

109TH CONGRESS
1ST SESSION

S. 1496

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2005

Referred to the Committee on Resources

AN ACT

To direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

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.**

4 This Act may be cited as the “Electronic Duck Stamp
5 Act of 2005”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) on March 16, 1934, Congress passed and
4 President Roosevelt signed the Act of March 16,
5 1934 (16 U.S.C. 718a et seq.) (popularly known as
6 the “Duck Stamp Act”), which requires all migra-
7 tory waterfowl hunters 16 years of age or older to
8 buy a Federal migratory bird hunting and conserva-
9 tion stamp annually;

10 (2) the Federal Duck Stamp program has be-
11 come one of the most popular and successful con-
12 servation programs ever initiated;

13 (3) because of that program, the United States
14 again is teeming with migratory waterfowl and other
15 wildlife that benefit from wetland habitats;

16 (4) as of the date of enactment of this Act,
17 1,700,000 migratory bird hunting and conservation
18 stamps are sold each year;

19 (5) as of 2003, those stamps have generated
20 more than \$600,000,000 in revenue that has been
21 used to preserve more than 5,000,000 acres of mi-
22 gratory waterfowl habitat in the United States; and

23 (6) many of the more than 540 national wildlife
24 refuges have been paid for wholly or partially with
25 that revenue.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **ACTUAL STAMP.**—The term “actual stamp”
4 means a Federal migratory-bird hunting and con-
5 servation stamp required under the Act of March
6 16, 1934 (16 U.S.C. 718a et seq.) (popularly known
7 as the “Duck Stamp Act”), that is printed on paper
8 and sold through a means in use immediately before
9 the date of enactment of this Act.

10 (2) **AUTOMATED LICENSING SYSTEM.**—

11 (A) **IN GENERAL.**—The term “automated
12 licensing system” means an electronic, comput-
13 erized licensing system used by a State fish and
14 wildlife agency to issue hunting, fishing, and
15 other associated licenses and products.

16 (B) **INCLUSION.**—The term “automated li-
17 censing system” includes a point-of-sale, Inter-
18 net, or telephonic system used for a purpose de-
19 scribed in subparagraph (A).

20 (3) **ELECTRONIC STAMP.**—The term “electronic
21 stamp” means an electronic version of an actual
22 stamp that—

23 (A) is a unique identifier for the individual
24 to whom it is issued;

25 (B) can be printed on paper;

1 (C) is issued through a State automated li-
2 censing system that is authorized, under State
3 law and by the Secretary under this Act, to
4 issue electronic stamps;

5 (D) is compatible with the hunting licens-
6 ing system of the State that issues the elec-
7 tronic stamp; and

8 (E) is described in the State application
9 approved by the Secretary under section 4(b).

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior.

12 **SEC. 4. ELECTRONIC DUCK STAMP PILOT PROGRAM.**

13 (a) REQUIREMENT TO CONDUCT PROGRAM.—The
14 Secretary shall conduct a 3-year pilot program under
15 which up to 15 States authorized by the Secretary may
16 issue electronic stamps.

17 (b) COMMENCEMENT AND DURATION OF PRO-
18 GRAM.—The Secretary shall—

19 (1) use all means necessary to expeditiously im-
20 plement this section by the date that is 1 year after
21 the beginning of the first full Federal migratory wa-
22 terfowl hunting season after the date of enactment
23 of this Act; and

24 (2) carry out the pilot program for 3 Federal
25 migratory waterfowl hunting seasons.

1 (c) CONSULTATION.—The Secretary shall carry out
2 the program in consultation with State management agen-
3 cies.

4 **SEC. 5. STATE APPLICATION.**

5 (a) APPROVAL OF APPLICATION REQUIRED.—A
6 State may not participate in the pilot program under this
7 Act unless the Secretary has received and approved an ap-
8 plication submitted by the State in accordance with this
9 section.

