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Calendar No. 671

108TH CONGRESS
2D SESSION

S. 2547

[Report No. 108–313]

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2004

Mr. VOINOVICH (for himself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

AUGUST 25, 2004

Reported, under authority of the order of the Senate of July 22, 2004, by Mr. INHOFE, without amendment

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A BILL

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, 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,*

TITLE I—EXCLUSION OF NONNATIVE SPECIES FROM MIGRATORY BIRD TREATY ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Migratory Bird Treaty Reform Act of 2004''.

SEC. 102. EXCLUSION OF NONNATIVE SPECIES FROM APPLICATION OF CERTAIN PROHIBITIONS UNDER MIGRATORY BIRD TREATY ACT.

Section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) is amended—

(1) in the first sentence, by striking ''That unless and except as permitted'' and inserting the following: ''(a) In General.—Unless and except as permitted''; and

(2) by adding at the end the following:

''(b) LIMITATION ON APPLICATION TO INTRODUCED SPECIES.—

''(1) IN GENERAL.—This section applies only to migratory bird species that are native to the United States the occurrence of which in the United States is entirely the result of natural biological or ecological conditions.

''(2) TREATMENT OF INTRODUCED SPECIES.—For purposes of paragraph (1)—

"(A) a bird species shall not be treated as native to the United States if the species occurs in the United States solely as a result of intentional or unintentional human-assisted introduction; and

"(B) a migratory bird species shall be treated as native to the United States if—

"(i) the species was native to the United States and extant in 1918;

"(ii) the species was extirpated after 1918 throughout its range in the United States; and

"(iii) after such extirpation, the species was reintroduced in the United States as a part of a program carried out by a Federal agency.".

SEC. 103. PUBLICATION OF LIST.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register a list of all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) does not apply that belong to biological families of migratory birds covered under any of the migratory bird conventions with Great Britain (for Canada), Mexico, Russia, or Japan.

(b) PUBLIC COMMENT.—Before publishing the list under subsection (a), the Secretary shall provide adequate time for public comment.

(c) EFFECT OF SECTION.—Nothing in this section shall delay implementation of other provisions of this Act or amendments made by this Act that exclude nonnative, human-introduced bird species from the application of the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

TITLE II—CONSERVATION OF NEOTROPICAL MIGRATORY BIRDS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Neotropical Migratory Bird Conservation Improvement Act of 2004''.

SEC. 202. AMENDMENTS TO NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

(a) FINDINGS.—Section 2(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101(1)) is amended by inserting '', but breed in Canada and the United States'' after ''the Caribbean''.

(b) PURPOSES.—Section 3(2) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6102(2)) is amended by inserting ''Canada,'' after ''United States,''.

(c) DEFINITION OF CARIBBEAN.—Section 4 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6103) is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by striking paragraph (1) and inserting the following:

"(1) CARIBBEAN.—The term 'Caribbean' includes Puerto Rico and the United States Virgin Islands."; and

(3) by inserting after paragraph (2) the following:

"(3) FUND.—The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).".

(d) COST SHARING.—Section 5(e) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6104(e)) is amended—

(1) in paragraph (1), by striking "25 percent" and inserting "50 percent"; and

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) FORM OF PAYMENT.—

"(i) PROJECTS IN THE UNITED STATES AND CANADA.—The non-Federal

share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

"(ii) PROJECTS IN LATIN AMERICA AND THE CARIBBEAN.—The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.".

(e) REPORT.—Section 8 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6107) is amended—

(1) by striking "October 1, 2002," and inserting "1 year after the date of enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2004,";

(2) by striking "this Act, including recommendations" and inserting "this Act that includes—

"(1) recommendations";

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) a description of the activities of the advisory group convened under section 7(b).".

(f) NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.—

(1) IN GENERAL.—Section 9 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108) is amended—

(A) by striking the section heading and all that follows through subsection (b) and inserting the following:

"SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury a separate account to be known as the 'Neotropical Migratory Bird Conservation Fund', which shall consist of amounts deposited in the Fund by the Secretary of the Treasury under subsection (b).

''(b) DEPOSITS IN THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

''(1) all amounts received by the Secretary in the form of donations under subsection (d); and

''(2) other amounts appropriated to the Fund.''; and

(B) in subsection (d), by striking ''Account'' and inserting ''Fund''.

(2) ADMINISTRATIVE EXPENSES.—Section 9(c)(2) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108(c)(2)) is amended by striking ''$80,000'' and inserting ''$150,000''.

(3) TRANSFER.—The Secretary of the Treasury shall transfer to the Neotropical Migratory Bird Conservation Fund amounts that were in the Neotropical Migratory Bird Conservation Account immediately before the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6109) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Fund to carry out this Act—

"(1) $5,000,000 for each of fiscal years 2005 and 2006;

"(2) $10,000,000 for fiscal year 2007; and

"(3) $15,000,000 for fiscal year 2008.

"(b) AVAILABILITY.—Amounts made available under this section shall remain available until expended.

"(c) ALLOCATION.—Of amounts made available under this section for a fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.

"(d) LIMITATION ON EXPENDITURES FOR PROJECTS IN CANADA.—Amounts made available under this section for a fiscal year shall not be used for any project in Can-

1 ada unless the amount available to carry out this Act for
2 that fiscal year is greater than $10,000,000.''.

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