the end the following:

1               “(3) The Secretary shall encourage the Com-  
2       mission to include data regarding changes to the  
3       ecosystem in its coastal fishery management plans or  
4       plan amendments, and when establishing or revising  
5       quota allocations between any State, Federal, or  
6       other management unit in such a plan or amend-  
7       ment, the Secretary shall account for, using the best  
8       scientific information available, any impact from eco-  
9       logical changes on coastal fishery resources, includ-  
10      ing—

11               “(A) any change or shifting trend in fish  
12       abundance and distribution; and

13               “(B) any potential ecological impact, in-  
14       cluding food web and habitat impacts, arising  
15       from such revised quota allocations.”.

16 **SEC. 3. ACTION BY THE SECRETARY.**

17       Section 304(f) of the Magnuson-Stevens Fishery  
18       Conservation and Management Act (16 U.S.C. 1854(f))  
19       is amended—

20               (1) in paragraph (1)—

21               (A) by striking “as provided in paragraph  
22       (3)” and inserting “as provided in paragraph  
23       (2)”;

1 (B) by striking “No jointly prepared plan”  
2 and all that follows through “each Council con-  
3 cerned.”;

4 (2) by redesignating paragraph (2) as para-  
5 graph (3);

6 (3) by inserting after paragraph (1) the fol-  
7 lowing:

8           “(2)(A) If determined necessary by the Sec-  
9           retary or at the request of a Council, based on the  
10          criteria described in subparagraph (B) and in ac-  
11          cordance with procedures established by the Sec-  
12          retary, the Secretary shall determine whether a sub-  
13          stantial portion of a fishery extends beyond the geo-  
14          graphical area of authority of any one Council.

15               “(B) Based on the best scientific information  
16               available, the Secretary shall—

1                     “(III) a significant shift in the aver-  
2                     age proportion of a fishery’s landings rev-  
3                     enue accruing to another council’s jurisdic-  
4                     tion; or

5                     “(IV) any other fishery-specific indi-  
6                     cator determined by the Secretary or rel-  
7                     evant council; and

8                     “(ii) consult with the relevant council to  
9                     review any indicator under clause (i) to ensure  
10                     a shift is not explained by normal fluctuations  
11                     or non-ecological factors, such as—

12                     “(I) regulatory requirements;

13                     “(II) consumer demand or market  
14                     forces; or

15                     “(III) socioeconomic factors.

16                     “(C) If the Secretary determines under  
17                     subparagraph (A) that a substantial portion of  
18                     a fishery extends beyond the geographical area  
19                     of authority of any one Council—

20                     “(i) the Secretary shall, not later than  
21                     6 months after the date on which the re-  
22                     quest is made under subparagraph (A), no-  
23                     tify the Councils concerned; and

24                     “(ii) each of the Councils concerned  
25                     shall, not later than 1 year after the date

on which the notification is made under clause (i), by a majority of the voting members, present and voting—

17                   “(D) In the case that the Councils con-  
18                   cerned are unable to meet the requirements of  
19                   subparagraph (C)(ii) within the time period  
20                   specified in such subparagraph, or if their rec-  
21                   ommendations do not agree, the Secretary  
22                   shall—

1 amendment to such a plan, if the fishery  
2 requires conservation and management  
3 under this Act; or

4 “(ii) require that such a plan or any  
5 necessary amendment be prepared jointly  
6 by the Councils concerned, if the fishery  
7 requires conservation and management  
8 under this Act.

9 “(E) Not later than 2 years after the date  
10 on which the last of the Councils concerned  
11 makes a decision pursuant to subparagraph  
12 (C)(ii) or the date on which the Secretary  
13 makes a decision pursuant to subparagraph  
14 (D), and at such other times as required under  
15 this Act, the Council or Councils designated  
16 under subparagraph (C)(ii) or (D) (as applica-  
17 ble) shall establish a fishery management plan,  
18 or make any necessary amendment to such a  
19 plan, if the fishery requires conservation and  
20 management under this Act.