10 (b) CONTENTS OF APPLICATION.—The Secretary
11 may not approve a State application unless the application
12 contains—

13 (1) a description of the format of the electronic
14 stamp that the State will issue under the pilot pro-
15 gram, including identifying features of the licensee
16 that will be specified on the stamp;

17 (2) a description of any fee the State will
18 charge for issuance of an electronic stamp;

19 (3) a description of the process the State will
20 use to account for and transfer to the Secretary the
21 amounts collected by the State that are required to
22 be transferred to the Secretary under the program;

23 (4) the manner by which the State will transmit
24 electronic stamp customer data to the Secretary;

1 (5) the manner by which actual stamps will be
2 delivered;

3 (6) the policies and procedures under which the
4 State will issue duplicate electronic stamps; and

5 (7) such other policies, procedures, and infor-
6 mation as may be reasonably required by the Sec-
7 retary.

8 (c) PUBLICATION OF DEADLINES, ELIGIBILITY RE-
9 QUIREMENTS, AND SELECTION CRITERIA.—Not later than
10 30 days before the date on which the Secretary begins ac-
11 cepting applications for participation in the pilot program,
12 the Secretary shall publish—

13 (1) deadlines for submission of applications to
14 participate in the program;

15 (2) eligibility requirements for participation in
16 the program; and

17 (3) criteria for selecting States to participate in
18 the program.

19 **SEC. 6. STATE OBLIGATIONS AND AUTHORITIES.**

20 (a) DELIVERY OF ACTUAL STAMP.—The Secretary
21 shall require that each individual to whom a State sells
22 an electronic stamp under the pilot program shall receive
23 an actual stamp—

24 (1) by not later than the date on which the
25 electronic stamp expires under section 7(c); and

1 (2) in a manner agreed upon by the State and
2 Secretary.

3 (b) COLLECTION AND TRANSFER OF ELECTRONIC
4 STAMP REVENUE AND CUSTOMER INFORMATION.—

5 (1) REQUIREMENT TO TRANSMIT.—The Sec-
6 retary shall require each State participating in the
7 pilot program to collect and submit to the Secretary
8 in accordance with this section—

9 (A) the first name, last name, and com-
10 plete mailing address of each individual that
11 purchases an electronic stamp from the State;

12 (B) the face value amount of each elec-
13 tronic stamp sold by the State; and

14 (C) the amount of the Federal portion of
15 any fee required by the agreement for each
16 stamp sold.

17 (2) TIME OF TRANSMITTAL.—The Secretary
18 shall require the submission under paragraph (1) to
19 be made with respect to sales of electronic stamps
20 by a State occurring in a month—

21 (A) by not later than the 15th day of the
22 subsequent month; or

23 (B) as otherwise specified in the applica-
24 tion of the State approved by the Secretary
25 under section 5.

1 (1) to have the same format as any other li-
2 cense, validation, or privilege the State issues under
3 the automated licensing system of the State; and

4 (2) to specify identifying features of the licensee
5 that are adequate to enable Federal, State, and
6 other law enforcement officers to identify the holder.

7 (b) RECOGNITION OF ELECTRONIC STAMP.—Any
8 electronic stamp issued by a State under the pilot program
9 shall, during the effective period of the electronic stamp—

10 (1) bestow upon the licensee the same privileges
11 as are bestowed by an actual stamp;

12 (2) be recognized nationally as a valid Federal
13 migratory bird hunting and conservation stamp; and

14 (3) authorize the licensee to hunt migratory wa-
15 terfowl in any other State, in accordance with the
16 laws of the other State governing that hunting.

17 (c) DURATION.—An electronic stamp issued by a
18 State under the pilot program shall be valid for a period
19 agreed to by the State and the Secretary, which shall not
20 exceed 45 days.

21 **SEC. 8. TERMINATION OF STATE PARTICIPATION.**

22 Participation by a State in the pilot program may be
23 terminated—

24 (1) by the Secretary, if the Secretary—

1 (A) finds that the State has violated any of
2 the terms of the application of the State ap-
3 proved by the Secretary under section 5; and

4 (B) provides to the State written notice of
5 the termination by not later than the date that
6 is 30 days before the date of termination; or

7 (2) by the State, by providing written notice to
8 the Secretary by not later than the date that is 30
9 days before the termination date.

