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118TH CONGRESS
1ST SESSION

H. R. 1792

[Report No. 118-]

To amend the South Pacific Tuna Act of 1988, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2023

Mrs. RADEWAGEN (for herself and Mr. CASE) introduced the following bill;
which was referred to the Committee on Natural Resources

NOVEMBER --, 2023

Committed to the Committee of the Whole House on the State of the Union,
and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 24, 2023]

A BILL

To amend the South Pacific Tuna Act of 1988, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
5 *“South Pacific Tuna Treaty Act of 2023”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
7 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of South Pacific Tuna Act of 1988.

Sec. 3. Definitions.

Sec. 4. Prohibited acts.

Sec. 5. Exceptions.

Sec. 6. Criminal offenses.

Sec. 7. Civil penalties.

Sec. 8. Licenses.

Sec. 9. Enforcement.

Sec. 10. Findings by Secretary.

Sec. 11. Reporting requirements; disclosure of information.

Sec. 12. Closed Area stowage requirements.

Sec. 13. Observers.

Sec. 14. Technical assistance.

Sec. 15. Arbitration.

Sec. 16. Disposition of fees, penalties, forfeitures, and other moneys.

Sec. 17. Additional agreements.

8 **SEC. 2. AMENDMENT OF SOUTH PACIFIC TUNA ACT OF 1988.**

9 *Except as otherwise expressly provided, wherever in*
10 *this Act an amendment or repeal is expressed in terms of*
11 *an amendment to, or repeal of, a section or other provision,*
12 *the reference shall be considered to be made to a section or*

1 *other provision of the South Pacific Tuna Act of 1988 (16*
2 *U.S.C. 973 et seq.).*

3 **SEC. 3. DEFINITIONS.**

4 (a) *APPLICABLE NATIONAL LAW.*—Section 2(4) (16
5 *U.S.C. 973(4)) is amended by striking “described in para-*
6 *graph 1(a) of Annex I of” and inserting “noticed and in*
7 *effect in accordance with”.*

8 (b) *CLOSED AREA.*—Section 2(5) (16 *U.S.C. 973(5))*
9 *is amended by striking “of the closed areas identified in*
10 *Schedule 2 of Annex I of” and inserting “area within the*
11 *jurisdiction of a Pacific Island Party that is closed to ves-*
12 *sels pursuant to a national law of that Pacific Island Party*
13 *and is noticed and in effect in accordance with”.*

14 (c) *FISHING.*—Section 2(6) (16 *U.S.C. 973(6)) is*
15 *amended—*

16 (1) *in subparagraph (C), by inserting “for any*
17 *purpose” after “harvesting of fish”; and*

18 (2) *by amending subparagraph (F) to read as*
19 *follows:*

20 “(F) *use of any other vessel, vehicle, air-*
21 *craft, or hovercraft, for any activity described in*
22 *this paragraph except for emergencies involving*
23 *the health or safety of the crew or the safety of*
24 *a vessel.”.*

1 (d) *FISHING VESSEL*.—Section 2(7) (16 U.S.C.
2 973(7)) is amended by striking “commercial fishing” and
3 inserting “commercial purse seine fishing for tuna”.

4 (e) *LICENSING AREA*.—Section 2(8) (16 U.S.C.
5 973(8)) is amended by striking “in the Treaty Area” and
6 all that follows and inserting “under the jurisdiction of a
7 Pacific Island Party, except for internal waters, territorial
8 seas, archipelagic waters, and any Closed Area.”.

9 (f) *LIMITED AREA; PARTY; TREATY AREA*.—Section 2
10 (16 U.S.C. 973) is amended—

11 (1) by striking paragraphs (10), (13), and (18);

12 (2) by redesignating paragraphs (11) and (12)
13 as paragraphs (10) and (11), respectively;

14 (3) by redesignating paragraph (14) as para-
15 graph (12); and

16 (4) by redesignating paragraphs (15) through
17 (17) as paragraphs (14) through (16), respectively.

