

104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
1st Session } 104-105

---

---

STRIPED BASS CONSERVATION ACT AMENDMENTS OF  
1995

\_\_\_\_\_

MAY 1, 1995.—Committed to the Committee of the Whole House on the State of the  
Union and ordered to be printed

\_\_\_\_\_

Mr. YOUNG of Alaska, from the Committee on  
Resources, submitted the following

R E P O R T

[To accompany H.R. 1139]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1139) to amend the Atlantic Striped Bass Conservation Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Striped Bass Conservation Act Amendments of 1995".

**SEC. 2. REAUTHORIZATION.**

Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking "For each of fiscal years 1986," and all that follows through "1994," and insert "For each of fiscal years 1995 and 1996,".

**SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) COMMISSION MONITORING OF IMPLEMENTATION OF INTERSTATE PLAN.—Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended in the material preceding subparagraph (A) by striking "of fiscal year 1987, and of each fiscal year thereafter," and inserting "of each fiscal year,".

(b) REPEAL OF INOPERATIVE PROVISIONS.—Sections 8 and 10 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) are repealed.

**SEC. 4. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.**

(a) **IN GENERAL.**—The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note), as amended by section 2(b) of this Act, is further amended by adding after section 7 the following new section:

**“SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.**

“The Commission shall establish standards and procedures to ensure that the Commission provides an adequate opportunity for public participation in the preparation of any plan for the management of Atlantic Striped Bass and any amendment to such a plan (including any amendment to the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981), including public hearings and procedures for the submission of written comments to the Commission.”.

(b) **DEADLINE.**—Within 6 months after the date of the enactment of this Act, the Atlantic States Marine Fisheries Commission shall issue standards and procedures under section 8 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note), as amended by subsection (a) of this section.

**SEC. 5. TRANSFER OF EXISTING PROVISION TO ATLANTIC STRIPED BASS CONSERVATION ACT.**

So much of section 6 of the Act entitled “An Act To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes” (approved November 3, 1988; Public Law 100-589; 102 Stat. 2986) as precedes subsection (g) of that section—

(1) is transferred from that Act to the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note);

(2) shall appear immediately after section 8 of the Atlantic Striped Bass Conservation Act, as amended by section 4 of this Act; and

(3) is redesignated as section 9 of the Atlantic Striped Bass Conservation Act.

**SEC. 6. AMENDMENT AND EXTENSION OF AUTHORIZATION FOR ANADROMOUS FISH CONSERVATION ACT.**

(a) **SCOPE OF STUDIES.**—Section 7(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(a)) is amended by striking “and” after the semicolon at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “; and”, and by adding at the end the following new paragraph:

“(4) the effects of water quality and other habitat changes on the recruitment, spawning potential, mortality rates, and population abundance of the Delaware River striped bass population.”.

(b) **EXTENSION OF AUTHORIZATION.**—Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking “each of the fiscal years 1991, 1992, 1993, and 1994” and inserting “each of the fiscal years 1995, 1996, 1997, and 1998”.

**PURPOSE OF THE BILL**

The purpose of H.R. 1139 is to reauthorize the Atlantic Striped Bass Conservation Act through 1996, and section 7 of the Anadromous Fish Conservation Act, which authorizes a striped bass study, through 1998.

**BACKGROUND AND NEED FOR LEGISLATION**

Striped bass are anadromous fish which spawn in freshwater streams and migrate to estuarine or marine waters. They reside there until spawning season again arrives, and the process is repeated. The Atlantic coast stock of striped bass and important striped bass fisheries are found in coastal waters from North Carolina through Maine. They are highly migratory, but move primarily along the coast within the three-mile zone which is subject to State fishery management. They rarely venture into waters under Federal fisheries jurisdiction (the Exclusive Economic Zone).

Because of the migratory characteristics of striped bass, they are subject to the jurisdiction of many States. While striped bass popu-

lations have fluctuated dramatically in the past, serious concerns were raised as the result of a population decline that began in the 1970s. Commercial striped bass harvests dropped from 15 million pounds in 1973 to 3.5 million pounds in 1983. Concern focused on the failure of States to implement consistent and effective State regulations on the harvesting of the species. As a result of this decline, the Atlantic States Marine Fisheries Commission (ASMFC) developed an interstate fishery management plan (ISFMP) for striped bass to reduce harvest pressure on the species until it was considered fully recovered. At that time, however, the Commission did not have the authority to require that States adopt management measures consistent with the plan.

Congress also took note of the severe decline of striped bass populations in 1979 by authorizing an emergency striped bass study under section 7 of the Anadromous Fish Conservation Act (AFCA, 16 U.S.C. 757g). This legislation called for the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to undertake a joint study of the causes of the striped bass decline and to recommend remedial action.

In 1984, Congress enacted the Atlantic Striped Bass Conservation Act (ASBCA, 16 U.S.C. 1851 note) to provide Federal support for enforcing the ASMFC Striped Bass Management Plan to conserve this species. Under the Act, States are required to implement management measures that are consistent with the ISFMP for striped bass. That plan is developed by the ASMFC. Each Atlantic coastal State is represented on the ASMFC by the State's chief fishery officer and a legislative and citizen representative. The ASMFC reports annually to the Secretaries of the Interior and Commerce on State compliance. If the Secretaries find that a State is out of compliance with the plan, they must impose a Federal moratorium on striped bass fishing in the waters of that State.

