

109TH CONGRESS  
1ST SESSION

# S. 421

To reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mr. LOTT (for himself and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To reauthorize programs relating to sport fishing and recreational boating safety, 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.**

4 This Act may be cited as the “Sportfishing and Rec-  
5 reational Boating Safety Act of 2005”.

1 **TITLE I—FEDERAL AID IN SPORT**  
2 **FISH RESTORATION ACT**  
3 **AMENDMENTS**

4 **SEC. 101. AMENDMENT OF FEDERAL AID IN SPORT FISH**  
5 **RESTORATION ACT.**

6 Except as otherwise expressly provided, whenever in  
7 this title an amendment or repeal is expressed in terms  
8 of an amendment to, or repeal of, a section or other provi-  
9 sion, the reference shall be considered to be made to a  
10 section or other provision of the Dingell-Johnson Sport  
11 Fish Restoration Act (16 U.S.C. 777 et seq.).

12 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) **IN GENERAL.**—Section 3 (16 U.S.C. 777b) is  
14 amended—

15 (1) by striking “the succeeding fiscal year.” in  
16 the third sentence and inserting “succeeding fiscal  
17 years.”; and

18 (2) by striking “in carrying on the research  
19 program of the Fish and Wildlife Service in respect  
20 to fish of material value for sport and recreation.”  
21 and inserting “to supplement the 57 percent of the  
22 balance of each annual appropriation to be appor-  
23 tioned among the States, as provided for in section  
24 4(c).”.

25 (b) **CONFORMING AMENDMENTS.**—

1           (1) IN GENERAL.—Section 3 (16 U.S.C. 777b)  
2 is amended in the first sentence—

3           (A) by striking “Sport Fish Restoration  
4 Account” and inserting “Sport Fish Restora-  
5 tion and Boating Trust Fund”; and

6           (B) by striking “that Account” and insert-  
7 ing “that Trust Fund, except as provided in  
8 section 9504(e) of the Internal Revenue Code of  
9 1986”.

10          (2) EFFECTIVE DATE.—The amendments made  
11 by paragraph (1) take effect on October 1, 2005.

12 **SEC. 103. DIVISION OF ANNUAL APPROPRIATIONS.**

13 Section 4 (16 U.S.C. 777c) is amended—

14          (1) by striking subsections (a) through (c) and  
15 redesignating subsections (d), (e), (f), and (g) as  
16 subsections (b), (c), (d), and (e), respectively;

17          (2) by inserting before subsection (b), as redес-  
18 igned by paragraph (1), the following:

19          “(a) IN GENERAL.—For fiscal years 2006 through  
20 2020, the balance of each annual appropriation made in  
21 accordance with the provisions of section 3 remaining  
22 after the distributions for administrative expenses and  
23 other purposes under subsection (b) and for multistate  
24 conservation grants under section 14 shall be distributed  
25 as follows:

1           “(1) COASTAL WETLANDS.—18.5 percent to the  
2 Secretary of the Interior for distribution as provided  
3 in the Coastal Wetlands Planning, Protection, and  
4 Restoration Act (16 U.S.C. 3951 et seq.).

5           “(2) BOATING SAFETY.—18.5 percent to the  
6 Secretary of Homeland Security for State rec-  
7 reational boating safety programs under section  
8 13106 of title 46, United States Code.

9           “(3) CLEAN VESSEL ACT.—2.0 percent to the  
10 Secretary of the Interior for qualified projects under  
11 section 5604(c) of the Clean Vessel Act of 1992 (33  
12 U.S.C. 1322 note).

13           “(4) BOATING INFRASTRUCTURE.—2.0 percent  
14 to the Secretary of the Interior for obligation for  
15 qualified projects under section 7404(d) of the  
16 Sportfishing and Boating Safety Act of 1998 (16  
17 U.S.C. 777g–1(d)).

