

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2179

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1995

Mr. CUNNINGHAM (for himself, Mr. BILBRAY, Mr. HUNTER, and Mr. PACKARD) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, 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; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “International Dolphin Conservation Act Amendments of  
6 1995”.

7 (b) REFERENCES TO MARINE MAMMAL PROTECTION  
8 ACT.—Except as otherwise expressly provided, whenever

1 in this Act an amendment or repeal is expressed in terms  
2 of an amendment to, or repeal of, a section or other provi-  
3 sion, the reference shall be considered to be made to a  
4 section or other provision of the Marine Mammal Protec-  
5 tion Act of 1972 (16 U.S.C. 1361 et seq.).

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are the following:

8 (1) To recognize the achievements of, and sup-  
9 port continued implementation of, the International  
10 Dolphin Conservation Program administered by the  
11 Inter-American Tropical Tuna Commission.

12 (2) To modify and strengthen the embargo pro-  
13 visions of the Marine Mammal Protection Act of  
14 1972 to assure compliance with that program.

15 (3) To authorize participation by United States  
16 tuna fishing vessels in the yellowfin tuna fishery of  
17 the eastern tropical Pacific Ocean in accordance  
18 with that program.

19 (4) To ensure a viable and ecologically sound  
20 tuna fishery in the eastern tropical Pacific Ocean,  
21 including by avoidance of bycatch of nontargeted  
22 marine species, maintenance of healthy stocks of  
23 tuna, and protection of marine mammal populations.

24 (5) To otherwise strengthen and improve inter-  
25 national efforts to reduce incidental dolphin mortal-

1       ity to insignificant levels approaching a zero mortal-  
2       ity and serious injury rate as required by the Marine  
3       Mammal Protection Act of 1972.

4 **SEC. 3. AMENDMENT OF INTERNATIONAL DOLPHIN CON-**  
5 **SERVATION ACT.**

6       Title III of the Marine Mammal Protection Act of  
7 1972 (16 U.S.C. 1411–1418) is amended to read as fol-  
8 lows:

9 **“TITLE            III—INTERNATIONAL**  
10 **DOLPHIN            CONSERVATION**  
11 **PROGRAM**

12 **“SEC. 301. FINDINGS AND POLICY.**

13       “(a) FINDINGS.—The Congress finds the following:

14           “(1) Although in past years the yellowfin tuna  
15       fishery of the eastern tropical Pacific Ocean has re-  
16       sulted in excessive incidental mortality to dolphins,  
17       efforts by tuna fishermen operating under United  
18       States and international conservation programs have  
19       reduced this incidental mortality to levels that are  
20       approaching a zero mortality and serious injury rate  
21       in accordance with section 101(a)(2).

22           “(2) Support of the International Dolphin Con-  
23       servation Program is necessary to assure that these  
24       low levels of dolphin mortality are maintained and  
25       eventually eliminated, if possible.

1           “(3) United States tuna fishing vessels have led  
2           the world in the development of fishing methods to  
3           reduce dolphin mortalities in the eastern tropical Pa-  
4           cific Ocean and should be allowed to fish in that re-  
5           gion on an equal basis with foreign fleets.

6           “(b) POLICY.—It is the policy of the United States  
7           to—

8           “(1) continue the progress made in reducing  
9           the incidental mortality of dolphins in the yellowfin  
10          tuna fishery in the eastern tropical Pacific Ocean;

11          “(2) support the International Dolphin Con-  
12          servation Program; and

13          “(3) authorize the participation of United  
14          States tuna fishing vessels in the yellowfin tuna fish-  
15          ery of the eastern tropical Pacific Ocean in a man-  
16          ner consistent with the International Dolphin Con-  
17          servation Program and the requirements of this Act.

18       **“SEC. 302. AUTHORITY OF SECRETARY.**

19          “(a) REGULATIONS.—The Secretary may issue regu-  
20          lations to govern the incidental taking of marine mammals  
21          in the course of commercial purse seine fishing for yellow-  
22          fin tuna in the eastern tropical Pacific Ocean. Any such  
23          regulations shall be consistent with the requirements of  
24          the International Dolphin Conservation Program and with  
25          the goal of reducing the incidental mortality or serious in-

1 jury of marine mammals occurring in the yellowfin tuna  
2 fishery in the eastern tropical Pacific Ocean to insignifi-  
3 cant levels approaching a zero mortality and serious injury  
4 rate.

