

[Discussion Draft]
AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5126
OFFERED BY MR. GRIJALVA OF ARIZONA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Direct Enhancement
3 of Snapper Conservation and the Economy through Novel
4 Devices Act of 2020” or the “DESCEND Act of 2020”.

5 SEC. 2. SENSE OF CONGRESS.

6 It is the sense of Congress that commercial and rec-
7 reational fishermen (which, for the purpose of this Act
8 shall include charter fishing) for Gulf reef fish are ex-
9 pected to use a venting tool or a descending device re-
10 quired for possession under subsection (a) when releasing
11 fish that are exhibiting signs of barotrauma. The Sec-
12 retary, in coordination with the Gulf of Mexico Fishery
13 Management Council, should develop and disseminate to
14 fishermen education and outreach materials related to
15 proper use of venting tools and descending devices, and
16 strongly encourage their use by commercial and rec-

1 reational fishermen when releasing fish that are exhibiting
2 signs of barotrauma.

3 **SEC. 3. REQUIRED POSSESSION OF DESCENDING DEVICES.**

4 (a) REQUIRED GEAR IN THE GULF REEF FISH FISH-
5 ERY.—Title III of the Magnuson-Stevens Fishery Con-
6 servation and Management Act (16 U.S.C. 1851 et seq.)
7 is amended by adding at the end the following:

8 **“SEC. 321. REQUIRED POSSESSION OF DESCENDING DE-**
9 **VICES.**

10 “(a) REQUIRE GEAR IN THE GULF REEF FISH FISH-
11 ERY.—It shall be unlawful for a person on board a com-
12 mercial or recreational vessel to fish for Gulf reef fish in
13 the Gulf of Mexico Exclusive Economic Zone without pos-
14 sessed on board the vessel a venting tool or a descending
15 device that is rigged and ready for use while fishing is
16 occurring.

17 “(b) SAVINGS CLAUSE.—No provision of this section
18 shall be interpreted to affect any program or activity car-
19 ried out by the Gulf Coast Ecosystem Restoration Council
20 established by the Resources and Ecosystems Sustain-
21 ability, Tourist Opportunities, and Revived Economies of
22 the Gulf Coast States Act of 2012 (33 U.S.C. 1321 note),
23 or any project contained in an approved Restoration Plan
24 developed by any Natural Resources Damage Assessment
25 Trustee Implementation Group to reduce post-release

1 mortality from barotrauma in Gulf of Mexico Reef Fish
2 Recreational Fisheries.

3 “(c) DEFINITIONS.—In this section:

4 “(1) DESCENDING DEVICE.—The term ‘de-
5 scending device’ means an instrument that—

6 “(A) will release fish at a depth sufficient
7 for the fish to be able to recover from the ef-
8 fects of barotrauma;

9 “(B) is a weighted hook, lip clamp, or box
10 that will hold the fish while it is lowered to
11 depth, or another device determined to be ap-
12 propriate by the Secretary;

13 “(C) is capable of—

14 “(i) releasing the fish automatically;

15 “(ii) releasing the fish by actions of
16 the operator of the device; or

17 “(iii) allowing the fish to escape on its
18 own; and

19 “(D) is another device determined to be
20 appropriate by the Secretary.

21 “(2) VENTING TOOL.—The term ‘venting tool’
22 has the meaning given to it by the Gulf of Mexico
23 Fishery Management Council.

24 “(3) GULF REEF FISH.—The term ‘Gulf reef
25 fish’ means any fish chosen by the Gulf of Mexico

1 Fishery Management Council that is in the reef
2 Fishery Management Plan for the purposes of this
3 Act.”.

4 (b) CIVIL PENALTIES.—Section 308(a) of the Mag-
5 nuson-Stevens Fishery Conservation and Management Act
6 (16 U.S.C. 1858(a)) is amended by inserting “or section
7 321” after “section 307”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this Act shall take effect 1 year after the date of enact-
10 ment of this Act.

