

118TH CONGRESS
1ST SESSION

H. R. 6447

To prohibit certain actions with respect to certain marine reef species, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2023

Mr. CASE (for himself and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Ways and Means, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit certain actions with respect to certain marine
reef species, 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 “Saving Natural Eco-
5 systems and Marine Organisms Act” or the “Saving
6 NEMO Act”.

1 **SEC. 2. PROHIBITION WITH RESPECT TO CERTAIN MARINE**
2 **REEF SPECIES.**

3 (a) DESIGNATION OF COVERED CORAL REEF SPE-
4 CIES.—

5 (1) IN GENERAL.—The Secretary of the Inte-
6 rior shall designate as a covered coral reef species—

7 (A) any marine reef species that is listed
8 in Appendix II of the Convention on Inter-
9 national Trade in Endangered Species of Wild
10 Fauna and Flora—

11 (i) as of the effective date of this sec-
12 tion; and

13 (ii) after the effective date of this sec-
14 tion, unless the Secretary of the Interior,
15 in consultation with the Secretary of Com-
16 merce, finds, not later than 90 days after
17 the effective date of the inclusion of such
18 species in Appendix II, that the take, im-
19 port, and export of such species do not
20 represent a substantial risk of harm to the
21 sustainability of such species and the coral
22 reef ecosystem of such species; and

23 (B) any marine reef species the take, im-
24 port, or export of which the Secretary of the In-
25 terior and the Secretary of Commerce jointly

1 determine, after notice and opportunity for pub-
2 lic comment—

3 (i) presents a substantial risk of harm
4 to the sustainability of such species or the
5 coral reef ecosystem of such species; or

6 (ii) results in high mortality rates for
7 individuals of such species due to poor sur-
8 vivorship in transport or captivity.

9 (2) REMOVAL OF DESIGNATION.—

10 (A) IN GENERAL.—The Secretary of the
11 Interior may remove the designation of a spe-
12 cies as a covered coral reef species if the Sec-
13 retary determines that such removal does not
14 represent a substantial risk of harm to the sus-
15 tainability of such species or the coral reef eco-
16 system of such species.

17 (B) ROLE OF SECRETARY OF COM-
18 MERCE.—In carrying out subparagraph (A), the
19 Secretary of the Interior shall consult with the
20 Secretary of Commerce with respect to a cov-
21 ered coral reef species described in paragraph
22 (1)(A) and act jointly with the Secretary of
23 Commerce with respect to a covered coral reef
24 species described in subparagraph (1)(B).

25 (b) PROHIBITION.—It is unlawful for any person to—

1 (1) take an individual of any covered coral reef
2 species within waters under the jurisdiction of the
3 United States;

4 (2) import into or export from the United
5 States an individual of any covered coral reef spe-
6 cies;

7 (3) possess, sell, purchase, deliver, carry, trans-
8 port, or receive in interstate or foreign commerce an
9 individual of any covered coral reef species taken or
10 imported in violation of paragraph (1) or (2); or

11 (4) attempt to commit any act described in
12 paragraphs (1) through (3).

13 (c) EXCEPTIONS.—

14 (1) IN GENERAL.—Subsection (b) does not
15 apply with respect to an individual of a covered coral
16 reef species that is—

17 (A) taken in accordance with a qualified
18 scientifically-based management plan for such
19 covered coral reef species, as determined by the
20 appropriate Secretary;

21 (B) a product of a qualified cooperative
22 breeding program for such covered coral reef
23 species, as determined by the appropriate Sec-
24 retary;

1 (C) a product of a qualified aquaculture or
2 mariculture facility, as determined by the ap-
3 propriate Secretary;

4 (D) taken pursuant to authorization by the
5 Secretary of Commerce, or imported or ex-
6 ported pursuant to authorization by the Sec-
7 retary of the Interior, for scientific purposes,
8 museum purposes, or zoological breeding or dis-
9 play; or

10 (E) taken pursuant to—

11 (i) an applicable incidental take per-
12 mit issued under section 10(a)(1)(B) of
13 the Endangered Species Act of 1973 (16
14 U.S.C. 1539(a)(1)(B)); or

15 (ii) an applicable permit issued by a
16 country other than the United States if
17 such permit is equivalent to an incidental
18 take permit described in clause (i), as de-
19 termined by the appropriate Secretary.

20 (2) DESTRUCTIVE COLLECTION PRACTICES.—

21 The exceptions described in paragraph (1) do not
22 apply with respect to an individual of a covered coral
23 reef species that is, as determined by the appro-
24 priate Secretary—

1 (A) taken through the use of any destruc-
2 tive collection practice; or

3 (B) imported or exported without a certifi-
4 cation by the importer or exporter that such in-
5 dividual to be imported or exported was not
6 taken through the use of any destructive collec-
7 tion practice.