5 “(b) CONSULTATIONS.—In developing any regulation  
6 under this section, the Secretary shall consult with the  
7 Secretary of State and the United States Commissioners  
8 to the Inter-American Tropical Tuna Commission ap-  
9 pointed under section 3 of the Tuna Conventions Act of  
10 1950 (16 U.S.C. 952).

11 **“SEC. 303. OBSERVERS.**

12 “All vessels subject to the jurisdiction of the United  
13 States engaged in commercial purse seine fishing for yel-  
14 lowfin tuna in the eastern tropical Pacific Ocean shall  
15 carry an observer certified by the Secretary or by the  
16 Inter-American Tropical Tuna Commission for the pur-  
17 pose of conducting research and observing fishing oper-  
18 ations unless, for reasons beyond the control of the Sec-  
19 retary, an observer is not available for such purpose.

20 **“SEC. 304. PROHIBITIONS, PENALTIES, AND CIVIL FORFEIT-  
21 URES.**

22 “(a) PROHIBITIONS.—It is unlawful—

23 “(1) for any person to violate any regulation  
24 promulgated under this title;

1           “(2) for any person to refuse to allow any duly  
2 authorized officer to board a vessel subject to that  
3 person’s control for purposes of conducting any  
4 search or inspection in connection with the enforce-  
5 ment of this title;

6           “(3) for any person to assault, resist, oppose,  
7 impede, intimidate, or interfere with any such au-  
8 thorized officer in the conduct of any search or in-  
9 spection described in paragraph (2); and

10           “(4) for any person or vessel subject to the ju-  
11 risdiction of the United States intentionally to set a  
12 purse seine net on or to encircle any marine mam-  
13 mal in the course of tuna fishing operations in the  
14 eastern tropical Pacific Ocean except in accordance  
15 with the International Dolphin Conservation Pro-  
16 gram.

17           “(b) PENALTIES.—

18           “(1) CIVIL PENALTY.—A person that knowingly  
19 and willfully violates subsection (a)(1), (2), or (4)  
20 shall be subject to a civil penalty under section  
21 105(a).

22           “(2) CRIMINAL PENALTY.—A person that  
23 knowingly and willfully violates subsection (a)(3)  
24 shall be subject to a criminal penalty under section  
25 105(b).

1       “(c) CIVIL FORFEITURES.—Any vessel (including its  
 2 fishing gear, appurtenances, stores, and cargo) used, and  
 3 any fish (or its fair market value) taken or retained, in  
 4 any manner, in connection with or as a result of the com-  
 5 mission of any act prohibited by this section shall be sub-  
 6 ject to forfeiture to the United States in the manner pro-  
 7 vided in section 310 of the Magnuson Fishery Conserva-  
 8 tion and Management Act (16 U.S.C. 1860).

9       “(d) CLERICAL AMENDMENTS.—The table of con-  
 10 tents in the first section of the Marine Mammal Protection  
 11 Act of 1972 is amended by striking the items relating to  
 12 title III and inserting the following:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

“Sec. 301. Findings and policy.

“Sec. 302. Authority of Secretary.

“Sec. 303. Observers.

“Sec. 304. Prohibitions, penalties, and civil forfeitures.”.

13 **SEC. 4. DEFINITIONS.**

14       Section 3 (16 U.S.C. 1362) is amended by adding  
 15 at the end the following new paragraph:

16               “(28) The term ‘International Dolphin Con-  
 17 servation Program’ means—

18                       “(A) the international program established  
 19                       by the agreement signed in La Jolla, California,  
 20                       in June, 1992, and administered by the Inter-  
 21                       American Tropical Tuna Commission; or

1           “(B) an equivalent successor program  
2           agreed to by the United States.”.

