

112TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
 2d Session 112–634

MILLE LACS LAKE FREEDOM TO FISH ACT OF 2012

JULY 31, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MICA, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5797]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5797) to amend title 46, United States Code, with respect to Mille Lacs Lake, Minnesota, and for other purposes, having considered the same, report favorably thereon with amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose of the Legislation and Summary	2
Background and Need for Legislation	2
Hearings	3
Legislative History	3
Committee Votes	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	4
Performance Goals and Objectives	5
Advisory of Earmarks	5
Federal Mandates Statement	5
Preemption Clarification	5
Advisory Committee Statement	5
Applicability to the Legislative Branch	5
Section-by-Section Analysis of the Legislation	5
Changes in Existing Law Made by the Bill, as Reported	5

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mille Lacs Lake Freedom To Fish Act of 2012".

SEC. 2. MILLE LACS LAKE, MINNESOTA.

Notwithstanding any other provision of law, the owner or operator of a vessel operating on Mille Lacs Lake, Minnesota, shall not, with respect to such vessel, be subject to any Federal requirement under subtitle II of title 46, United States Code, relating to licensing or vessel inspection.

Amend the title so as to read:

A bill to exempt the owners and operators of vessels operating on Mille Lacs Lake, Minnesota, from certain Federal requirements.

PURPOSE OF THE LEGISLATION AND SUMMARY

H.R. 5797, the Mille Lacs Lake Freedom to Fish Act of 2012 exempts the owners or operators of vessels operating on Mille Lacs Lake, Minnesota from compliance with federal law and regulations governing the licensing of vessel operators and the inspection of vessels.

BACKGROUND AND NEED FOR LEGISLATION

Mille Lacs Lake is located approximately 100 miles north of the Minneapolis-St. Paul metropolitan area. It is Minnesota's second-largest lake, spanning 132,000 surface acres or slightly more than 200 square miles. The area surrounding the lake is home to several dozen charter boat fishing and tour operators. These operators take passengers on the lake in groups in sizes from less than six on small motorized vessels, to as large a 50 on vessels as long as 70 feet. In addition, several canoe guides operate on the lake carrying as few as one passenger per canoe. Finally, many companies also rent canoes and motorized boats to individuals for daily excursions on the lake.

The State of Minnesota regulates vessels operating on its inland lakes including Mille Lacs Lake. The state requires motorized or sailing vessels greater than 21 feet in length and carrying more than six passengers for hire to undergo an annual safety inspection and a drydock inspection once every three years (annually for wooden hulled vessels). Vessels that maintain a certificate of inspection with the Coast Guard pursuant to Chapter 33 of title 46, United States Code, are exempt from Minnesota requirements.

The state also requires operators of motorized or sailing vessels, regardless of size, carrying more than six passengers to obtain a Boat Master license. To obtain a Boat Master license, the state requires individuals to be at least 18 years of age, have 18 hours of supervised training on the vessel, pay a series of fees, and pass a license examination with a score of at least 70 percent. Individuals carrying a current Coast Guard issued license to operate an uninspected or small passenger vessel pursuant to chapter 89 of title 46, United States Code, are exempt from Minnesota licensing requirements.

On March 3, 2010, the Coast Guard determined the lake was a "navigable waterway of the United States" pursuant to the criteria set forth in 33 CFR 2.36. The Coast Guard made the determination based on the fact that the lake "has been used in the past as a

highway for interstate commerce". In the 18th Century, the lake supported the international fur trade, and from 1848 to 1904, it was used in the transportation of logs to mills outside the state. The determination that the lake is a navigable waterway enables the Coast Guard to enforce applicable federal laws and regulations on the lake.

H.R. 5797, as reported, would exempt the owners and operators of vessels operating on the Lake from compliance with the licensing and vessel inspection requirements of subtitle II of title 46, United States Code. H.R. 5797 would not affect the authority of the Coast Guard to conduct search and rescue and other missions on the lake, or change the state's regulatory program.

HEARINGS

On May 15, 2011, the Subcommittee on Coast Guard and Maritime Transportation held a hearing on "Creating U.S. Maritime Industry Jobs by Reducing Regulatory Burdens". Questions regarding the Coast Guard's navigability determination of Mille Lacs Lake, Minnesota were raised by Mr. Cravaack at the hearing.

