

112TH CONGRESS
1ST SESSION

H. R. 3074

To amend the Migratory Bird Treaty Act to delegate to States the authorities of the Secretary of the Interior under that Act with respect to cormorants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2011

Mr. KLINE (for himself and Mr. PETERSON) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To amend the Migratory Bird Treaty Act to delegate to States the authorities of the Secretary of the Interior under that Act with respect to cormorants, 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 “Cormorant Manage-
5 ment and Natural Resources Protection Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The current permitting system is not suffi-
2 cient to achieve a streamlined control of excessive
3 cormorant populations.

4 (2) Excessive cormorant populations cause
5 damage to ecosystems.

6 (3) Excessive cormorant populations pose public
7 health and safety concerns.

8 (4) Excessive cormorant populations pose an
9 unsightly, loud, and olfactory nuisance.

10 (5) Excessive cormorant populations can have a
11 detrimental effect on fish populations.

12 (6) Excessive cormorant populations displace
13 native species from their habitats.

14 (7) Cormorant excrement in colonies often kills
15 vegetation.

16 **SEC. 3. DELEGATION TO STATES OF AUTHORITY UNDER MI-**
17 **GRATORY BIRD TREATY ACT WITH RESPECT**
18 **TO CORMORANTS.**

19 (a) DELEGATION OF AUTHORITY.—Section 7 of the
20 Migratory Bird Treaty Act (16 U.S.C. 708) is amended—

21 (1) by inserting “(a) PRESERVATION OF STATE
22 AUTHORITY.—” before the first sentence; and

23 (2) by adding at the end the following:

24 “(b) DELEGATION TO STATES OF AUTHORITY WITH
25 RESPECT TO CORMORANTS.—

1 “(1) IN GENERAL.—The authority of the Sec-
2 retary under this Act with respect to cormorants in
3 a State is hereby delegated to the governor of the
4 State effective on the date on which the Secretary
5 approves a management plan for cormorants in the
6 State that is submitted by the governor.

7 “(2) APPROVAL OR DISAPPROVAL OF MANAGE-
8 MENT PLAN.—

9 “(A) IN GENERAL.—The Secretary shall
10 approve or disapprove a management plan sub-
11 mitted under this subsection by not later than
12 the end of the 60-day period beginning on the
13 date the plan is submitted.

14 “(B) REQUIREMENT TO APPROVE.—The
15 Secretary shall approve a management plan
16 submitted under this subsection if the plan is in
17 accordance with United States obligations
18 under treaties and Federal law.

19 “(C) DISAPPROVAL OF PLAN.—If the Sec-
20 retary disapproves a management plan under
21 this subsection the Secretary shall provide to
22 the governor who submitted the plan the rea-
23 sons for the disapproval and an opportunity to
24 revise and resubmit the plan.

1 “(D) PLAN DEEMED APPROVED.—Except
2 as provided in subparagraph (E), if the Sec-
3 retary does not approve or disapprove a man-
4 agement plan before the end of the period re-
5 ferred to in paragraph (1) the Secretary is
6 deemed to have approved the plan.

7 “(E) LIMITATION ON APPROVAL.—A man-
8 agement plan shall not be approved under this
9 paragraph if the plan is found to be in violation
10 of United States obligations under treaties and
11 Federal law.

12 “(F) REVIEW OF APPROVED PLANS.—The
13 Secretary—

14 “(i) shall review every 5 years each
15 management plan approved for a State
16 under this subsection and the State gov-
17 ernor’s exercise of authority delegated
18 under this subsection; and

19 “(ii) may revoke such approval and
20 delegation if, based on such review, the
21 Secretary determines that the plan or the
22 governor’s exercise of authority delegated
23 under this subsection is not in accordance
24 with this Act or any treaty implemented by
25 this Act.

1 “(3) RELATIONSHIP BETWEEN APPROVED PLAN
2 AND REGULATIONS.—A management plan that is
3 approved for a State under this subsection shall
4 apply in that State with respect to management of
5 cormorants, in lieu of regulations issued under this
6 Act.

7 “(4) COMPLIANCE WITH TREATIES AND FED-
8 ERAL LAW.—In exercising authority delegated under
9 this subsection the governor of a State shall comply
10 with this Act and all treaties implemented by this
11 Act.

12 “(5) RELATIONSHIP TO OTHER AUTHORITY.—
13 Nothing in this subsection limits the authority of the
14 Secretary or any Federal agency to exercise author-
15 ity under any Federal law to assist a State, upon re-
16 quest by the governor of the State, with control of
17 cormorants.

18 “(6) CORMORANT DEFINED.—In this subsection
19 the term ‘cormorant’ means the double-crested cor-
20 morant (*Phalacrocorax auritus*).”.

21 (b) COOPERATION TO PREVENT CORMORANT PRO-
22 LIFERATION.—

23 (1) DEPARTMENT OF INTERIOR COOPERA-
24 TION.—The Secretary of the Interior, acting in con-
25 sultation with the National Aquaculture Information

1 Center and the Animal and Plant Health Inspection
2 Service, shall conduct educational and informational
3 activities for the owners and operators of aqua-
4 culture facilities to improve their efforts to prevent
5 cormorants from consuming aquatic species being
6 reared in aquaculture facilities, which contributes to
7 the proliferation of cormorants.

8 (2) OTHER EFFORTS.—Nothing in this sub-
9 section restricts the authority of other Federal or
10 State wildlife or natural resource management agen-
11 cies to cooperate with the owners and operators of
12 aquaculture facilities regarding the management and
13 control of cormorants to prevent their proliferation.

14 (3) CORMORANT DEFINED.—In this subsection,
15 the term “cormorant” means the double-crested cor-
16 morant (*Phalacrocorax auritus*).

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