

## Calendar No. 497

105TH CONGRESS }  
2d Session }

SENATE

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### MIGRATORY BIRD HUNTING AND CONSERVATION STAMP PROMOTION ACT OF 1998

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JULY 27, 1998.—Ordered to be printed

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Mr. CHAFEE, from the Committee on Environment and Public  
Works, submitted the following

### REPORT

[To accompany S. 2319]

The Committee on Environment and Public Works, to which was referred a bill (S. 2319), the Migratory Bird Hunting and Conservation Stamp Promotion Act of 1998, having considered the same, reports favorably thereon and recommends that the bill do pass.

#### GENERAL STATEMENT

Early America had an abundance of marshes and wetlands that provided a home for an astonishing number of wild ducks, geese, swans, brants and other waterfowl. As more and more settlers arrived on America's shores much of our critical wildlife habitat was leveled, plowed or dammed. In addition, frequent bouts of extreme weather took its toll. Degradation of waterfowl habitat continued throughout the 19th and into the 20th century. By the late 1920's, hunters, conservationists and government officials became concerned at the alarming decrease of waterfowl species.

To address the problem, Congress passed the Migratory Bird Conservation Act of 1929. The Act authorized the Department of the Agriculture to acquire and preserve wetlands as waterfowl habitat. Although the Act was a step in the right direction, it did not provide a permanent fund for the purchase of wetlands and waterfowl habitat.

To rectify this situation, Jay "Ding" Darling, political cartoonist and chief of the Bureau of Biological Survey, conceived of a unique idea to raise funds. Ding Darling thought that stamps sold to waterfowl hunters would generate funds to preserve the habitat.

Based on Ding Darling's idea, Congress passed and President Roosevelt signed into law the Migratory Bird Hunting Stamp Act on March 16, 1934. More commonly known as the Duck Stamp Act, it mandated that all waterfowl hunters 16 years of age and over must annually purchase and carry a Federal Duck Stamp. The revenue generated from duck stamp sales is earmarked for the Migratory Bird Conservation Fund to buy or lease waterfowl sanctuaries.

The first duck stamp was designed by Ding Darling at President Roosevelt's request, and depicts two mallards about to land on a marsh pond. Since 1949, a contest used to determine what image will be depicted on the stamp. Winners receive no compensation for their work except a pane of their stamps.

For the past ten years stamp sales have been holding steady at approximately 1.4 million stamps per year. On average, this generates \$21 million per year, with last year's sales approaching \$23.7 million. Approximately ninety-eight percent of the revenue generated goes into the Migratory Bird Conservation Fund. Many of the nation's wildlife refuges have been purchased in whole or part with duck stamp funds.

#### OBJECTIVES OF THE LEGISLATION

Although the Duck Stamp program has been extremely successful, the Act does not provide funds to allow the stamp to be promoted through marketing and advertising. In order to increase duck stamp sales a budget for advertising and promotion is needed. This legislation would allow marketing costs to be deducted from the revenue received through the sale of duck stamps.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Section 1 designates the bill as the "Migratory Bird Hunting and Conservation Stamp Promotion Act of 1998."

##### *Section 2. Promotion of Stamp Sales*

Section 2 authorizes the Secretary of the Interior to use up to \$1 million a year in Duck Stamp receipts until 2003 to market Duck Stamps. The marketing plan has to be approved annually by the Migratory Bird Conservation Commission. The Secretary of the Interior is required to include in the Migratory Bird Conservation Commission's annual report to Congress a statement of all expenditures relating to this Act.

In addition, this section makes technical changes to amend the short title and conform existing law.

#### REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill. The reported bill will have no regulatory impact. This bill will not have any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 2319 would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments. All of its governmental directives are imposed on Federal agencies. The bill does not directly impose any private sector mandates.

## LEGISLATIVE HISTORY

On July 16, 1998, Senator Chafee introduced (S. 2319), the Migratory Bird Hunting and Conservation Stamp Tax Promotion Act of 1998. No hearings were held on this bill. On Wednesday, July 22, 1998, the Committee on Environment and Public Works held a business meeting to consider this bill. S. 2319 was favorably reported out of the committee by voice vote.

## COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 24, 1998.*

Hon. JOHN H. CHAFEE, *Chairman,*  
*Committee on Environment and Public Works,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2319, the Migratory Bird Hunting and Conservation Stamp Promotion Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

JUNE E. O'NEILL,  
*Director.*

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 CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 2319, Migratory Bird Hunting and Conservation Stamp Promotion Act of 1998, as ordered reported by the Senate Committee on Environment and Public Works on July 22, 1998.*

S. 2319 would authorize the Secretary of the Interior to use a portion of annual revenues derived from duck stamps (which are a form of hunting permit) for marketing purposes. Specifically, the bill would allow the U.S. Fish and Wildlife Service (USFWS) to use up to \$1 million of such revenues each year through 2003 for the purpose of promoting the stamps. Under existing law, all of the revenues earned from duck stamps each year (net of sales costs) are deposited in the migratory bird conservation fund, from which

they are available without further appropriation to acquire and otherwise protect wetlands.