18           “(5) NATIONAL OUTREACH AND COMMUNICA-  
19 TIONS.—2.0 percent to the Secretary of the Interior  
20 for the National Outreach and Communications Pro-  
21 gram under section 8(d) of this Act. Such amounts  
22 shall remain available for 3 fiscal years, after which  
23 any portion thereof that is unobligated by the Sec-  
24 retary for that program may be expended by the  
25 Secretary under subsection (e) of this section.”;

1           (3) by striking (b)(1)(A), as redesignated by  
2 paragraph (1), and inserting the following:

3           “(A) SET-ASIDE.—For a fiscal year after  
4 fiscal year 2005, the Secretary of the Interior  
5 may use no more than the amount specified in  
6 subparagraph (B) for the fiscal year for ex-  
7 penses of administration incurred in the imple-  
8 mentation of this Act, in accordance with this  
9 section and section 9. The amount specified in  
10 subparagraph (B) for a fiscal year may not be  
11 included in the amount of the annual appro-  
12 priation distributed under subsection (a) for the  
13 fiscal year.”;

14           (4) by striking “Secretary of the Interior, after  
15 the distribution, transfer, use, and deduction under  
16 subsections (a), (b), (c), and (d), respectively, and  
17 after deducting amounts used for grants under sec-  
18 tion 14, shall apportion the remainder” in subsection  
19 (c), as redesignated by paragraph (1), and inserting  
20 “Secretary, for a fiscal year after fiscal year 2005,  
21 after the distribution, transfer, use and deduction  
22 under subsection (b), and after deducting amounts  
23 used for grants under section 14 of this title, shall  
24 apportion 57 percent of the balance”;

1           (5) by striking “per centum” each place it ap-  
2           pears in subsection (c), as redesignated by para-  
3           graph (1), and inserting “percent”;

4           (6) by striking “subsections (a), (b)(3)(A),  
5           (b)(3)(B), and (c)” in paragraph (1) of subsection  
6           (e), as redesignated by paragraph (1), and inserting  
7           “paragraphs (1), (3), (4), and (5) of subsection  
8           (a)”; and

9           (7) by adding at the end the following:

10          “(f) TRANSFER OF CERTAIN FUNDS.—Amounts  
11          available under paragraphs (3) and (4) of subsection (a)  
12          that are unobligated by the Secretary of the Interior after  
13          3 fiscal years shall be transferred to the Secretary of  
14          Homeland Security and shall be expended for State rec-  
15          reational boating safety programs under section 13106(a)  
16          of title 46, United States Code.”.

17          **SEC. 104. MAINTENANCE OF PROJECTS.**

18          Section 8 (16 U.S.C. 777g) is amended—

19               (1) by striking “in carrying out the research  
20               program of the Fish and Wildlife Service in respect  
21               to fish of material value for sport or recreation.” in  
22               subsection (b)(2) and inserting “to supplement the  
23               57 percent of the balance of each annual appropria-  
24               tion to be apportioned among the States under sec-  
25               tion 4(c).”; and

1           (2) by striking “subsection (c) or (d)” in sub-  
2           section (d)(3) and inserting “subsection (a)(5) or  
3           subsection (b)”.

4 **SEC. 105. BOATING INFRASTRUCTURE.**

5           Section 7404(d)(1) of the Sportfishing and Boating  
6 Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended  
7 by striking “section 4(b)(3)(B) of the Act entitled ‘An Act  
8 to provide that the United States shall aid the States in  
9 fish restoration and management projects, and for other  
10 purposes,’ approved August 9, 1950, as amended by this  
11 Act,” and inserting “section 4(a)(4) of the Dingell-John-  
12 son Sport Fish Restoration Act”.

13 **SEC. 106. REQUIREMENTS AND RESTRICTIONS CON-**  
14 **CERNING USE OF AMOUNTS FOR EXPENSES**  
15 **FOR ADMINISTRATION.**

16           Section 9 (16 U.S.C. 777h) is amended—

17           (1) by striking “section 4(d)(1)” in subsection  
18           (a) and inserting “section 4(b)”; and

19           (2) by striking “section 4(d)(1)” in subsection  
20           (b)(1) and inserting “section 4(b)”.