18 (g) *REGIONAL TERMS AND CONDITIONS*.—Section 2
19 (16 U.S.C. 973) is amended by inserting after paragraph
20 (12), as so redesignated, the following:

21 “(13) The term ‘regional terms and conditions’
22 means any of the terms or conditions attached by the
23 Administrator to the license issued by the Adminis-
24 trator, as notified by the Secretary.”.

1 **SEC. 4. PROHIBITED ACTS.**

2 (a) *IN GENERAL.*—Section 5(a) (16 U.S.C. 973c(a))
3 *is amended—*

4 (1) *by striking “Except as provided in section 6*
5 *of this Act, it” at the beginning and inserting “It”;*

6 (2) *by striking paragraphs (3) and (4);*

7 (3) *by redesignating paragraphs (5) through (13)*
8 *as paragraphs (3) through (11), respectively;*

9 (4) *in paragraph (3), as so redesignated, by in-*
10 *serting “, except in accordance with an agreement*
11 *pursuant to the Treaty” after “Closed Area”;*

12 (5) *in paragraph (10), as so redesignated, by*
13 *striking “or” at the end;*

14 (6) *in paragraph (11), as so redesignated, by*
15 *striking the period at the end and inserting a semi-*
16 *colon; and*

17 (7) *by adding at the end the following:*

18 “(12) *to violate any of the regional terms and*
19 *conditions; or*

20 “(13) *to violate any limit on authorized fishing*
21 *effort or catch.”.*

22 (b) *IN THE LICENSING AREA.*—Section 5(b) (16 U.S.C.
23 973c(b)) *is amended—*

24 (1) *by striking “Except as provided in section 6*
25 *of this Act, it” and inserting “It”;*

26 (2) *by striking paragraph (5); and*

1 (3) by redesignating paragraphs (6) and (7) as
2 paragraphs (5) and (6), respectively.

3 **SEC. 5. EXCEPTIONS.**

4 Section 6 (16 U.S.C. 973d) is repealed.

5 **SEC. 6. CRIMINAL OFFENSES.**

6 Section 7(a) (16 U.S.C. 973e(a)) is amended by strik-
7 ing “section 5(a) (8), (10), (11), or (12)” and inserting
8 “paragraphs (6), (8), (9), or (10) of section 5(a)”.

9 **SEC. 7. CIVIL PENALTIES.**

10 (a) *DETERMINATION OF LIABILITY; AMOUNT; PARTICI-*
11 *PATION BY SECRETARY OF STATE IN ASSESSMENT PRO-*
12 *CEEDING.*—Section 8(a) (16 U.S.C. 973f(a)) is amended—

13 (1) by striking “Code” after “liable to the United
14 States”; and

15 (2) by striking “Except for those acts prohibited
16 by section 5(a) (4), (5), (7), (8), (10), (11), and (12),
17 and section 5(b) (1), (2), (3), and (7) of this Act, the”
18 and inserting “The”.

19 (b) *WAIVER OF REFERRAL TO ATTORNEY GENERAL.*—
20 Section 8(g) (16 U.S.C. 973f(g)) is amended—

21 (1) by striking “section 5(a)(1), (2), (3), (4), (5),
22 (6), (7), (8), (9), or (13)” and inserting “paragraphs
23 (1), (2), (3), (4), (5), (6), (7), (11), (12), or (13) of
24 section 5(a)”;

1 (2) in paragraph (2), by striking “, all Limited
2 Areas closed to fishing,” after “outside of the Licens-
3 ing Area”.

4 **SEC. 8. LICENSES.**

5 (a) *FORWARDING AND TRANSMITTAL OF VESSEL LI-*
6 *CENSE APPLICATION.*—Section 9(b) (16 U.S.C. 973g(b)) is
7 amended to read as follows:

8 “(b) In accordance with subsection (e), and except as
9 provided in subsection (f), the Secretary shall forward a
10 vessel license application to the Administrator whenever
11 such application is in accordance with application proce-
12 dures established by the Secretary.”.

13 (b) *FEEES AND SCHEDULES.*—Section 9(c) (16 U.S.C.
14 973g(c)) is amended to read as follows:

15 “(c) Fees required under the Treaty shall be paid in
16 accordance with the Treaty and any procedures established
17 by the Secretary.”.