Enacting S. 2319 could affect governmental receipts by increasing amounts earned from the sale of Federal duck stamps. If such receipts increase, direct spending also would increase because the additional receipts would be deposited in the migratory bird conservation fund, from which they would become available for spending without further appropriation. We do not expect these changes to significantly affect the migratory bird program, which earns and spends about \$20 million annually. Direct spending may also be affected because using the \$1 million of existing duck stamp receipts for marketing purposes could change the timing of some expenditures from the fund. As a result of these effects, pay-as-you-go procedures would apply, but CBO estimates that all changes would be small and would offset each other over time. We estimate that other provisions, which would amend certain reporting requirements and make technical amendments to over environmental acts, would have little or no impact on Federal spending.

S. 2319 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 is Deborah Reis, who can be reached at 226-2860. This estimate was approved by Robert A Sunshine, Deputy Assistant Director for Budget Analysis

#### CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

#### UNITED STATES CODE

#### TITLE 16—CONSERVATION

#### SUBCHAPTER I—CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

Sec. 670a. \* \* \*

Sec. 670b. MIGRATORY GAME BIRDS; PERMITS; FEES; STAMP ACT AND STATE LAW REQUIREMENTS.—The Secretary of Defense in cooperation with the Secretary of the Interior and the appropriate State agency is authorized to carry out a program for the conservation, restoration and management of migratory game birds on military reservations, including the issuance of special hunting permits and the collection of fees therefor, in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of the Interior and the appropriate State agency: Provided, That possession of a special permit for hunting migratory game birds issued pursuant to this subchapter shall not relieve the permittee of the requirements of the [Migratory Bird Hunting Stamp Act as amended] *Migratory Bird Hunting and Conservation Stamp*

Act (16 U.S.C. 718 et seq.) nor of the requirements pertaining to State law set forth in Public Law 85-337.

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CHAPTER 5A—PROTECTION AND CONSERVATION OF WILDLIFE

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE

- Sec. 668dd. \* \* \*
- (a) \* \* \*
- (d) \* \* \*
- (1) \* \* \*
- (A) \* \* \*

(B) the Secretary may waive such requirement for compensation if he finds such requirement impracticable or unnecessary. All sums received by the Secretary of the Interior pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the [Migratory Bird Hunting Stamp Act] *Migratory Bird Hunting and Conservation Stamp Act* (16 U.S.C. 718 et seq.).

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SUBCHAPTER II—CONSERVATION PROGRAMS ON PUBLIC LANDS

- Sec. 670g. \* \* \*
- Sec. 670i. \* \* \*
- (a) \* \* \*
- (1) \* \* \*

(4) The purchase of any such stamp shall entitle the purchaser thereof to hunt, trap, and fish on any public land within such State which is the subject of a conservation or rehabilitation program implemented under this subchapter except to the extent that the public use of such land is limited pursuant to a comprehensive plan or cooperative agreement; but the purchase of any such stamp shall not be construed as (A) eliminating the requirement for the purchase of a migratory bird hunting and conservation stamp as set forth in section 718a of this title, or (B) relieving the purchaser from compliance with any applicable State game and fish laws and regulations.

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SUBCHAPTER IV—HUNTING AND CONSERVATION STAMP TAX

- Sec. 718. \* \* \*
- (a) \* \* \*

Sec. 718b. ISSUANCE AND SALE OF STAMPS; DEPOSIT OF FUNDS IN MIGRATORY BIRD CONSERVATION FUND; FEES; VALIDITY; EXPIRATION; REDEMPTION; "RETAIL DEALERS" AND "HUNTING YEAR" DEFINED.—

(a) SALES; FUND DISPOSITION; UNSOLD STAMPS.—The stamps required by section 718a of this title shall be issued and sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations prescribed jointly by the Postal Service and the Secretary of the Interior, at (1) each post office of the first- and second-class, and (2) any establishment, facility, or location as the Postal Service and the Secretary of the Interior shall direct or authorize. The funds received from the sale of such stamps by the Department of the Interior shall be deposited in the migratory bird conservation fund in accordance with the provisions of section 718d of this title. Except as provided in subsection (b) of this section, for each stamp sold under the provisions of this section for any hunting year there shall be collected by the Postal Service a sum of not less than \$3 and not more than \$5 as determined by the Secretary of the Interior after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds. No such stamp shall be valid under any circumstances to authorize the taking of migratory waterfowl except in compliance with Federal and State laws and regulations and then only when the person so taking such waterfowl shall himself have written his signature in ink across the face of the stamp prior to such taking. Such stamps shall be usable as **[migratory-bird hunting stamps]** *migratory bird hunting and conservation stamps* only during the year for which issued. The Postal Service, pursuant to regulations prescribed by it, shall provide for the redemption, on or before the 30th day of June of each year, of blocks composed of two or more attached unused stamps issued for such year (A) that were sold on consignment to any person, including, but not limited to, retail dealers for resale to their customers, and (B) that have not been resold by any such person. As used in this section, the term “retail dealers” means persons regularly engaged in the business of retailing hunting or fishing equipment, and persons duly authorized to act as agents of a State or political subdivision thereof for the sale of State or county hunting or fishing licenses.