21 “(F)(i) If determined necessary by the  
22 Secretary or at the request of a Council in ac-  
23 cordance with the procedures established under  
24 subparagraph (A), the Secretary shall deter-  
25 mine whether a fishery described in subpara-

1 graph (C) no longer has a substantial portion  
2 that extends beyond the geographical area of  
3 authority of any one Council.

4 “(ii) If the Secretary determines under  
5 clause (i) that a fishery no longer has a sub-  
6 stantial portion that extends beyond the geo-  
7 graphical area of authority of any one Coun-  
8 cil—

9 “(I) the Secretary shall determine in  
10 which Council’s geographical area of au-  
11 thority the fishery is predominant; and

12 “(II) not later than 2 years after the  
13 date on which the determination under  
14 subclause (I) is made, and at such other  
15 times as required under this Act, the  
16 Council determined under such subclause  
17 shall establish a fishery management plan,  
18 or make any necessary amendment to such  
19 a plan, if the fishery requires conservation  
20 and management under this Act.

21 “(iii) Notwithstanding subsection (h), on  
22 the date of implementation of a fishery manage-  
23 ment plan under clause (ii)(II), any preceding  
24 fishery management plan with respect to such  
25 fishery is repealed.

1                   “(G) The Secretary shall, through notice  
2                   and comment rulemaking, identify its criteria in  
3                   determining under subparagraphs (C) and (F)  
4                   whether a substantial portion of a fishery ex-  
5                   tends beyond the geographical area of authority  
6                   of any one Council.”; and

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

8                   “(4) No jointly prepared plan or amendment, as  
9                   described in paragraph (1)(B), (2)(C)(ii)(II), or  
10                   (2)(D)(ii) may be submitted to the Secretary unless  
11                   it is approved by a majority of the voting members,  
12                   present and voting, of each Council concerned.

13                   “(5) This subsection shall not apply with re-  
14                   spect to any fishery to which section 302(a)(3) ap-  
15                   plies.

16                   “(6) Nothing in this subsection shall be con-  
17                   strued as modifying or superseding subsection (e),  
18                   section 302(h)(1), or any other provision of this  
19                   Act.”.

20 **SEC. 4. FISHERY AUTHORIZATION.**

21                   Section 305(a) of the Magnuson-Stevens Fishery  
22                   Conservation and Management Act (16 U.S.C. 1855(a))  
23                   is amended—

4 (2) by striking paragraphs (3) and (4) and in-  
5 serting the following:

6               “(3) The Secretary may add a new fishery or  
7               fishing gear for inclusion on the list under this sub-  
8               section only after the Secretary determines that a  
9               sufficient analysis, in accordance with the guidance  
10              under paragraph (7), has been conducted by an ap-  
11              propriate Council, and the analysis concludes the po-  
12              tential new fishery or fishing gear—

17                   “(B) will have minimal adverse effects on  
18 existing fisheries, fishing communities, and the  
19 marine ecosystem, as determined by the Sec-  
20 retary based on the best scientific information  
21 available.

22                   “(4)(A) Not later than 18 months after the  
23                   date of enactment of the Supporting Healthy Inter-  
24                   state Fisheries in Transition Act, and at least once  
25                   every 5 years thereafter, each Council shall review

1       the fisheries and gear on the list under this sub-  
2       section that are under its authority and submit to  
3       the Secretary proposed changes to such list, if need-  
4       ed, in specific and narrow terms, including geo-  
5       graphic range. Such proposed changes may include  
6       recommending new fisheries or gear or removal of  
7       fisheries or gear and shall be accompanied by infor-  
8       mation on the effects of new fisheries or gear or re-  
9       moval of fisheries or gear on essential fish habitat,  
10      existing fisheries, fishing communities, and the ma-  
11      rine ecosystems, for the Secretary to review under  
12      paragraph (3).