18 (c) *MINIMUM FEES REQUIRED TO BE RECEIVED IN*
19 *INITIAL YEAR OF IMPLEMENTATION FOR FORWARDING AND*
20 *TRANSMITTAL OF LICENSE APPLICATIONS.*—Section 9 (16
21 U.S.C. 973g) is amended—

22 (1) by striking subsection (f);

23 (2) by redesignating subsections (g) and (h) as
24 subsections (f) and (g), respectively;

1 (3) by amending subsection (f), as so redesign-
2 nated, to read as follows:

3 “(f) The Secretary, in consultation with the Secretary
4 of State, may determine that a license application should
5 not be forwarded to the Administrator if—

6 “(1) the application is not in accordance with
7 the Treaty or the procedures established by the Sec-
8 retary; or

9 “(2) the owner or charterer—

10 “(A) is the subject of proceedings under the
11 bankruptcy laws of the United States, unless rea-
12 sonable financial assurances have been provided
13 to the Secretary;

14 “(B) has not established to the satisfaction
15 of the Secretary that the fishing vessel is fully in-
16 sured against all risks and liabilities normally
17 provided in maritime liability insurance; or

18 “(C) has not paid any penalty which has
19 become final, assessed by the Secretary in accord-
20 ance with this Act.”; and

21 (4) in subsection (g), as so redesignated—

22 (A) by amending paragraph (1) to read as
23 follows:

24 “(1) chapter 12113 of title 46, United States
25 Code;”;

1 (B) in paragraph (2), by inserting “of
2 1972” after “Marine Mammal Protection Act”;

3 (C) in paragraph (3), by inserting “of
4 1972” after “Marine Mammal Protection Act”;
5 and

6 (D) in the matter that follows paragraph
7 (3), by striking “any vessel documented” and all
8 that follows and inserting the following:

9 “any vessel documented under the laws of the United States
10 as of the date of enactment of the Fisheries Act of 1995
11 for which a license has been issued under subsection (a)
12 may fish for tuna in the Licensing Area, and on the high
13 seas and in waters subject to the jurisdiction of the United
14 States west of 146° west longitude and east of 129.5° east
15 longitude in accordance with international law, subject to
16 the provisions of the Treaty, this Act, and other applicable
17 law, provided that no such vessel intentionally deploys a
18 purse seine net to encircle any dolphin or other marine
19 mammal in the course of fishing.”

20 **SEC. 9. ENFORCEMENT.**

21 (a) NOTICE REQUIREMENTS TO PACIFIC ISLAND
22 PARTY CONCERNING INSTITUTION AND OUTCOME OF LEGAL
23 PROCEEDINGS.—Section 10(c)(1) (16 U.S.C. 973h(c)(1)) is
24 amended—

1 (1) *by striking “paragraph 8 of Article 4 of”;*

2 *and*

3 (2) *by striking “Article 10 of”.*

4 ***(b) SEARCHES AND SEIZURES BY AUTHORIZED OFFI-***
5 ***CERS; LIMITATIONS ON POWER.—Section 10(d)(1)(A) (16***
6 ***U.S.C. 973h(d)(1)(A)) is amended—***

7 (1) *in clause (ii), by striking “or” at the end;*

8 *and*

9 (2) *in clause (iii), by adding “or” at the end.*

10 ***SEC. 10. FINDINGS BY SECRETARY.***

11 ***(a) ORDER TO LEAVE WATERS UPON FAILURE TO***
12 ***SUBMIT TO JURISDICTION OF PACIFIC ISLAND PARTY; PRO-***
13 ***CEDURE APPLICABLE.—Section 11(a) (16 U.S.C. 973i(a))***
14 ***is amended—***

15 (1) *by striking “, all Limited Areas,”;*

16 (2) *in paragraph (1)—*

17 (A) *in subparagraph (A), by striking*
18 *“paragraph 2 of Article 3 of”; and*

19 (B) *in subparagraph (C), by striking “with-*
20 *in the Treaty Area” and inserting “under the ju-*
21 *risdiction”; and*

22 (3) *in paragraph (2)—*

23 (A) *in subparagraph (A), by striking “sec-*
24 *tion 5 (a)(4), (a)(5), (b)(2), or (b)(3)” and in-*

1 “(3) Information submitted to the Secretary by
2 any person in compliance with the requirements of
3 this Act.