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Sec. 718b-1. DISPOSITION OF UNSOLD STAMPS; COLLECTORS' SUPPLY; DESTRUCTION OF SURPLUS.—On or after July 30, 1956, such quantity of **[migratory-bird hunting stamps]** *migratory bird hunting and conservation stamps*, not sold at the end of the fiscal year for which issued, as determined by the Postal Service to be (1) required to supply the market for sale to collectors, and (2) in suitable condition for such sale to collectors, shall be turned over to the Philatelic Agency and therein placed on sale. Any surplus stock of such **[migratory-bird hunting stamps]** *migratory bird hunting and conservation stamps* may be destroyed in such manner as the Postal Service shall direct.

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Sec. 718d. DISPOSITION OF RECEIPTS FROM SALE OF STAMPS.—All moneys received for such stamps shall be accounted for by the Postal Service or the Department of the Interior, whichever is appropriate, and paid into the Treasury of the United States, and shall be reserved and set aside as a special fund to be known as the migratory bird conservation fund, to be administered by the

Secretary of the Interior. All moneys received into such fund are appropriated for the following objects and shall be available therefor until expended: (a) Advance allotments to Postal Service So much as may be necessary shall be used by the Secretary of the Interior to make advance allotments to the Postal Service at such times and in such amounts as may be mutually agreed upon by the Secretary of the Interior and the Postal Service for direct expenditure by the Postal Service for engraving, printing, issuing, selling, and accounting for [migratory bird hunting stamps] *migratory bird hunting and conservation stamps* and moneys received from the sale thereof, in addition to expenses for personal services in the District of Columbia and elsewhere, and such other expenses as may be necessary in executing the duties and functions required of the Postal Service.

(b) ACQUISITION OF BIRD REFUGES.—Except as authorized in [subsection (c) of this section] *subsections (c) and (d)*, the remainder shall be available for the location, ascertainment, and acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and for the administrative costs incurred in the acquisition of such areas.

(c) WATERFOWL PRODUCTION AREAS.—The Secretary of the Interior is authorized to utilize funds made available under subsection (b) of this section for the purposes of such subsection, and such other funds as may be appropriated for the purposes of such subsection, or of this subsection, to acquire, or defray the expense incident to the acquisition by gift, devise, lease, purchase, or exchange of, small wetland and pothole areas, interests therein, and rights-of-way to provide access thereto. Such small areas, to be designated as “Waterfowl Production Areas”, may be acquired without regard to the limitations and requirements of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.), but all of the provisions of such Act which govern the administration and protection of lands acquired thereunder, except the inviolate sanctuary provisions of such Act, shall be applicable to areas acquired pursuant to this subsection.

(d) PROMOTION OF STAMP SALES.—

(1) *IN GENERAL.*—Subject to approval of an annual marketing plan by the Migratory Bird Conservation Commission established by section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a), the Secretary of the Interior may use from receipts from the sale of migratory bird hunting and conservation stamps an amount not to exceed \$1,000,000 for each of fiscal years 1999 through 2003 for the promotion of additional stamp sales.

(2) *ANNUAL REPORT.*—The Secretary of the Interior shall—

(A) include in each report under section 3 of the Migratory Bird Conservation Act (16 U.S.C. 715b) a statement of all expenditures under paragraph (1); and

(B) provide a copy to the Migratory Bird Conservation Commission, the Committee on Environment and Public Works of the Senate, and the Committee on Resources of the House of Representatives.

Sec. 718e. OFFENSES.—

(a) LOAN OR TRANSFER OF STAMP.—No person to whom has been sold a **【migratory-bird hunting stamp】** *migratory bird hunting and conservation stamp*, validated as provided in section 718a of this title, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

(b) ALTERATION AND COUNTERFEITING OF STAMP.—Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

(c) REPRODUCTION OF **【MIGRATORY BIRD HUNTING STAMPS】** *MIGRATORY BIRD HUNTING AND CONSERVATION STAMPS*; REGULATION BY SECRETARY OF THE INTERIOR; DISPOSITION OF PROCEEDS.—Notwithstanding the provisions of subsection (b) of this section, or the prohibition in section 474 of title 18, or other provisions of law, the Secretary of the Interior may authorize, with the concurrence of the Secretary of the Treasury, (1) the color reproduction, or (2) the black and white reproduction, of migratory bird hunting stamps authorized by sections 718 to 718b, 718c, 718d, and 718f to 718h of this title, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1) of title 18. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary of the Interior by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be paid, after deducting expenses for marketing, into the migratory bird conservation fund established under section 718d of this title.

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