

**Calendar No. 270**

111th CONGRESS

2d 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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[Struck out->] SECTION 1. SHORT TITLE. [<-Struck out]**

[Struck out->] This Act may be cited as the `Shark Conservation Act of 2009'. [<-Struck out]

**[Struck out->] SEC. 2. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT. [<-Struck out]**

[Struck out->] Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended-- [<-Struck out]

[Struck out->] (1) in the matter preceding paragraph (1), by striking `607, a nation if'and inserting `607--'; [<-Struck out]

[Struck out->] (2) in paragraph (1)-- [<-Struck out]

[Struck out->] (A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and [<-Struck out]

[Struck out->] (B) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right; [<-Struck out]

[Struck out->] (3) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; [<-Struck out]

[Struck out->] (4) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right; [<-Struck out]

[Struck out->] (5) by inserting before subparagraph (A) (as so redesignated) the following: [<-Struck out]

[Struck out->] `(1) a nation if--'; [<-Struck out]

[Struck out->] (6) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting `; and'; and [<-Struck out]

[Struck out->] (7) by adding at the end the following: [<-Struck out]

[Struck out->] `(2) a nation if-- [<-Struck out]

[Struck out->] `(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices that target or incidentally catch sharks; and [<-Struck out]

[Struck out->] `(B) the nation has not adopted a regulatory 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.'. [-Struck out]

### **[Struck out->] SEC. 3. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT. [-Struck out]**

[Struck out->] Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended-- [-Struck out]

[Struck out->] (1) by amending subparagraph (P) to read as follows: [-Struck out]

[Struck out->] `(P)(i) to remove any of the fins of a shark (including the tail) at sea; [-Struck out]

[Struck out->] `(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass; [-Struck out]

[Struck out->] `(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or [-Struck out]

[Struck out->] `(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;'; and [-Struck out]

[Struck out->] (2) by striking the matter following subparagraph (R) and inserting the following: [-Struck out]

[Struck out->] `For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) and that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P)'.'. [-Struck out]

### **SECTION 1. SHORT TITLE.**

*This Act may be cited as the `Shark Conservation Act of 2009'.*

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

(a) **ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS-** Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended--

(1) in paragraph (1)--

(A) in subparagraph (D), by striking `and' at the end;

(B) in subparagraph (E), by inserting `and' after the semicolon; and

(C) by adding at the end the following:

`(F) to adopt shark conservation measures, 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;';

(2) in paragraph (2), by striking `and' at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

`(3) seeking to enter into international agreements that require measures 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 are comparable to those of the United States, taking into account different conditions; and'.

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

(1) by striking the `and' before `bycatch reduction requirements'; and

(2) by striking the semicolon at the end and inserting `, and shark conservation measures;'.

(c) **EQUIVALENT CONSERVATION MEASURES-**

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

(A) in the matter preceding paragraph (1), by striking `607, a nation if--and inserting `607--';

(B) in paragraph (1)--

- (i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and
- (ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;
- (C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;
- (D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;
- (E) by inserting before subparagraph (A) (as so redesignated) the following:

`(1) a nation if--'

- (F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting `; and'; and
- (G) by adding at the end the following:

`(2) a nation if--

`(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

`(B) the nation has not adopted a regulatory 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;
- `(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or
- `(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;'; and

(2) by striking the matter following subparagraph (R) and inserting the following:

`For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph (P), the term `naturally attached', with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.'.

Calendar No. 270

111th CONGRESS

2d Session

**S. 850**

**[Report No. 111-124]**

**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.

**February 4, 2010**

**Reported with an amendment**

END