LEGISLATIVE HISTORY

On May 17, 2012, Representative Cravaack introduced H.R. 5797, the Mille Lacs Lake Freedom to Fish Act of 2012. On July 27, 2012, the Committee on Transportation and Infrastructure met in open session to consider H.R. 5797, and ordered the bill, as amended, reported favorably to the House of Representatives by voice vote with a quorum present. Mr. Cravaack offered a substitute amendment to exempt owners and operators of vessels operating on Mille Lacs Lake from compliance with federal laws and regulations requiring the licensing of individuals to operate vessels and the inspection of certain vessels to ensure they meet federal safety standards. The Cravaack substitute amendment passed by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each recorded vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 5797, no recorded votes were taken. The bill, as amended, was reported favorably to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Transportation and Infrastructure's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by

the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974, included below.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5797 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 2012.

Hon. JOHN L. MICA,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5797, the Mille Lacs Freedom to Fish Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Pura.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5797—Mille Lacs Freedom to Fish Act

H.R. 5797 would eliminate a requirement that certain vessel owners who operate boats on a lake in the state of Minnesota purchase federal licenses and pay a fee to have their boats inspected annually. Because most of those amounts are deposited in the general fund of the Treasury, enacting H.R. 5797 would decrease revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that the effects would be insignificant for each year. Enacting H.R. 5797 would not affect direct spending.

In 2010, the United States Coast Guard (USCG) determined that Mille Lacs Lake in Minnesota is a navigable waterway. As a result, USCG is developing regulations that will require all vessel owners who wish to use their boats on that lake to obtain federal captains' licenses and to submit their boats to annual USCG inspections. Most of those revenues will be deposited into the general fund of the Treasury. Licenses will cost \$240 per person, and annual inspections will cost between \$300 and \$600 each. By enacting H.R. 5797, the government would not collect those revenues. Based on information from the USCG, CBO estimates that there are fewer than 50 owner-operators who will have to comply with the licensing and inspection regulations. Assuming regulations are finalized by 2013, CBO estimates that enacting the bill would result in an insignificant loss of annual revenue beginning that year.

H.R. 5797 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Sarah Puro. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to address navigation safety on Mille Lacs Lake, Minnesota.

ADVISORY OF EARMARKS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5797 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5797 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

“Mille Lacs Lake Freedom to Fish Act of 2012”.

Sec. 2. Mille Lacs Lake, Minnesota

Section 2 exempts the owners and operators of vessels operating on Mille Lacs Lake, Minnesota from compliance with federal laws and regulations requiring the licensing of individuals to operate vessels and the inspection of certain vessels to ensure they meet federal safety standards.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 5797 makes no changes in existing law.

ADDITIONAL VIEWS

The manner in which this bill was taken up by the Committee, and the absence of a clear understanding of the implications of the amendment that was adopted by voice vote, gives me pause.

No one disputes the validity of the Coast Guard's 2010 determination that Mille Lacs Lake is a navigable water of the United States. In fact, the Coast Guard's determination is simply the latest affirmation in a line of navigability determinations by the U.S. Army Corps of Engineers. This legislation completely sidesteps that fundamental question, and accordingly, the Coast Guard's 2010 determination stands.

Rather than vacate the Coast Guard's determination, however, the legislation, as ordered reported, exempts the owners and operators of uninspected passenger vessels operating on Mille Lacs Lake from Coast Guard license and inspection requirements under subtitle II of title 46, United States Code. Although this approach provides the regulatory relief desired by the bill's sponsor, all other applicable aspects of Coast Guard authority remain in effect on Mille Lacs Lake.

As a result, in the interest of solving one problem, this legislation may very well be creating additional unintended problems. Unfortunately, there was no practical way that the Committee could have known in advance what the unintended consequences of this legislation might be because the bill was never heard and considered by the Subcommittee on Coast Guard and Maritime Transportation.

We do know that the Coast Guard objects to the type of "partial navigability" determination embodied in this legislation. It could lead to uncertainty and confusion among the boating public concerning the Coast Guard's management responsibilities. Suffice to say, it would have been far better to have known in advance the implications of this legislation prior to the Committee passing and reporting the bill to the House of Representatives.

In the absence of that knowledge, I urge that we sit down with the Coast Guard prior to consideration of this bill by the House. We should thoroughly discuss the bill's implications, and, if need be, shape whatever modifications may be necessary to achieve the sponsor's objectives while also eliminating the likelihood of unintended consequences falling on the Coast Guard.

RICK LARSEN.