11 (d) CONFORMING AMENDMENT.—Title III of the
12 table of contents of the Magnuson-Stevens Fishery Con-
13 servation and Management Act (16 U.S.C. 1851 et seq.)
14 is amended by striking the item relating to section 305
15 and all that follows through the end of the items relating
16 to such title and inserting the following:

- “Sec. 305. Other requirements and authority.
- “Sec. 306. State jurisdiction.
- “Sec. 307. Prohibited acts.
- “Sec. 308. Civil penalties and permit sanctions.
- “Sec. 309. Criminal offenses.
- “Sec. 310. Civil forfeitures.
- “Sec. 311. Enforcement.
- “Sec. 312. Transition to sustainable fisheries.
- “Sec. 313. North Pacific fisheries conservation.
- “Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.
- “Sec. 315. Regional Coastal Disaster Assistance, Transition, and Recovery Program.
- “Sec. 316. Bycatch Reduction Engineering Program.
- “Sec. 317. Shark Feeding.
- “Sec. 318. Cooperative Research and Management Program.
- “Sec. 319. Herring Study.
- “Sec. 320. Restoration Study.
- “Sec. 321. Required possession of descending devices.”.

1 (e) SUNSET.—Five years after the date of enactment
2 of this Act, the Magnuson-Stevens Fishery Conservation
3 and Management Act (16 U.S.C. 1851 et seq.) is amend-
4 ed—

5 (1) in the table of contents, by striking the item
6 relating to section 321;

7 (2) in section 308(a), by striking “or section
8 321”; and

9 (3) by striking section 321.

10 **SEC. 4. IMPROVING DISCARD MORTALITY DATA.**

11 (a) AGREEMENT.—Within 60 days of the date of en-
12 actment of this Act, the Secretary shall enter into an
13 agreement with the National Academy of Sciences to con-
14 duct a study and produce a report on discard mortality
15 in the Gulf of Mexico reef fish fisheries. Such study shall
16 include—

17 (1) assessment of gaps and biases in reporting
18 of discards and associated discard mortality;

19 (2) assessment of uncertainty and likely im-
20 pacts of such uncertainty in discard mortality;

21 (3) assessment of the effectiveness and usage
22 rates of barotrauma-reducing devices;

23 (4) recommendations for future research prior-
24 ities; and

1 (5) recommendations for standardized reporting
2 and quantification of discards in the same metric as
3 landings for fisheries under the Gulf of Mexico Reef
4 Fish Fishery Management Plan.

5 (b) DEADLINE.—The National Academy of Sciences
6 shall complete the study described in subsection (a) and
7 transmit the final report to the Secretary within 2 years
8 of the date of enactment of this Act. The Secretary shall,
9 within 3 months of receiving such study and report, sub-
10 mit such study and report in (a) to the Committee on
11 Commerce, Science, and Transportation of the Senate and
12 the Committee on Natural Resources of the House of Rep-
13 resentatives.

14 (c) PLAN.—Within 1 year of receiving the study and
15 report in described in subsection (a), the Gulf of Mexico
16 Fishery Management Council and the Secretary shall—

17 (1) develop guidance for minimum standards
18 for quantifying and reporting discards and associ-
19 ated mortality in the Gulf of Mexico Reef Fish Fish-
20 ery Management Plan; and

21 (2) develop a plan to assess and monitor the ef-
22 fectiveness and usage of barotrauma-reducing de-
23 vices and the impact on discard mortality rates in
24 Gulf of Mexico reef fish fisheries.

1 (d) FOLLOW-UP REPORT.—Within 3 years of devel-
2 oping minimum standards and developing the assessment
3 and monitoring plan in subsection (c), the Secretary shall
4 provide a detailed report on implementation to the Com-
5 mittee on Commerce, Science, and Transportation of the
6 Senate and the Committee on Natural Resources of the
7 House of Representatives.

Amend the title so as to read: “A bill to require indi-
viduals fishing for Gulf reef fish to possess certain de-
scending devices, and for other purposes”.