8 (d) ENFORCEMENT.—

9 (1) CIVIL PENALTIES.—The Secretary of the
10 Interior or the Secretary of Commerce, upon finding
11 a violation of subsection (b), may require the person
12 responsible for such violation to pay a civil penalty
13 in an amount determined under a schedule of pen-
14 alties jointly issued by the Secretary of the Interior
15 and the Secretary of Commerce, but which does not
16 exceed \$25,000 for each violation, and which takes
17 into account—

18 (A) the nature of the violation involved;

19 (B) the monetary value of each individual
20 of a covered coral reef species that is the sub-
21 ject of the violation involved;

22 (C) any previous violation of subsection (b)
23 by the person; and

1 (D) such other factors as the Secretary of
2 the Interior or the Secretary of Commerce de-
3 termines appropriate.

4 (2) DECLARATORY OR INJUNCTIVE RELIEF.—
5 The Attorney General may bring a civil action in an
6 appropriate United States district court seeking de-
7 claratory or injunctive relief for any alleged violation
8 of subsection (b).

9 (3) CRIMINAL PENALTIES.—

10 (A) IN GENERAL.—Any person that know-
11 ingly violates subsection (b) shall be fined in ac-
12 cordance with title 18, United States Code, im-
13 prisoned for not more than 6 months, or both.

14 (B) PERSONS ENGAGED IN BUSINESS.—
15 Any person engaged in business as an importer
16 or exporter of a covered coral reef species that
17 knowingly violates subsection (b) shall be fined
18 in accordance with title 18, United States Code,
19 imprisoned for not more than 2 years, or both.

20 (C) FALSE STATEMENTS IN CERTIFI-
21 CATIONS.—Any person that knowingly makes,
22 causes to be made, or submits any false mate-
23 rial statement or representation in a certifi-
24 cation under subsection (c)(2)(B) shall be fined
25 in accordance with title 18, United States Code,

1 imprisoned for not more than 2 years, or both,
2 and may also be prohibited from importing or
3 exporting any covered coral reef species.

4 (4) REWARDS AND INCIDENTAL EXPENSES.—

5 (A) IN GENERAL.—The Secretary of the
6 Interior or the Secretary of Commerce may pay,
7 from sums received as penalties, fines, or for-
8 feitures of property for violations of subsection
9 (b)—

10 (i) a reward to any person that fur-
11 nishes information which leads to an ar-
12 rest, criminal conviction, civil penalty as-
13 sessment, or forfeiture of property for any
14 violation of subsection (b); and

15 (ii) the reasonable and necessary costs
16 incurred by any person in providing tem-
17 porary care for any individual of a covered
18 coral reef species pending the disposition
19 of any civil or criminal proceeding alleging
20 a violation of subsection (b).

21 (B) INELIGIBILITY OF GOVERNMENT OFFI-
22 CIALS.—Any officer or employee of the United
23 States or any State or local government who
24 furnishes information or renders service in the

1 performance of their official duties is ineligible
2 to receive a reward under this paragraph.

3 (5) EXECUTIVE BRANCH ENFORCEMENT.—

4 (A) SEARCHES AND SEIZURES.—

5 (i) IN GENERAL.—Any person author-
6 ized by the Secretary of the Interior, the
7 Secretary of Commerce, the Secretary of
8 the Treasury, or the Secretary of the De-
9 partment in which the Coast Guard is op-
10 erating may search for and seize any indi-
11 vidual of a covered coral reef species taken,
12 imported, exported, possessed, sold, pur-
13 chased, delivered, carried, transported, or
14 received in violation of subsection (b), as
15 authorized by law.

16 (ii) SEIZED COVERED CORAL REEF
17 SPECIES.—Each individual of a covered
18 coral reef species seized under clause (i)
19 shall be held by any person so authorized
20 pending disposition of civil or criminal pro-
21 ceedings, or the institution of an action in
22 rem for forfeiture of each such individual
23 pursuant to subparagraph (C), except that
24 the appropriate Secretary may, in lieu of
25 holding each such individual, allow the

1 owner or consignee to post a bond or other
2 surety satisfactory to the appropriate Sec-
3 retary, but upon forfeiture of any such
4 property to the United States, or the aban-
5 donment or waiver of any claim to any
6 such property, it shall be disposed of
7 (other than by sale to the general public)
8 by the appropriate Secretary in such a
9 manner, consistent with the purposes of
10 this section, as the appropriate Secretary
11 shall by regulation prescribe.

12 (B) CITATIONS.—If any officer authorized
13 to enforce the provisions of this section finds
14 that a person has violated subsection (b), such
15 officer may, in accordance with regulations
16 jointly issued by the Secretary of the Interior,
17 the Secretary of Commerce, and the Secretary
18 of the Department in which the Coast Guard is
19 operating, issue a citation to the violator.

20 (C) FORFEITURE.—

21 (i) COVERED CORAL REEF SPECIES.—
22 Any individual of a covered coral reef spe-
23 cies taken, imported, exported, possessed,
24 sold, delivered, carried, transported, or re-
25 ceived in interstate or foreign commerce in

1 violation of subsection (b) shall be subject
2 to forfeiture to the United States.