1 **SEC. 107. PAYMENTS OF FUNDS TO AND COOPERATION**  
 2 **WITH PUERTO RICO, THE DISTRICT OF CO-**  
 3 **LUMBIA, GUAM, AMERICAN SAMOA, COMMON-**  
 4 **WEALTH OF THE NORTHERN MARIANA IS-**  
 5 **LANDS, AND VIRGIN ISLANDS.**

6 Section 12 (16 U.S.C. 777k) is amended by striking  
 7 “in carrying on the research program of the Fish and  
 8 Wildlife Service in respect to fish of material value for  
 9 sport or recreation.” and inserting “to supplement the 57  
 10 percent of the balance of each annual appropriation to be  
 11 apportioned among the States under section 4(b) of this  
 12 Act.”.

13 **SEC. 108. MULTISTATE CONSERVATION GRANT PROGRAM.**

14 Section 14 (16 U.S.C. 777m) is amended—

15 (1) by striking so much of subsection (a) as  
 16 precedes paragraph (2) and inserting the following:  
 17 “(a) IN GENERAL.—

18 “(1) AMOUNT FOR GRANTS.—For each fiscal  
 19 year after fiscal year 2005, not more than  
 20 \$3,000,000 of each annual appropriation made in  
 21 accordance with the provisions of section 3 shall be  
 22 distributed to the Secretary of the Interior for mak-  
 23 ing multistate conservation project grants in accord-  
 24 ance with this section.”;

1           (2) by striking “section 4(e)” each place it ap-  
 2           pears in subsection (a)(2)(B) and inserting “section  
 3           4(c)”; and

4           (3) by striking “Of the balance of each annual  
 5           appropriation made under section 3 remaining after  
 6           the distribution and use under subsections (a), (b),  
 7           and (c) of section 4 for each fiscal year and after  
 8           deducting amounts used for grants under subsection  
 9           (a)—” in subsection (e) and inserting “Of amounts  
 10          made available under section 4(b) for each fiscal  
 11          year—”.

12           **TITLE II—AMENDMENTS TO THE**  
 13           **TRUST FUND CODE**

14           **SEC. 201. TRANSFERS OF MOTORBOAT FUEL TAXES FROM**  
 15                           **THE HIGHWAY TRUST FUND TO THE SPORT**  
 16                           **FISH RESTORATION AND BOATING TRUST**  
 17                           **FUND FOR AUTHORIZED EXPENDITURES.**

18           (a) IN GENERAL.—Paragraph (4) of section 9503(c)  
 19           of the Internal Revenue Code of 1986 (relating to expendi-  
 20           tures from Highway Trust Fund) is amended—

21                   (1) by striking so much of that paragraph as  
 22                   precedes subparagraph (C) and inserting the fol-  
 23                   lowing:

24                           “(4) TRANSFERS FROM THE TRUST FUND FOR  
 25                           MOTORBOAT FUEL TAXES.—

1           “(A) TRANSFER TO LAND AND WATER  
2 CONSERVATION FUND.—

3           “(i) IN GENERAL.—The Secretary  
4 shall pay from time to time from the High-  
5 way Trust Fund into the land and water  
6 conservation fund provided for in title I of  
7 the Land and Water Conservation Fund  
8 Act of 1965 amounts (as determined by  
9 the Secretary) equivalent to the motorboat  
10 fuel taxes received on or after October 1,  
11 2005, and before October 1, 2010.

12           “(ii) LIMITATION.—The aggregate  
13 amount transferred under this subpara-  
14 graph during any fiscal year shall not ex-  
15 ceed \$1,000,000.

16           “(B) EXCESS FUNDS TRANSFERRED TO  
17 SPORT FISH RESTORATION AND BOATING TRUST  
18 FUND.—Any amounts received in the Highway  
19 Trust Fund—

20           “(i) which are attributable to motor-  
21 boat fuel taxes, and

22           “(ii) which are not transferred from  
23 the Highway Trust Fund under subpara-  
24 graph (A), shall be transferred by the Sec-  
25 retary from the Highway Trust Fund into

1           the Sport Fish Restoration and Boating  
2           Trust Fund.”, and

3           (2) by striking subparagraph (C) and redesignig-  
4           nating subparagraphs (D) and (E) as subparagraphs  
5           (C) and (D), respectively.