10 **SEC. 9. EVALUATION.**

11 (a) **EVALUATION.**—The Secretary, in consultation
12 with State fish and wildlife management agencies and ap-
13 propriate stakeholders with expertise specific to the duck
14 stamp program, shall evaluate the pilot program and de-
15 termine whether the pilot program has provided a cost-
16 effective and convenient means for issuing migratory-bird
17 hunting and conservation stamps, including whether the
18 program has—

19 (1) increased the availability of those stamps;

20 (2) assisted States in meeting the customer
21 service objectives of the States with respect to those
22 stamps;

23 (3) maintained actual stamps as an effective
24 and viable conservation tool; and

1 (4) maintained adequate retail availability of
2 the actual stamp.

3 (b) REPORT.—The Secretary shall submit to Con-
4 gress a report on the findings of the Secretary under sub-
5 section (a).

6 **SEC. 10. TECHNICAL CORRECTIONS.**

7 (a) PROHIBITION ON TAKING.—The first section of
8 the Act of March 16, 1934 (16 U.S.C. 718a) is amended
9 by striking “That no person who has attained the age of
10 sixteen years” and all that follows through the end of the
11 section and inserting the following:

12 **“SECTION 1. PROHIBITION ON TAKING.**

13 “(a) PROHIBITION.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), no individual who has attained the age of
16 16 years shall take any migratory waterfowl unless,
17 at the time of the taking, the individual carries on
18 the person of the individual a valid Migratory Bird
19 Hunting and Conservation Stamp, validated by the
20 signature of the individual written in ink across the
21 face of the stamp prior to the time of the taking by
22 the individual of the waterfowl.

23 “(2) EXCEPTION.—No stamp described in para-
24 graph (1) shall be required for the taking of migra-
25 tory waterfowl—

1 “(A) by Federal or State agencies;

2 “(B) for propagation; or

3 “(C) by the resident owner, tenant, or
4 sharecropper of the property, or officially des-
5 ignated agencies of the Department of the Inte-
6 rior, for the killing, under such restrictions as
7 the Secretary may by regulation prescribe, of
8 such waterfowl when found damaging crops or
9 other property.

10 “(b) DISPLAY OF STAMP.—Any individual to whom
11 a stamp has been sold under this Act shall, upon request,
12 display the stamp for inspection to—

13 “(1) any officer or employee of the Department
14 of the Interior who is authorized to enforce this Act;
15 or

16 “(2) any officer of any State or political sub-
17 division of a State authorized to enforce State game
18 laws.

19 “(c) OTHER LICENSES.—Nothing in this section re-
20 quires any individual to affix the Migratory Bird Hunting
21 and Conservation Stamp to any other license prior to tak-
22 ing 1 or more migratory waterfowl.”.

23 (b) SALES; FUND DISPOSITION; UNSOLD STAMPS.—
24 Section 2 of the Act of March 16, 1934 (16 U.S.C. 718b)
25 is amended by striking “SEC. 2.” and all that follows

1 through the end of subsection (a) and inserting the fol-
2 lowing:

3 **“SEC. 2. SALES; FUND DISPOSITION; UNSOLD STAMPS.**

4 “(a) SALES.—

5 “(1) IN GENERAL.—The stamps required under
6 section 1 shall be sold by the Postal Service and may
7 be sold by the Department of the Interior, pursuant
8 to regulations promulgated jointly by the Postal
9 Service and the Secretary, at—

10 “(A) any post office; and

11 “(B) such other establishments, facilities,
12 or locations as the Postal Service or the Sec-
13 retary (or a designee) may direct or authorize.

14 “(2) PROCEEDS.—The funds received from the
15 sale of stamps under this Act by the Department of
16 the Interior shall be deposited in the Migratory Bird
17 Conservation Fund in accordance with section 4.

18 “(3) MINIMUM AND MAXIMUM VALUES.—Ex-
19 cept as provided in subsection (b), the Postal Service
20 shall collect the full face value of each stamp sold
21 under this section for the applicable hunting year.

22 “(4) VALIDITY.—No stamp sold under this Act
23 shall be valid under any circumstances to authorize
24 the taking of migratory waterfowl except—

1 “(A) in compliance with Federal and State
2 laws (including regulations);

3 “(B) on the condition that the individual
4 so taking the waterfowl wrote the signature of
5 the individual in ink across the face of the
6 stamp prior to the taking; and

7 “(C) during the hunting year for which the
8 stamp was issued.