13       “(B) As soon as practicable after receiving a  
14      proposed change under subparagraph (A) to add a  
15      new fishery or gear to the list under this subsection,  
16      the Secretary shall make a determination under  
17      paragraph (3). If the Secretary determines that the  
18      proposed change is consistent with such paragraph,  
19      this Act, and other applicable law, the Secretary  
20      shall publish a proposed list under this subsection to  
21      include such fishery or gear, along with the appro-  
22      priate Council’s analysis and the Secretary’s deter-  
23      mination of sufficiency of the analysis consistent  
24      with paragraph (3), and provide an opportunity for

1       public comment before publishing the final, revised  
2       list.

3           “(C) The Secretary may permit, pursuant to  
4       section 318(d), on a limited interim basis, fishing  
5       activity that is not included on the list under this  
6       subsection, if—

7               “(i) the experimental fishing permit is de-  
8       signed and implemented so as to yield informa-  
9       tion necessary and currently lacking for the de-  
10       velopment of a fishery management plan or  
11       amendment to such plan under section  
12       302(h)(1) and section 303;

13               “(ii) the Secretary collects, evaluates, and,  
14       notwithstanding section 402(b), makes public  
15       the data generated by the experimental fishing  
16       activity at the end of each permit year, and  
17       based on such evaluation, the Council renders a  
18       determination of whether the fishing activity  
19       should be continued, either in the form of a  
20       subsequent year of experimental fishing under  
21       this paragraph, or in the form of a fishery man-  
22       aged under a fishery management plan pursu-  
23       ant to section 302(h)(1) and section 303; and

24               “(iii) the data collected from, and the eval-  
25       uation of the Secretary of, the fishing activity

1           are included in any fishery management plan or  
2           amendment that is prepared for management of  
3           the fishing activity.

4           “(D) As soon as practicable after publication of  
5           a final, revised list under this subsection in accord-  
6           ance with subparagraph (B), the appropriate Council  
7           shall, in accordance with section 303, prepare a fish-  
8           ery management plan or a plan amendment, if such  
9           fishery requires conservation and management under  
10           this Act, and the Secretary has approved and imple-  
11           mented such plan or amendment. Nothing in the  
12           preceding sentence shall affect the authority to oper-  
13           ate under a permit issued under section 318(d).

14           “(E) No person or vessel may employ fishing  
15           gear or engage in fisheries that are not listed under  
16           this subsection without prior written notice to the  
17           Council. Upon receiving notice pursuant to the pre-  
18           ceding sentence, the Council shall make a determina-  
19           tion to either prohibit the person or vessel to employ  
20           the fishing gear or engage in the fishery that is not  
21           listed or make a recommendation to the Secretary to  
22           add the fishery or fishing gear for inclusion on the  
23           list under this subsection in accordance with the re-  
24           quirements under this subsection.”; and

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

1               “(7) The Secretary shall issue guidance for  
2               making a determination under paragraph (3).

3               “(8) Nothing in this subsection shall restrict  
4               the issuance of or requirements for the experimental  
5               permitting process under section 318(d), the coopera-  
6               tive research and management program under sec-  
7               tion 318, the bycatch reduction engineering program  
8               under section 316, or other research or data collec-  
9               tion activities authorized under this Act.”.

10 **SEC. 5. REPORTS.**

11               Not later than 5 years after the date of enactment  
12 of this Act and not less frequently than every 5 years  
13 thereafter, the Secretary of Commerce shall submit a re-  
14 port to Congress on implementation of this Act and the  
15 amendments made by this Act, including metrics on re-  
16 solved transboundary fisheries and ecological data integra-  
17 tion.

18 **SEC. 6. EFFECTIVE DATE.**

19               This Act, and the amendments made by this Act,  
20 shall take effect on the date that is 180 days after the  
21 date of enactment of this Act.