4 “(b) *PERMITTED DISCLOSURE OF CERTAIN INFORMA-*
5 *TION.—The Secretary may disclose information described*
6 *in subsection (a)—*

7 “(1) if disclosure is ordered by a court;

8 “(2) if the information is used by a Federal em-
9 ployee—

10 “(A) for enforcement; or

11 “(B) in support of the homeland and na-
12 tional security missions of the Coast Guard as
13 defined in section 888 of the Homeland Security
14 Act of 2002 (6 U.S.C. 468);

15 “(3) if the information is used by a Federal em-
16 ployee or an employee of the Fishery Management
17 Council for Treaty administration or fishery manage-
18 ment and monitoring;

19 “(4) to the Administrator, in accordance with
20 the requirements of the Treaty and this Act;

21 “(5) to the secretariat or equivalent of an inter-
22 national fisheries management organization of which
23 the United States is a member, in accordance with
24 the requirements or decisions of such organization,
25 and insofar as possible, in accordance with an agree-

1 *ment that prevents public disclosure of the identity of*
2 *any person that submits such information;*

3 *“(6) if the Secretary has obtained written au-*
4 *thorization from the person providing such informa-*
5 *tion, and disclosure does not violate other require-*
6 *ments of this Act; or*

7 *“(7) in an aggregate or summary form that does*
8 *not directly or indirectly disclose the identity of any*
9 *person that submits such information.”.*

10 **SEC. 12. CLOSED AREA STOWAGE REQUIREMENTS.**

11 *Section 13 (16 U.S.C. 973k) is amended by striking*
12 *“. In particular, the boom shall be lowered” and all that*
13 *follows and inserting “and in accordance with any require-*
14 *ments established by the Secretary.”.*

15 **SEC. 13. OBSERVERS.**

16 *Section 14 (16 U.S.C. 973l) is repealed.*

17 **SEC. 14. TECHNICAL ASSISTANCE.**

18 *Section 15 (16 U.S.C. 973m) is amended to read as*
19 *follows:*

20 **“SEC. 15. TECHNICAL ASSISTANCE.**

21 *“The Secretary and the Secretary of State may provide*
22 *assistance to a Pacific Island Party to benefit such Pacific*
23 *Island Party from the development of fisheries resources*
24 *and the operation of fishing vessels that are licensed pursu-*
25 *ant to the Treaty, including—*

1 “(1) *technical assistance;*

2 “(2) *training and capacity building opportuni-*
3 *ties;*

4 “(3) *facilitation of the implementation of private*
5 *sector activities or partnerships; and*

6 “(4) *other activities as determined appropriate*
7 *by the Secretary and the Secretary of State.”.*

8 **SEC. 15. ARBITRATION.**

9 *Section 16 (16 U.S.C. 973n) is amended—*

10 (1) *by striking “Article 6 of” after “arbitral tri-*
11 *bunal under”;* and

12 (2) *by striking “paragraph 3 of that Article”,*
13 *and inserting “the Treaty, shall determine the loca-*
14 *tion of the arbitration”.*

15 **SEC. 16. DISPOSITION OF FEES, PENALTIES, FORFEITURES,**
16 **AND OTHER MONEYS.**

17 *Section 17 (16 U.S.C. 973o) is amended by striking*
18 *“Article 4 of”.*

19 **SEC. 17. ADDITIONAL AGREEMENTS.**

20 *Section 18 (16 U.S.C. 973p) is amended by striking*
21 *“Within 30 days after” and all that follows and inserting*
22 *“The Secretary may establish procedures for review of any*
23 *agreements for additional fishing access entered into pursu-*
24 *ant to the Treaty.”.*