9 “(5) UNUSED STAMPS.—

10 “(A) DEFINITION OF RETAIL DEALER.—In
11 this paragraph, the term ‘retail dealer’ means—

12 “(i) any individual or entity that is
13 regularly engaged in the business of retail-
14 ing hunting or fishing equipment; and

15 “(ii) any individual or entity duly au-
16 thorized to act as an agent of a State or
17 political subdivision of a State for the sale
18 of State or county hunting or fishing li-
19 censes.

20 “(B) REDEMPTION OF UNUSED STAMPS.—

21 The Department of the Interior, pursuant to
22 regulations promulgated by the Secretary, shall
23 provide for the redemption, on or before the
24 30th day of June of each year, of unused

1 stamps issued for the year under this Act
2 that—

3 “(i) were sold on consignment to any
4 person authorized by the Secretary to sell
5 stamps on consignment (including retail
6 dealers for resale to customers); and

7 “(ii) have not been resold by any such
8 person.

9 “(6) PROHIBITION ON CERTAIN STAMP
10 SALES.—The Postal Service shall not—

11 “(A) sell on consignment any stamps
12 issued under this Act to any individual, busi-
13 ness, or organization; or

14 “(B) redeem stamps issued under this Act
15 that are sold on consignment by the Secretary
16 (or any agent of the Secretary).”.

17 (c) COST OF STAMPS.—Section 2(b) of the Act of
18 March 16, 1934 (16 U.S.C. 718b(b)) is amended—

19 (1) by striking “(b) The” and inserting the fol-
20 lowing:

21 “(b) COST OF STAMPS.—The”;

22 (2) by striking “Secretary of the Interior” and
23 inserting “Secretary”;

1 (3) by striking “migratory bird conservation
2 fund” and inserting “Migratory Bird Conservation
3 Fund”; and

4 (4) in paragraph (2), by striking “For pur-
5 poses” and all that follows through “of any such
6 year.”.

7 (d) AUTHORIZATION AND EXEMPTION.—Section 3 of
8 the Act of March 16, 1934 (16 U.S.C. 718c) is amended
9 by striking “SEC. 3. Nothing” and inserting the following:
10 **“SEC. 3. AUTHORIZATION AND EXEMPTION.**

11 “Nothing”.

12 (e) EXPENDITURE OF FUNDS.—Section 4 of the Act
13 of March 16, 1934 (16 U.S.C. 718d) is amended—

14 (1) by redesignating subsections (a) through (c)
15 as paragraphs (1) through (3), respectively, and in-
16 denting appropriately;

17 (2) by striking “SEC. 4. All moneys” and all
18 that follows through “expended:” and inserting the
19 following:

20 **“SEC. 4. EXPENDITURE OF FUNDS.**

21 “(a) IN GENERAL.—All funds received for stamps
22 sold under this Act shall be—

23 “(1) accounted for by the Postal Service or the
24 Secretary, as appropriate;

1 “(2) paid into the Treasury of the United
2 States; and

3 “(3) reserved and set aside as a special fund,
4 to be known as the ‘Migratory Bird Conservation
5 Fund’ (referred to in this section as the ‘fund’), to
6 be administered by the Secretary.

7 “(b) USE OF FUNDS.—All funds received into the
8 fund are appropriated for the following purposes, to re-
9 main available until expended:”;

10 (3) in subsection (b)(1) (as redesignated by
11 paragraphs (1) and (2))—

12 (A) by striking “(1) So much” and all that
13 follows through “for engraving” and inserting
14 the following:

15 “(1) ADVANCE ALLOTMENTS.—So much as may
16 be necessary shall be used by the Secretary for en-
17 graving”;

18 (B) by striking “migratory bird hunting
19 stamps” and inserting “Migratory Bird Hunt-
20 ing and Conservation Stamps”;

21 (C) by striking “personal” and inserting
22 “personnel”; and

23 (D) by striking “postal service” and insert-
24 ing “Postal Service”;

25 (4) in subsection (b)(2) (as so redesignated)—

1 (A) by striking “(2) Except as provided in
2 subsections (c) and (d) of this section” and in-
3 serting the following:

4 “(2) AREAS FOR REFUGES.—Except as pro-
5 vided in paragraph (3) and subsection (c)”;

6 (B) by inserting “(16 U.S.C. 715 et seq.)”
7 after “Conservation Act”;

8 (5) in subsection (b)(3) (as so redesignated)—

9 (A) by striking “(3) The Secretary of the
10 Interior is authorized to utilize funds made
11 available under subsection (b) of this section for
12 the purposes of such subsection, and such other
13 funds as may be appropriated for the purposes
14 of such subsection, or of this subsection,” and
15 inserting the following:

16 “(3) CONDITIONS ON USE OF FUNDS.—The
17 Secretary may use funds made available under para-
18 graph (2) for the purposes of that paragraph, and
19 such other funds as may be appropriated for the
20 purposes of that paragraph or this paragraph,”; and

21 (B) in the second sentence—

22 (i) by inserting “(16 U.S.C. 715 et
23 seq.)” after “Conservation Act”; and

24 (ii) by striking “this subsection” and
25 inserting “this paragraph”;

1 (6) by redesignating subsection (d) as sub-
2 section (c); and

3 (7) in subsection (c) (as so redesignated)—

4 (A) in paragraph (1)—

5 (i) by striking “(1) The Secretary of
6 the Interior may utilize” and inserting the
7 following:

8 “(1) IN GENERAL.—The Secretary may use”;

9 and

10 (ii) by striking “migratory bird hunt-
11 ing and conservation stamps” and insert-
12 ing “Migratory Bird Hunting and Con-
13 servation Stamps”; and

14 (B) in paragraph (2), by striking “(2) The
15 Secretary of the Interior” and inserting the fol-
16 lowing:

17 “(2) COMPONENTS OF REPORT.—The Sec-
18 retary”.

19 (f) LOANS AND TRANSFERS, ALTERATION, AND RE-
20 PRODUCTION OF STAMPS.—Section 5 of the Act of March
21 16, 1934 (16 U.S.C. 718e) is amended—

22 (1) by striking “SEC. 5. (a) That no person to
23 whom has been sold a migratory-bird hunting
24 stamp,” and inserting the following:

1 **“SEC. 5. LOANS AND TRANSFERS, ALTERATION, AND RE-**
 2 **PRODUCTION OF STAMPS.**

3 “(a) IN GENERAL.—No person to whom has been
 4 sold a Migratory Bird Hunting and Conservation Stamp,”;

5 (2) in subsection (b), by striking “(b)” and all
 6 that follows through “shall alter” and inserting the
 7 following:

8 “(b) ALTERATION.—Except as provided in clauses (i)
 9 and (ii) of section 504(l)(D) of title 18, United States
 10 Code, no person shall alter”;

11 (3) in subsection (c)—

12 (A) by striking “(c) Notwithstanding” and
 13 inserting the following:

14 “(c) REPRODUCTION.—Notwithstanding”;

15 (B) by striking “Secretary of the Interior”
 16 each place it appears and inserting “Secretary”;
 17 and

18 (C) in the matter following paragraph
 19 (2)—

20 (i) by striking “migratory bird hunt-
 21 ing stamps” and inserting “Migratory Bird
 22 Hunting and Conservation Stamps”; and

23 (ii) by striking “shall be paid into the
 24 migratory bird conservation fund” and in-
 25 serting “shall be paid, after deducting ex-

1 penses for marketing, into the Migratory
2 Bird Conservation Fund”.

3 (g) ENFORCEMENT.—Section 6 of the Act of March
4 16, 1934 (16 U.S.C. 718f) is amended—

5 (1) by striking “SEC. 6. For the efficient” and
6 inserting the following:

7 **“SEC. 6. ENFORCEMENT.**

8 “For the efficient”; and

9 (2) in the first sentence—

10 (A) by striking “Secretary of Agriculture”
11 and inserting “Secretary”;

12 (B) by striking “Department of Agri-
13 culture” and inserting “Department of the In-
14 terior”; and

15 (C) by inserting “(16 U.S.C. 703 et seq.)”
16 after “Treaty Act”.