6           (b) MERGING OF ACCOUNTS.—

7           (1) IN GENERAL.—Subsection (a) of section  
8           9504 of the Internal Revenue Code of 1986 is  
9           amended to read as follows:

10          “(a) CREATION OF TRUST FUND.—There is hereby  
11          established in the Treasury of the United States a trust  
12          fund to be known as the ‘Sport Fish Restoration and  
13          Boating Trust Fund’. Such Trust Fund shall consist of  
14          such amounts as may be appropriated, credited, or paid  
15          to it as provided in this section, section 9503(c)(4), section  
16          9503(c)(5), or section 9602(b).”.

17          (2) CONFORMING AMENDMENTS.—

18                 (A) Subsection (b) of section 9504 of such  
19          Code is amended—

20                         (i) by striking “ACCOUNT” in the  
21                         heading and inserting “AND BOATING  
22                         TRUST FUND”,

23                         (ii) by striking “Account” both places  
24                         it appears in paragraphs (1) and (2) and  
25                         inserting “and Boating Trust Fund”, and

1 (iii) by striking “ACCOUNT” both  
2 places it appears in the headings for para-  
3 graphs (1) and (2) and inserting “AND  
4 BOATING TRUST FUND”.

5 (B) Paragraph (2) of section 9504(b) of  
6 such Code is amended by striking “Surface  
7 Transportation Extension Act of 2004, Part V”  
8 each place it appears and inserting  
9 “Sportfishing and Recreational Boating Safety  
10 Act of 2005”.

11 (C) The last sentence of paragraph (2) of  
12 section 9504(b) of such Code is amended by  
13 striking “subparagraph (B)” and inserting  
14 “subparagraph (C)”.

15 (D) Subsection (d) of section 9504 of such  
16 Code is amended—

17 (i) by striking “AQUATIC RE-  
18 SOURCES” in the heading,

19 (ii) by striking “any Account in the  
20 Aquatic Resources” in paragraph (1) and  
21 inserting “the Sports Fish Restoration and  
22 Boating”, and

23 (iii) by striking “any such Account”  
24 in paragraph (1) and inserting “such  
25 Trust Fund”.

1           (E) Paragraph (2) of section 9504(d) is  
2 amended by striking “June 1, 2005” and in-  
3 serting “October 1, 2020”.

4           (F) Subsection (e) of section 9504 of such  
5 Code is amended by striking “Boat Safety Ac-  
6 count and Sport Fish Restoration Account” and  
7 inserting “Sport Fish Restoration and Boating  
8 Trust Fund”.

9           (G) Section 9504 of such Code is amended  
10 by striking “**AQUATIC RESOURCES**” in the  
11 heading and inserting “**SPORT FISH RES-**  
12 **TORATION AND BOATING**”.

13           (H) The item relating to section 9504 in  
14 the table of sections for subchapter A of chap-  
15 ter 98 of such Code is amended by striking  
16 “aquatic resources” and inserting “sport fish  
17 restoration and boating”.

18           (I) Paragraph (5) of section 9503(c) of  
19 such Code is amended by striking “Account in  
20 the Aquatic Resources” in subparagraph (A)  
21 and inserting “and Boating”.

22           (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on October 1, 2005.

1 **SEC. 202. EXPENDITURES FROM THE BOAT SAFETY AC-**  
 2 **COUNT.**

3 Section 9504(c) of the Internal Revenue Code of  
 4 1986 is amended to read as follows:

5 “(c) EXPENDITURES FROM BOAT SAFETY AC-  
 6 COUNT.—Amounts in the Boat Safety Account on the date  
 7 of the enactment of the Sport Fishing and Recreational  
 8 Boating Safety Act, and amounts thereafter credited to  
 9 the Account under section 9602(b), shall be available,  
 10 without further appropriation, in the following amounts:

11 “(1) In fiscal year 2006, \$28,155,000 shall be  
 12 distributed—

13 “(A) under section 4 of the Act entitled  
 14 ‘An Act to provide that the United States shall  
 15 aid the States in fish restoration and manage-  
 16 ment projects, and for other purposes,’ ap-  
 17 proved August 9, 1950 (16 U.S.C. 777e) in the  
 18 following manner:

19 “(i) \$11,200,000 to be added to funds  
 20 available under subsection (a)(2) of that  
 21 section,

22 “(ii) \$1,245,000 to be added to funds  
 23 available under subsection (a)(3) of that  
 24 section,

1           “(iii) \$1,245,000 to be added to funds  
2 available under subsection (a)(4) of that  
3 section,

4           “(iv) \$1,245,000 to be added to funds  
5 available under subsection (a)(5) of that  
6 section, and

7           “(v) \$12,800,000 to be added to  
8 funds available under subsection (b) of  
9 that section, and

10          “(B) under section 14 of that Act (16  
11 U.S.C. 777m), \$420,000, to be added to funds  
12 available under subsection (a)(1) of that sec-  
13 tion.

14          “(2) In fiscal year 2007, \$22,419,000 shall be  
15 distributed—

16           “(A) under section 4 of that Act (16  
17 U.S.C. 777e) in the following manner:

18           “(i) \$8,075,000 to be added to funds  
19 available under subsection (a)(2) of that  
20 section,

21           “(ii) \$713,000 to be added to funds  
22 available under subsection (a)(3) of that  
23 section,

1           “(iii) \$713,000 to be added to funds  
2 available under subsection (a)(4) of that  
3 section,

4           “(iv) \$713,000 to be added to funds  
5 available under subsection (a)(5) of that  
6 section, and

7           “(v) \$11,925,000 to be added to  
8 funds available under subsection (b) of  
9 that Act, and

10          “(B) under section 14 of that Act (16  
11 U.S.C. 777m), \$280,000 to be added to funds  
12 available under subsection (a)(1) of that sec-  
13 tion.

14          “(3) In fiscal year 2008, \$17,139,000 shall be  
15 distributed—

16           “(A) under section 4 of that Act (16  
17 U.S.C. 777e) in the following manner:

18           “(i) \$6,800,000 to be added to funds  
19 available under subsection (a)(2) of that  
20 section,

21           “(ii) \$333,000 to be added to funds  
22 available under subsection (a)(3) of that  
23 section,

1           “(iii) \$333,000 to be added to funds  
2           available under subsection (a)(4) of that  
3           section,

4           “(iv) \$333,000 to be added to funds  
5           available under subsection (a)(5) of that  
6           section, and

7           “(v) \$9,200,000 to be added to funds  
8           available under subsection (b) of that sec-  
9           tion, and

10          “(B) under section 14 of that Act (16  
11          U.S.C. 777m), \$140,000, to be added to funds  
12          available under subsection (a)(1) of that sec-  
13          tion.

14          “(4) In fiscal year 2009, \$12,287,000 shall be  
15          distributed—

16          “(A) under section 4 of that Act (16  
17          U.S.C. 777e) in the following manner:

18               “(i) \$5,100,000 to be added to funds  
19               available under subsection (a)(2) of that  
20               section,

21               “(ii) \$48,000 to be added to funds  
22               available under subsection (a)(3) of that  
23               section,

1 “(iii) \$48,000 to be added to funds  
2 available under subsection (a)(4) of that  
3 section,

4 “(iv) \$48,000 to be added to funds  
5 available under subsection (a)(5) of that  
6 section, and

7 “(v) \$6,900,000 to be added to funds  
8 available under subsection (b) of that sec-  
9 tion, and

10 “(B) under section 14 of that Act (16  
11 U.S.C. 777m), \$143,000, to be added to funds  
12 available under subsection (a)(1) of that sec-  
13 tion.

14 “(5) In fiscal year 2010, all remaining funds in  
15 the Account shall be distributed under section 4 of  
16 that Act (16 U.S.C. 777c) in the following manner:

17 “(A) one-third to be added to funds avail-  
18 able under subsection (b), and

19 “(B) two-thirds to be added to funds avail-  
20 able under subsection (h).”.

21 **TITLE III—CLEAN VESSEL ACT**  
22 **AMENDMENTS**

23 **SEC. 301. GRANT PROGRAM.**

24 Section 5604(c)(2) of the Clean Vessel Act of 1992  
25 (33 U.S.C. 1322 note) is amended—

- 1 (1) by striking subparagraph (A); and  
 2 (2) by redesignating subparagraphs (B) and  
 3 (C) as subparagraphs (A) and (B), respectively.