As a result of the State-Federal partnership created under ASBCA, the ASMFC declared striped bass stocks recovered as of January 1, 1995, and adopted a new management plan, Amendment 5, that became effective on March 9, 1995. This amendment will phase in an increase in the fishing mortality target from the current level of 0.25 to 0.40 over three years. This should allow States to increase their harvest limits.

ASBCA was reauthorized in 1986 and 1991. Current law authorizes appropriations of such sums as may be necessary or appropriate to carry out the Act. This authorization expired on September 30, 1993.

In 1993, Congress enacted the Atlantic Coastal Fisheries Cooperative Management Act. This Act provides for a Federal moratorium on fishing for any species when a State is out of compliance with an ASMFC interstate fishery management plan for that species.

#### COMMITTEE ACTION

H.R. 1139 was introduced on March 6, 1995, by Congressman Jim Saxton and Congressman Gerry Studds. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife and Oceans. On March 16, 1995, the Subcommittee held a hearing on H.R. 1139, where the

Administration, the ASMFC, and other witnesses testified in support of the bill.

On March 30, 1995, the Subcommittee met to mark up H.R. 1139. An amendment to require public participation in the preparation of Commission plans, to expand the scope of the study to include the effects of water quality and habitat changes on the Delaware River striped bass population, and to extend ASBCA through Fiscal Year 1996 and the striped bass study under AFCA through Fiscal Year 1998 was offered by Mr. Saxton and adopted by voice vote. The bill was then ordered favorably reported to the Full Committee.

On April 5, 1995, the Full Resources Committee met to consider H.R. 1139. No amendments were offered to the bill. The bill was ordered favorably reported to the House of Representatives by voice vote, in the presence of a quorum.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section states the Act may be cited as the "Striped Bass Conservation Act Amendments of 1995".

##### *Section 2. Reauthorization*

This section reauthorizes the Atlantic Striped Bass Conservation Act through Fiscal Year 1996.

##### *Section 3. Technical and conforming amendments*

This section makes technical and conforming amendments to ASBCA.

##### *Section 4. Public participation in preparation of plans and amendments to plans for Atlantic striped bass*

This section requires the ASMFC to establish standards and procedures to ensure an adequate opportunity for public participation in the preparation of striped bass management plans.

##### *Section 5. Transfer of existing provision to Atlantic Striped Bass Conservation Act*

This section designates an existing provision of law dealing with the regulation of striped bass in the Exclusive Economic Zone as section 9 of the Atlantic Striped Bass Conservation Act. Currently the section is included separately in a note in the U.S. Code rather than as a part of ASBCA.

##### *Section 6. Amendment and extension of authorization for Anadromous Fish Conservation Act.*

This section extends the authorization for the striped bass study under AFCA through Fiscal Year 1998 and expands the scope of the study to include the effects of water quality and other habitat changes on the Delaware River striped bass population.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of

rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1139 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1139. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1139 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1139.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1139 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 6, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1139, the Striped Bass Conservation Act Amendment of 1995.

Enactment of H.R. 1139 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1139.
2. Bill title: The Striped Bass Conservation Act Amendments of 1995.
3. Bill status: As ordered reported by the House Committee on Resources on April 5, 1995.
4. Bill purpose: H.R. 1139 would authorize the appropriation of whatever sums are necessary for programs carried out under the Atlantic Striped Bass Conservation Act in fiscal years 1995 and 1996. The bill also would extend the authorization of funding for section 7 of the Anadromous Fish Conservation Act at its current annual level of \$1 million through fiscal year 1998.
5. Estimated cost to the Federal Government: For purposes of this estimate, CBO has assumed that H.R. 1139 will be enacted in fiscal year 1995, and that all sums authorized will be appropriated for fiscal years 1995 through 1998. Based on information from the Departments of Commerce and the Interior, CBO estimates that the agencies would need around \$1 million for 1996 for activities authorized by the Atlantic Striped Bass Conservation Act, primarily for the comprehensive annual surveys required by section 6 of that act. Fiscal year 1995 appropriations total \$0.55 million for the two acts, including \$0.25 million to the National Marine Fisheries Service and \$0.3 million to the National Biological survey. The following table summarizes the estimated budgetary impact of H.R. 1139.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Projected spending under current law:						
Budget authority .....	0.5	.....	.....	.....	.....	.....
Estimated outlays .....	0.4	0.1	.....	.....	.....	.....
Proposed changes:						
Estimated authorization .....	0.5	2.0	1.0	1.0	.....	.....
Estimated outlays .....	.....	1.5	1.5	1.0	0.5	.....
Projected spending under H.R. 1139:						
Estimated authorization <sup>1</sup> .....	1.0	2.0	1.0	1.0	.....	.....
Estimated outlays .....	0.4	1.6	1.5	1.0	0.5	.....