17 (h) VIOLATIONS; COOPERATION; USE OF CONTEST
18 FEES; DEFINITIONS; SHORT TITLE.—The Act of March
19 16, 1934 is amended by striking sections 7 through 10
20 (16 U.S.C. 718g–718j) and inserting the following:

21 **“SEC. 7. VIOLATIONS.**

22 “Any person that violates or fails to comply with any
23 provision of this Act (including a regulation promulgated
24 under this Act) shall be subject to the penalties described

1 in section 6 of the Migratory Bird Treaty Act (16 U.S.C.
2 707).

3 **“SEC. 8. COOPERATION.**

4 “The Secretary is authorized to cooperate with the
5 States and the territories and possessions of the United
6 States in the enforcement of this Act.

7 **“SEC. 9. USE OF CONTEST FEES.**

8 “Notwithstanding any other provision of law, funds
9 received by the United States Fish and Wildlife Service
10 in the form of fees for entering any Migratory Bird Hunt-
11 ing and Conservation Stamp contest shall be credited—

12 “(1) first, to the appropriation account from
13 which expenditures for the administration of the
14 contest are made; and

15 “(2) second, to the extent any funds remain, to
16 the Migratory Bird Conservation Fund.

17 **“SEC. 10. DEFINITIONS.**

18 “(a) IN GENERAL.—In this Act, the terms defined
19 in the Migratory Bird Conservation Act (16 U.S.C. 715
20 et seq.) and the Migratory Bird Treaty Act (16 U.S.C.
21 703 et seq.) have the meanings given those terms in those
22 Acts.

23 “(b) OTHER DEFINITIONS.—In this Act:

1 “(1) HUNTING YEAR.—The term ‘hunting year’
2 means the 1-year period beginning on July 1 of each
3 year.

4 “(2) MIGRATORY WATERFOWL.—The term ‘mi-
5 gratory waterfowl’ means the species enumerated in
6 paragraph (a) of subdivision 1 of article I of the
7 Convention between the United States and Great
8 Britain for the Protection of Migratory Birds, signed
9 at Washington on August 16, 1916 (USTS 628) (16
10 U.S.C. 703 et seq.).

11 “(3) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of the Interior.

13 “(4) STATE.—The term ‘State’ means—

14 “(A) a State;

15 “(B) the District of Columbia;

16 “(C) the Commonwealth of Puerto Rico;

17 “(D) Guam;

18 “(E) American Samoa;

19 “(F) the Commonwealth of the Northern
20 Mariana Islands;

21 “(G) the Federated States of Micronesia;

22 “(H) the Republic of the Marshall Islands;

23 “(I) the Republic of Palau; and

24 “(J) the United States Virgin Islands.

25 “(5) TAKE.—The term ‘take’ means—

1 “(A) to pursue, hunt, shoot, capture, col-
2 lect, or kill; or

3 “(B) to attempt to pursue, hunt, shoot,
4 capture, collect, or kill.

5 **“SEC. 11. SHORT TITLE.**

6 “‘This Act may be cited as the ‘Migratory Bird Hunt-
7 ing and Conservation Stamp Act’.”.

8 (i) DISPOSITION OF UNSOLD STAMPS.—Section 3 of
9 the Act of July 30, 1956 (Public Law 84–838; 70 Stat.
10 722), is amended—

11 (1) by redesignating subsections (b) and (c) as
12 subsections (c) and (d), respectively; and

13 (2) in subsection (a) (16 U.S.C. 718b–1)—

14 (A) by striking “SEC. 3. (a) Hereafter”
15 and all that follows through the end of the first
16 sentence and inserting the following:

17 **“SEC. 3. DISPOSITION OF UNSOLD STAMPS.**

18 “(a) DISPOSITION OF UNSOLD STAMPS.—A Migra-
19 tory Bird Hunting and Conservation Stamp shall be trans-
20 ferred to the Postal Service or the Secretary of the Inte-
21 rior (or a designee) for sale to a collector if the stamp—

22 “(1) has not been sold by the end of the hunt-
23 ing year (as that term is defined in section 10 of the
24 Migratory Bird Hunting and Conservation Stamp
25 Act) during which the stamp is issued; and