4 **TITLE IV—RECREATIONAL BOAT-**  
 5 **ING SAFETY PROGRAM**  
 6 **AMENDMENTS**

7 **SEC. 401. STATE MATCHING FUNDS REQUIREMENT.**

8 Section 13103(b) of title 46, United States Code, is  
 9 amended by striking “one-half” and inserting “75 per-  
 10 cent”.

11 **SEC. 402. AVAILABILITY OF ALLOCATIONS.**

12 Section 13104(a) of title 46, United States Code, is  
 13 amended—

14 (1) by striking “2 years” in paragraph (1) and  
 15 inserting “3 years”; and

16 (2) by striking “2-year” in paragraph (2) and  
 17 inserting “3-year”.

18 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR**  
 19 **STATE RECREATIONAL BOATING SAFETY**  
 20 **PROGRAMS.**

21 Section 13106 of title 46, United States Code, is  
 22 amended—

23 (1) in subsection (a)(1), by striking “section  
 24 4(b) of the Act of August 9, 1950” and inserting

1 “subsections (a)(2) and (f) of section 4 of the Din-  
2 gell-Johnson Sport Fish Restoration Act”; and

3 (2) in subsection (c)(1)—

4 (A) by striking “Secretary of Transpor-  
5 tation under paragraph (5)(C) of section 4(b)”  
6 and inserting “Secretary under subsections  
7 (a)(2) and (f) of section 4”; and

8 (B) by striking “\$1,333,336” and insert-  
9 ing “not less than \$2,083,333”.

10 **SEC. 404. MAINTENANCE OF EFFORT FOR STATE REC-**  
11 **REATIONAL BOATING SAFETY PROGRAMS.**

12 (a) IN GENERAL.—Chapter 131 of title 46, United  
13 States Code, is amended by inserting after section 13106  
14 the following:

15 **“§ 13107. Maintenance of effort for State recreational**  
16 **boating safety programs**

17 “(a) IN GENERAL.—The amount payable to a State  
18 for a fiscal year from an allocation under section 13103  
19 of this chapter shall be reduced if the usual amounts ex-  
20 pended by the State for the State’s recreational boating  
21 safety program, as determined under section 13105 of this  
22 chapter, for the previous fiscal year is less than the aver-  
23 age of the total of such expenditures for the 3 fiscal years  
24 immediately preceding that previous fiscal year. The re-  
25 duction shall be proportionate, as a percentage, to the

1 amount by which the level of State expenditures for such  
2 previous fiscal year is less than the average of the total  
3 of such expenditures for the 3 fiscal years immediately  
4 preceding that previous fiscal year.

5       “(b) REDUCTION OF THRESHOLD.—If the total  
6 amount available for allocation and distribution under this  
7 chapter in a fiscal year for all participating State rec-  
8 reational boating safety programs is less than such  
9 amount for the preceding fiscal year, the level of State  
10 expenditures required under subsection (a) of this section  
11 for the preceding fiscal year shall be decreased proportion-  
12 ately.

13       “(c) WAIVER.—

14               “(1) IN GENERAL.—Upon the written request  
15 of a State, the Secretary may waive the provisions  
16 of subsection (a) of this section for 1 fiscal year if  
17 the Secretary determines that a reduction in expend-  
18 itures for the State’s recreational boating safety pro-  
19 gram is attributable to a non-selective reduction in  
20 expenditures for the programs of all Executive  
21 branch agencies of the State government, or for  
22 other reasons if the State demonstrates to the Sec-  
23 retary’s satisfaction that such waiver is warranted.

1           “(2) 30-DAY DECISION.—The Secretary shall  
2           approve or deny a request for a waiver not later  
3           than 30 days after the date the request is received.”.

4           (b) CONFORMING AMENDMENT.—The chapter anal-  
5           ysis for chapter 131 of title 46, United States Code, is  
6           amended by inserting after the item relating to section  
7           13106 the following:

          “13107. Maintenance of effort for State recreational boating safety programs.”.

○