<sup>1</sup> The 1995 amount includes \$0.5 million already appropriated.

The costs of this bill fall within budget function 300.

6. Pay-as-you-go considerations: None.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Deborah Reis.

11. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1139 .

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ATLANTIC STRIPED BASS CONSERVATION ACT

\* \* \* \* \*

SEC. 4. COMMISSION FUNCTIONS.

(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT.—

(1) During December [of fiscal year 1987, and of each fiscal year thereafter,] of each fiscal year, and at any other time it deems necessary, the Commission shall determine:

(A) \* \* \*

\* \* \* \* \*

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.

(a) AUTHORIZATION.—[For each fiscal years 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, and 1994,] For each of fiscal years 1995 and 1996, there are authorized to be appropriated such sums as may be necessary or appropriate to carry out this Act.

\* \* \* \* \*

[SEC. 8. SECRETARIAL STUDY.

[Within six months of the date of enactment of this Act, the Secretaries shall review the existing Plan and shall report to the Commission, the Chairman of the House Committee on Merchant Marine and Fisheries, the Chairman of the Senate Committee on Commerce, Science and Transportation and the Chairman of the Senate Committee on Environment and Public Works on the adequacy of the Plan to achieve the purposes of this Act. Such report shall include recommendations for additional measures that may need to be taken and include recommendations concerning specific State actions regarding the management and conservation of striped bass.]

SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

The Commission shall establish standards and procedures to ensure that the Commission provides an adequate opportunity for public participation in the preparation of any plan for the management of Atlantic Striped Bass and any amendment to such a plan (including any amendment to the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981), including public hearings and procedures for the submission of written comments to the Commission.

**SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.**

(a) *REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.*—The Secretary of Commerce shall promulgate regulations governing the fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851) and necessary and appropriate to—

(1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(2) achieve conservation and management goals for the Atlantic striped bass resource.

(b) *CONSULTATION; PERIODIC REVIEW OF REGULATIONS.*—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

(d) *APPLICABILITY OF MAGNUSON ACT PROVISIONS.*—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

(e) *DEFINITION.*—As used in this section, the term “exclusive economic zone” has the meaning given such term in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)).

**[SEC. 10. MISCELLANEOUS PROVISIONS.**

[(a) Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is amended by amending subsection (d) by striking out “and September 30, 1984.” and inserting in lieu thereof “September 30, 1984, September 30, 1985, and September 30, 1986.”]

[(b) There are authorized to be appropriated to the Department of Commerce, \$200,000 for each of fiscal years 1986 and 1987, and the amount that is appropriated under this authority for each such year shall be apportioned equally by the Secretary between the States of Maryland and Virginia for use by each of them for the propagation, in existing hatchery facilities of that State, of striped bass for the replenishment of the Chesapeake Bay stock: (1) if that State, for each such fiscal year, expends an equal amount of State moneys for the propagation of such stock in its hatchery facilities; and (2) if the Secretary considers that that State is in full compliance with the Plan.

[(c) Section 207 of the Act entitled “An Act to provide for the establishment of the Bandon Marsh National Wildlife Refuge, Coos County, State of Oregon, and for other purposes” (Public Law 97-137) is amended to read as follows:

["AUTHORIZATION OF APPROPRIATIONS

["SEC. 207. The Secretary of the Army is authorized to carry out his responsibilities under this title, at an estimated cost of \$1,040,000. Any sums appropriated under this title shall remain available until expended.".

[(d) The amendment made by subsection (c) shall take effect October 1, 1986.]

\* \* \* \* \*

**ACT OF NOVEMBER 3, 1988**

AN ACT To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

\* \* \* \* \*

**[SEC. 6. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.**

[(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary of Commerce shall promulgate regulations governing the fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851) and necessary and appropriate to—

[(1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

[(2) achieve conservation and management goals for the Atlantic striped bass resource.

[(b) CONSULTATION; PERIODIC REVIEW OF REGULATIONS.—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

[(d) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

[(e) DEFINITION.—As used in this section, the term "exclusive economic zone" has the meaning given such term in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)).]

\* \* \* \* \*

**SECTION 7 OF THE ANADROMOUS FISH CONSERVATION ACT**

SEC. 7. (a) CONDUCT AND SCOPE OF STUDIES.—The Secretary shall cooperate with States and other non-Federal interests in conducting scientific studies of the anadromous stocks of Atlantic striped bass. These studies shall include, but not be limited to—

(1) estimates of recruitment, spawning potential, mortality rates, stock composition of coastal fisheries, and other population parameters;

(2) investigations of factors affecting abundance of striped bass, including analyses of the extent and causes of mortality at successive life stages; [and]

(3) monitoring population abundance and age and sex composition of striped bass stocks on fishery-dependent and fishery-independent data[.]; and

(4) *the effects of water quality and other habitat changes on the recruitment, spawning potential, mortality rates, and population abundance of the Delaware River striped bass population.*

\* \* \* \* \*

(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed \$1,000,000 for [each of the fiscal years 1991, 1992, 1993, and 1994] *each of the fiscal years 1995, 1996, 1997, and 1998.*

