

112TH CONGRESS
1ST SESSION

S. 1890

To prevent forfeited fishing vessels from being transferred to private parties
and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2011

Mr. BEGICH introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To prevent forfeited fishing vessels from being transferred
to private parties 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 “Pirate Fishing Vessel
5 Disposal Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Stateless vessels forfeited to the United
9 States for engaging in illegal, unreported, and un-
10 regulated fishing are of little inherent economic

1 value, and have no useful commercial fishing pur-
2 pose other than engaging in this type of pirate fish-
3 ing.

4 (2) The environmental harm of allowing vessels
5 seized for illegal, unreported, or unregulated fishing
6 to return to such fishing activities far outweighs any
7 damage to the environment caused by sinking or
8 otherwise disposing of such vessels at appropriate
9 depths and distances from shore after proper decon-
10 tamination procedures and disposal site selection
11 have been followed.

12 (3) Maritime threats to the United States in-
13 creasingly involve asymmetrical warfare and the
14 Navy and Coast Guard need to be prepared for such
15 threats.

16 (4) Using vessels forfeited for engaging in ille-
17 gal, unreported, or unregulated fishing in live-fire
18 sinking exercises represents an important oppor-
19 tunity for the Armed Forces to prepare for such
20 asymmetrical maritime warfare.

21 (5) Since the oils and hazardous and toxic sub-
22 stances aboard such vessels pose a threat to the ma-
23 rine environment, and since such vessels are essen-
24 tially abandoned assets, it is appropriate to use the

1 Oil Spill Liability Trust Fund to prevent pollution
2 and pay for decontamination costs for such vessels.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) ADMINISTRATOR.—Except as otherwise spe-
6 cifically provided, the term “Administrator” means
7 the Administrator of the Maritime Administration.

8 (2) COMMANDANT.—The term “Commandant”
9 means the Commandant of the United States Coast
10 Guard.

11 (3) FORFEITED VESSEL.—The term “forfeited
12 vessel” means a foreign or stateless vessel that is
13 forfeited to the United States for engaging in illegal,
14 unreported, or unregulated fishing under any of the
15 living marine resource statutes implemented by the
16 Secretary of Commerce.

17 (4) ILLEGAL, UNREPORTED, OR UNREGULATED
18 FISHING.—The term “illegal, unreported, or unregu-
19 lated fishing” means fishing activities—

20 (A) conducted by a national or foreign ves-
21 sel in waters under the jurisdiction of a nation
22 without the permission of that nation, or in
23 contravention of its laws and regulations, in-
24 cluding activities that have not been reported,
25 or have been misreported, to the relevant na-

1 tional authority of that nation in contravention
2 of its laws and regulations;

3 (B) conducted by a vessel flying the flag of
4 a nation that is a member of a regional fish-
5 eries management organization in contravention
6 of the conservation and management measures
7 adopted by that organization and by which that
8 nation is bound, including activities that have
9 not been reported, or have been misreported, in
10 contravention of the reporting requirements of
11 that organization;

12 (C) conducted by a vessel flying the flag of
13 a nation that is a cooperating non-member of a
14 regional fisheries management organization that
15 are inconsistent with the commitments under-
16 taken by that nation as a cooperating non-mem-
17 ber of that organization, including activities
18 that have not been reported, or have been
19 misreported, in a manner that is inconsistent
20 with those commitments; or

21 (D) conducted in the area of application of
22 a regional fisheries management organization
23 by a vessel without nationality or by a vessel
24 flying the flag of a nation that is not a member
25 nor a cooperating non-member of that organiza-

1 tion and that undermines the effectiveness of
2 the conservation and management measures of
3 that organization.

4 (5) UNDER SECRETARY.—The term “Under
5 Secretary” means the Under Secretary for Oceans
6 and Atmosphere of the Department of Commerce.

7 **SEC. 4. USE OF FORFEITED VESSELS.**

8 (a) SINKING.—

9 (1) AUTHORITY.—The Commandant is author-
10 ized to use a vessel described in paragraph (2) for
11 live-fire sinking exercises if the Commandant deter-
12 mines that the vessel would be useful for such exer-
13 cises.

14 (2) VESSEL DESCRIBED.—A vessel described in
15 this paragraph is a vessel that is—

16 (A) transferred to the Commandant under
17 paragraph (3); or

18 (B) otherwise under the administrative
19 control of the Commandant as a forfeited ves-
20 sel.

21 (3) REQUIREMENT TO TRANSFER VESSEL.—

22 The head of an agency or department of the United
23 States with administrative control over a forfeited
24 vessel shall transfer such vessel to the Commandant
25 for use in live-fire sinking exercises authorized under

1 paragraph (1) if the Commandant determines that
2 the vessel would be useful for such exercises.

3 (b) SCRAPPING OR RECYCLING OR TRANSFER FOR
4 LAW ENFORCEMENT OR OTHER PURPOSES.—If a for-
5 feited vessel is not transferred to or utilized by the Com-
6 mandant for sinking exercises under subsection (a), the
7 forfeited vessel shall be transferred to or otherwise under
8 the control of the Commandant, the Administrator, or the
9 Under Secretary, as appropriate, and be—

10 (1) scrapped or recycled by a facility in the
11 United States or disposed of on land;

12 (2) sold or donated to a developing nation solely
13 for the purposes of fisheries enforcement, provided
14 that any fishing gear is removed from the vessel; or

15 (3) donated to a not-for-profit institution or
16 governmental agency solely for the purposes of edu-
17 cation, research, or other public interest purposes
18 with agreement from the recipient entity that vessel
19 will never be utilized for illegal, unreported, or un-
20 regulated fishing or related activities.