3 **SEC. 5. AMENDMENT OF EMBARGO PROVISIONS.**

4           Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B)) is  
5 amended to read as follows:

6           “(B) in the case of yellowfin tuna harvested  
7           with purse seine nets in the eastern tropical Pacific  
8           Ocean, and products therefrom, to be exported to  
9           the United States, shall require that the government  
10          of the exporting nation provide documentary evi-  
11          dence that the fishing vessels of the exporting nation  
12          participate in the International Dolphin Conserva-  
13          tion Program. Such participation in the Inter-  
14          national Dolphin Conservation Program shall be  
15          deemed as establishing that such nation’s regulatory  
16          program is comparable to, and not in excess of,  
17          United States standards if—

18                 “(i) dolphin mortality under the Inter-  
19                 national Dolphin Conservation Program is with-  
20                 in the potential biological removal level for each  
21                 affected stock;

22                 “(ii) the fishing vessels of the exporting  
23                 nation are subject to 100 percent observer cov-  
24                 erage by observers approved by the Inter-Amer-  
25                 ican Tropical Tuna Commission;

1           “(iii) the government of the exporting na-  
2           tion authorizes the Inter-American Tropical  
3           Tuna Commission to release sufficient informa-  
4           tion to the Secretary to establish participation  
5           in the International Dolphin Conservation Pro-  
6           gram;

7           “(iv) the government of the exporting na-  
8           tion complies with all reasonable requests for  
9           cooperation in carrying out the scientific re-  
10          search program required by section 117; and

11          “(v) responsible officials administering the  
12          International Dolphin Conservation Program  
13          have not determined that any fishing vessel of  
14          the exporting nation is failing to participate in  
15          such program.”.

16 **SEC. 6. FURTHER TECHNICAL AND CONFORMING AMEND-**  
17 **MENTS.**

18 (a) MISCELLANEOUS AMENDMENTS TO TITLE I.—

19           (1) Section 101(a)(2) (16 U.S.C. 1371(a)) is  
20           amended in the second sentence by striking the  
21           semicolon and all that follows through “practicable”.

22           (2) Section 104(a) (16 U.S.C. 1374(a)) is  
23           amended in the second sentence by striking “, or  
24           subsection (h) of this section”.

1           (3) Section 104 (16 U.S.C. 1374) is amended  
2           by striking subsection (h).

3           (4) Section 118(a)(3) (16 U.S.C. 1387(a)(3)) is  
4           amended to read as follows:

5           “(3) Title III, and not this section, shall govern the  
6           taking of marine mammals in the course of commercial  
7           purse seine fishing for yellowfin tuna in the eastern tropi-  
8           cal Pacific Ocean.”.

9           (b) CITIZENS ON FOREIGN VESSELS.—Section 101  
10          (16 U.S.C. 1371) is amended by adding at the end the  
11          following new subsection:

12          “(d) The provisions of this Act shall not apply to the  
13          taking of marine mammals during fishing operations by  
14          a citizen of the United States when such citizen is em-  
15          ployed on a foreign fishing vessel that is participating in  
16          the International Dolphin Conservation Program.”.

17          (c) TUNA CONVENTIONS ACT.—Section 3(c) of the  
18          Tuna Conventions Act of 1950 (16 U.S.C. 952(c)) is  
19          amended to read as follows:

20                  “(c) at least one shall be either the Director, or  
21                  an appropriate regional director of the National Ma-  
22                  rine Fisheries Service; and”.

1 **SEC. 7. REPEAL OF MARKETPLACE LABELING REQUIRE-**  
2 **MENTS.**

3 (a) IN GENERAL.—The Dolphin Protection  
4 Consumer Information Act (16 U.S.C. 1385) is repealed.

5 (b) RELATIONSHIP TO OTHER LAW.—Nothing in this  
6 section shall in any way affect, or be construed to affect,  
7 requirements for the protection and management of ma-  
8 rine mammals under the Driftnet Impact Monitoring, As-  
9 sessment, and Control Act of 1987 (16 U.S.C. 1822 note),  
10 the Marine Mammal Protection Act of 1972 (16 U.S.C.  
11 1361 et seq.), or any other applicable law.

