

## BILLFISH CONSERVATION ACT OF 2012

SEPTEMBER 10, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 2706]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2706) to prohibit the sale of billfish, 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 all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Billfish Conservation Act of 2012”.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States carefully regulates its domestic fisheries for billfish and participates in international fishery management bodies in the Atlantic and Pacific.

(2) Global billfish populations have declined significantly, however, because of overfishing primarily through retention of bycatch by non-United States commercial fishing fleets.

(3) Ending the importation of foreign-caught billfish for sale in the United States aligns with U.S. management measures of billfish and protects the significant economic benefits to the U.S. economy of recreational fishing and marine commerce and the traditional cultural fisheries.

#### SEC. 3. STATEMENT OF CONSTITUTIONAL AUTHORITY.

The Congress enacts this Act pursuant to clause 3 of section 8 of article I of the Constitution.

#### SEC. 4. PROHIBITION ON SALE OF BILLFISH.

(a) PROHIBITION.—No person shall offer for sale, sell, or have custody, control, or possession of for purposes of offering for sale or selling billfish or products containing billfish.

(b) PENALTY.—For purposes of section 308(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858(a)), a violation of this section shall be treated as an act prohibited by section 307 of that Act (16 U.S.C. 1857).

(c) EXEMPTIONS FOR TRADITIONAL FISHERIES AND MARKETS.—

(1) Subsection (a) does not apply to billfish caught by U.S. vessels and landed in the State of Hawaii or Pacific Insular Areas as defined in section 3(35) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(35)).

(2) Subsection (a) does not apply to billfish landed by foreign vessels in the Pacific Insular Areas when the foreign caught billfish is exported to non-U.S. markets or retained within the Pacific Insular Areas for local consumption.

(d) BILLFISH DEFINED.—In this section the term “billfish”—

(1) means any fish of the species—

- (A) *Makaira nigricans* (blue marlin);
- (B) *Kajikia audax* (striped marlin);
- (C) *Istiompax indica* (black marlin);
- (D) *Istiophorus platypterus* (sailfish);
- (E) *Tetrapturus angustirostris* (shortbill spearfish);
- (F) *Kajikia albida* (white marlin);
- (G) *Tetrapturus georgii* (roundscale spearfish);
- (H) *Tetrapturus belone* (Mediterranean spearfish); and
- (I) *Tetrapturus pfluegeri* (longbill spearfish); and

(2) does not include the species *Xiphias gladius* (swordfish).

#### PURPOSE OF THE BILL

The purpose of H.R. 2706, as ordered reported, is to prohibit the sale of billfish.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 2706 would prohibit the sale of billfish or billfish products or possession of billfish or products containing billfish for the purposes of sale. The prohibition would not apply to the State of Hawaii and Pacific Insular areas as long as the billfish were only sold in Hawaii or a Pacific Insular area. The bill would make these prohibitions subject to Magnuson-Stevens Fishery Conservation and Management Act penalties.

The bill defines billfish to mean: blue marlin, striped marlin, black marlin, sailfish, shortbill spearfish, white marlin, roundscale spearfish, Mediterranean spearfish, and longbill spearfish. The definition of billfish for the purposes of this bill does not include swordfish.

Highly migratory species like tunas, swordfish, spearfish, and marlins are managed by a number of international treaties that the United States has signed, ratified and implemented. Domestic management of these fish on the Atlantic Coast are managed through a fishery management plan developed by the Secretary of Commerce that prohibits the possession or sale of billfish other than swordfish. On the Pacific Coast, management is through two fishery management plans promulgated under the Magnuson-Stevens Fishery Conservation and Management Act: the U.S. West Coast Fisheries for Highly Migratory Species Fishery Management Plan developed by the Pacific Fishery Management Council and the Pelagic Fisheries of the Western Pacific Region Fishery Management Plan developed by the Western Pacific Fishery Management Council. The fishery management plan in the Western Pacific allows for the retention and sale of billfish.

A hearing on the legislation was held on June 19, 2012. Testimony was given that indicated that billfish populations have de-

clined due to overfishing by non-U.S. commercial fishing fleets and that the U.S. is the largest importer of billfish.

While the legislation would prohibit the possession or sale of billfish or billfish products, concern was also heard that this blanket prohibition might unnecessarily harm U.S. fishermen. At the full Committee markup of H.R. 2706, an amendment was offered to address this concern.

#### COMMITTEE ACTION

H.R. 2706 was introduced on July 29, 2011, by Congressman Jeff Miller (R-FL). The bill was referred to the House Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs. On June 19, 2012, the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs held a hearing on the bill. On August 1, 2012, the Full Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs was discharged by unanimous consent. Congressman John Fleming (R-LA) offered an en bloc amendment designated .001 to the bill; the amendment was adopted by unanimous consent. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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 this bill. However, clause 3(d)(2)(B) 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 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

#### *H.R. 2706—Billfish Conservation Act of 2011*

H.R. 2706 would prohibit individuals from selling or possessing billfish (marlin and other species) or billfish products in nearly all states and some territories of the United States. Based on information provided by the National Oceanic and Atmospheric Administration (NOAA), CBO estimates that implementing the bill would have no significant impact on the federal budget. Enacting the legislation could increase revenues (from civil and criminal penalties) and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that such increases would be negligible and would offset each other in most years.

CBO expects that the bill would have a minimal impact on NOAA's fishery management activities. Under current law, any billfish caught in the Atlantic Ocean must be released. In addition, billfish are rarely found in the Pacific Ocean off the west coast of the continental United States. Hawaii and the Pacific Insular Area would be exempt from complying with the bill as long as billfish and billfish products from those areas are sold there.

H.R. 2706 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 2706 contains a private-sector mandate, as defined in UMRA, by prohibiting the sale or possession of billfish or products containing billfish. The cost of the mandate would be the net income forgone as a result of the prohibition. Based on information from industry experts, CBO estimates that the loss of income may amount to tens of millions of dollars annually. Consequently, the cost of the mandate would fall below the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation).

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs) and Amy Petz (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the National Oceanic and Atmospheric Administration (NOAA), CBO estimates that implementing the bill would have no significant impact on the federal budget. Enacting the legislation could increase revenues (from civil and criminal penalties) and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that such increases would be negligible and would offset each other in most years.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to prohibit the sale of billfish.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