21 (c) LIMITATION ON EXERCISES.—The sinking exer-
22 cises authorized by subsection (a) shall take place only—

23 (1) in water not less than 1,000 fathoms deep;

24 (2) not less than 50 nautical miles from any
25 land;

1 (3) not outside the exclusive economic zone of
2 the United States; and

3 (4) outside of any—

4 (A) habitat area of particular concern
5 identified under the Magnuson-Stevens Fishery
6 Conservation and Management Act (16 U.S.C.
7 1801 et seq.); or

8 (B) critical habitat, as defined in section
9 3(5) of the Endangered Species Act of 1973
10 (16 U.S.C. 1532(5)).

11 (d) PARTICIPATION OF THE ARMED FORCES.—The
12 Commandant may invite the Secretary of the Army, the
13 Secretary of the Navy, or the Secretary of the Air Force
14 to participate in sinking exercises authorized by subsection
15 (a).

16 **SEC. 5. DECONTAMINATION OF FORFEITED VESSELS.**

17 (a) REQUIREMENT FOR DECONTAMINATION.—Before
18 sinking a forfeited vessel in exercises authorized by section
19 4(a), the Commandant shall—

20 (1) remove from such vessel any material that
21 may degrade the marine environment, including pe-
22 troleum products, to the maximum extent prac-
23 ticable with best current techniques and in compli-
24 ance with—

1 (A) the General Permit for the Transport
2 of Target Vessels set out in section 229.2 of
3 title 40, Code of Federal Regulations, or any
4 similar subsequent permit issued by the Admin-
5 istrator of the Environmental Protection Agen-
6 cy pursuant to section 102 of the Protection,
7 Research, and Sanctuaries Act of 1972 (33
8 U.S.C. 1412);

9 (B) the Marine Protection, Research, and
10 Sanctuaries Act of 1972 (33 U.S.C. 1401 et
11 seq.); and

12 (C) the guidance recommending best man-
13 agement practices for vessel preparation devel-
14 oped by the Maritime Administration and the
15 Environmental Protection Agency pursuant to
16 section 3504(b) of the Bob Stump National De-
17 fense Authorization Act for Fiscal Year 2003
18 (Public Law 107–314; 16 U.S.C. 1220 note);

19 (2) consult with the Administrator, the Sec-
20 retary of the Navy, and the Administrator of the
21 Environmental Protection Agency on the proper pro-
22 cedures to decontaminate such vessel; and

23 (3) remove from such vessel and properly dis-
24 pose of any fishing gear and other materials that are

1 likely to float or pose an entanglement hazard and
2 become a threat to marine life.

3 (b) INAPPLICABILITY OF THE TOXIC SUBSTANCES
4 CONTROL ACT.—The Toxic Substances Control Act (15
5 U.S.C. 2601 et seq.) shall not apply to the sinking of a
6 forfeited vessel in exercises authorized by section 4(a) and
7 in compliance with this Act.

8 **SEC. 6. FUNDING.**

9 (a) SINKING, SCRAPPING, AND RECYCLING.—

10 (1) AUTHORIZATION.—The Commandant is au-
11 thorized—

12 (A) for a forfeited vessel to be sunk in ex-
13 ercises as authorized by section 4(a), to utilize
14 funds from the Oil Spill Liability Trust Fund
15 established by section 9509 of the Internal Rev-
16 enue Code of 1986 for the costs of berthing,
17 towing, decontamination, and other prepara-
18 tions for such exercises; or

19 (B) for a forfeited vessel to be scrapped or
20 recycled as authorized by section 4(b)(1), to uti-
21 lize or transfer to the Administrator or Under
22 Secretary, as appropriate, funds from such
23 Trust Fund for the costs of berthing, towing,
24 and for such scrapping or recycling, if such
25 costs exceed the scrap value of the vessel.

1 (2) ALLOWANCE OF EXPENDITURES FROM OIL
2 SPILL LIABILITY TRUST FUND.—Paragraph (1) of
3 section 9509(c) of the Internal Revenue Code of
4 1986 is amended by striking “and” at the end of
5 subparagraph (E), by striking the period at the end
6 of subparagraph (F) and inserting “, and”, and by
7 adding at the end the following new subparagraph:

8 “(G) for the payment of costs authorized
9 under the Pirate Fishing Vessel Disposal Act of
10 2011.”.

11 (b) SALE OR DONATION.—Section 311(e)(1) of the
12 Magnuson-Stevens Fishery Conservation and Manage-
13 ment Act (16 U.S.C. 1861(e)(1)) is amended—

14 (1) in subparagraph (E), by striking “and” at
15 the end;

16 (2) in subparagraph (F), by striking the period
17 at the end and inserting a semicolon and “and”; and

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

19 “(G) expenses or reimburse costs associated
20 with the sale or donation of a vessel under para-
21 graph (2) or (3) of section 4(b) of the Pirate Fish-
22 ing Vessel Disposal Act of 2011, including berthing,
23 towing, decontamination, and other preparation of
24 the vessel for sale or transfer.”.

1 **SEC. 7. EFFECTIVE DATE.**

2 This Act shall apply to all forfeited vessels surren-
3 dered or seized and forfeited after September 1, 2011.

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