

110TH CONGRESS  
1ST SESSION

# H. R. 3841

To prohibit the commercial harvesting of Atlantic menhaden for reduction purposes in the coastal waters and the exclusive economic zone.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2007

Mr. GILCHREST introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To prohibit the commercial harvesting of Atlantic menhaden for reduction purposes in the coastal waters and the exclusive economic zone.

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. PROHIBITION ON COMMERCIAL HARVESTING**  
4 **OF MENHADEN.**

5 (a) PROHIBITION.—It is unlawful to engage in, or to  
6 attempt to engage in, the commercial harvesting of Atlan-  
7 tic menhaden for reduction purposes in the Atlantic coast-  
8 al waters or in the exclusive economic zone established by  
9 Proclamation Numbered 5030, dated March 10, 1983.

1           (b) PENALTIES.—(1) Any person who is found by the  
2 Secretary of Commerce after notice and an opportunity  
3 for a hearing in accordance with section 554 of title 5,  
4 United States Code, to have committed an act that is un-  
5 lawful under subsection (a), is liable to the United States  
6 for a civil penalty. The amount of the civil penalty may  
7 not exceed \$1,000 for each violation. Each day of con-  
8 tinuing violation constitutes a separate offense. The  
9 amount of the civil penalty shall be assessed by the Sec-  
10 retary of Commerce by written notice. In determining the  
11 amount of the penalty, the Secretary of Commerce shall  
12 take into account the nature, circumstances, extent, and  
13 gravity of the prohibited act committed and, with respect  
14 to the violator, the degree of culpability, any history of  
15 prior violations, ability to pay, and such other matters as  
16 justice may require.

17           (2) Subsections (b) through (e) of section 308 of the  
18 Magnuson-Stevens Fishery Conservation and Manage-  
19 ment Act (16 U.S.C. 1858(b)–(e); relating to review of  
20 civil penalties; acting upon failure to pay assessment, com-  
21 promise, and subpoenas) shall apply to penalties assessed  
22 under paragraph (1) to the same extent and in the same  
23 manner as if those penalties were assessed under sub-  
24 section (a) of such section.

1           (c) CIVIL FORFEITURES.—(1) Any vessel (including  
2 its gear, equipment, appurtenances, stores, and cargo)  
3 used, and any fish (or the fair market value thereof) taken  
4 or retained, in any manner, in connection with, or the re-  
5 sult of, the commission of any act that is unlawful under  
6 subsection (a), is subject to forfeiture to the United  
7 States. All or part of the vessel may, and all such fish  
8 (or the fair market value thereof) shall, be forfeited to the  
9 United States under a civil proceeding described in para-  
10 graph (2). The district courts of the United States have  
11 jurisdiction over proceedings under this subsection.

12           (2) Subsections (c) through (e) of section 310 of the  
13 Magnuson-Stevens Fishery Conservation and Manage-  
14 ment Act (16 U.S.C. 1860(c)–(e); relating to judgment,  
15 procedure, and rebuttable presumptions) shall apply with  
16 respect to proceedings for forfeiture commenced under  
17 this subsection to the same extent and in the same manner  
18 as if the proceeding were commenced under subsection (a)  
19 of such section.

20           (d) ENFORCEMENT.—A person authorized by the  
21 Secretary of Commerce or the Secretary of the department  
22 in which the Coast Guard is operating may take any action  
23 to enforce this section that an officer authorized under  
24 section 311 of the Magnuson Act (16 U.S.C. 1861) may  
25 take to enforce that Act (16 U.S.C. 1801 et seq.). Either

1 such Secretary may, by agreement, on a reimbursable  
2 basis or otherwise, utilize the personnel, services, equip-  
3 ment (including aircraft and vessels), and facilities of any  
4 other Federal department or agency and of any agency  
5 of a State in carrying out that enforcement.

6 **SEC. 2. ACTION BY ATLANTIC STATES MARINE FISHERIES**  
7 **COMMISSION.**

8 The Atlantic States Marine Fisheries Commission  
9 shall promptly take action to amend the Interstate Fishery  
10 Management Plan for Atlantic Menhaden Amendment 1,  
11 dated July 2001, to take into account the prohibition es-  
12 tablished under section 2 on the commercial harvesting of  
13 menhaden in coastal waters.

14 **SEC. 3. REPORT.**

15 Not later than 5 years after the date of the enact-  
16 ment of this Act, the Atlantic States Marine Fisheries  
17 Commission, in cooperation with the National Oceanic and  
18 Atmospheric Administration, shall submit to Congress a  
19 report on—

20 (1) the progress the Commission has made to-  
21 ward understanding the structure of the Atlantic  
22 menhaden population on the Atlantic Coast of the  
23 United States and in the Chesapeake Bay;

1           (2) the role of such population as a filter feeder  
2           and prey species for predatory fish in the Chesapeake  
3           Bay and in coastal ecosystems;

4           (3) the impact on the Atlantic coastal and  
5           Chesapeake Bay ecosystems of commercial harvesting  
6           of menhaden for reduction; and

7           (4) its recommendations for future sustainable  
8           management of such harvesting.

9   **SEC. 4. COASTAL WATERS DEFINED.**

10          As used in this Act, the term “coastal waters” has  
11          the meaning that term has in section 3 of the Atlantic  
12          Striped Bass Conservation Act (Public Law 98–613; 16  
13          U.S.C. 1851 note), as in effect on the date of the enactment  
14          of this Act.

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