3 (ii) EQUIPMENT USED IN UNLAWFUL
4 PRACTICES.—All guns, traps, nets, and
5 other equipment and vessels, vehicles, air-
6 craft, and other means of transportation
7 used to aid a violation of subsection (b),
8 shall be subject to forfeiture to the United
9 States upon the conviction of the person
10 that owns such equipment or means of
11 transportation of a criminal violation pur-
12 suant to subparagraph (A) or (B) of para-
13 graph (3).

14 (D) OTHER PROVISIONS OF LAW.—Any
15 provision of law relating to the seizure, for-
16 feiture, and condemnation of a vessel for viola-
17 tion of a customs law, the disposition of such
18 vessel or the proceeds from the sale thereof,
19 and the remission or mitigation of such for-
20 feiture shall apply to any seizure or forfeiture
21 incurred or allegedly incurred under this sec-
22 tion, insofar as such provision of law is applica-
23 ble and not inconsistent with the provisions of
24 this section, except that all powers, rights, and
25 duties conferred or imposed by the customs

1 laws upon any officer or employee of the De-
2 partment of the Treasury shall, for the pur-
3 poses of this section, be exercised or performed
4 by the Secretary of Commerce or by such per-
5 sons as the Secretary of Commerce may des-
6 ignate.

7 (6) CITIZEN ACTIONS.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (D), any person may commence a
10 civil action to enjoin any person, including the
11 United States and any other governmental in-
12 strumentality or agency (to the extent allowed
13 by the 11th Amendment to the Constitution),
14 that is alleged to be in violation of subsection
15 (b).

16 (B) JURISDICTION OF DISTRICT COURTS.—

17 The United States District Court for the judi-
18 cial district in which the alleged violation occurs
19 shall have jurisdiction in all actions brought
20 under this paragraph, without regard to the
21 amount in controversy or the citizenship of the
22 parties.

23 (C) INTERVENTION BY ATTORNEY GEN-

24 ERAL.—In any action under this paragraph in
25 which the United States is not a party, the At-

1 torney General may intervene on behalf of the
2 United States as a matter of right.

3 (D) EXCEPTIONS.—No action may be com-
4 menced under this paragraph for an alleged vio-
5 lation of subsection (b)—

6 (i) before the date that is 60 days
7 after the date on which written notice of
8 such alleged violation is given to the Sec-
9 retary of the Interior, the Secretary of
10 Commerce, and any alleged violator of
11 such subsection; or

12 (ii) if the Secretary of the Interior,
13 the Secretary of Commerce, or the Attor-
14 ney General has initiated an enforcement
15 action under this subsection with respect
16 to such alleged violation.

17 (E) RECOVERY OF COURT COSTS.—In any
18 action brought pursuant to subparagraph (A),
19 the court may award costs of litigation (includ-
20 ing reasonable attorney and expert witness fees)
21 to any party whenever the court determines
22 such award is appropriate.

23 (F) RELIEF UNDER OTHER LAWS.—The
24 injunctive relief provided by this paragraph
25 shall not restrict any right which any person

1 may have under any statute or common law to
2 seek enforcement of any standard or limitation
3 or to seek any other relief.

4 (7) AMERICAN SAMOA.—For the purposes of
5 any action brought under this subsection, American
6 Samoa shall be included within the judicial district
7 of the United States District Court for the District
8 of Hawaii.

9 (e) DEFINITIONS.—In this section:

10 (1) APPROPRIATE SECRETARY.—The term “ap-
11 propriate Secretary” means—

12 (A) the Secretary of Commerce with re-
13 spect to domestic matters;

14 (B) the Secretary of Commerce and the
15 Secretary of the Interior with respect to foreign
16 matters; or

17 (C) the Secretary with jurisdiction over the
18 waters in which the matter is located with re-
19 spect to matters located in waters within the
20 exclusive economic zone.

21 (2) COVERED CORAL REEF SPECIES.—The term
22 “covered coral reef species” means any marine reef
23 species designated by the Secretary of the Interior
24 under subsection (a).

25 (3) DESTRUCTIVE COLLECTION PRACTICE.—

1 (A) IN GENERAL.—The term “destructive
2 collection practice” means any practice used to
3 take an individual of a covered coral reef spe-
4 cies that involves the use of any of the fol-
5 lowing:

6 (i) Reef-dredging.

7 (ii) Explosives.

8 (iii) Poison.

9 (iv) Any other destructive collection
10 practice identified by the Secretary of
11 Commerce by regulation, in consultation
12 with the Secretary of the Interior.

13 (B) PRESENCE OF POISONS.—For the pur-
14 poses of this paragraph, the presence of any
15 poison, or any metabolite associated with any
16 such poison, in an individual of a covered coral
17 reef species shall constitute evidence that poison
18 was used in the take of such individual.

19 (4) EXCLUSIVE ECONOMIC ZONE.—The term
20 “exclusive economic zone” has the meaning given
21 the term in section 3 of the Magnuson-Stevens Fish-
22 ery Conservation and Management Act (16 U.S.C.
23 1802).

24 (5) MARINE REEF SPECIES.—The term “marine
25 reef species”—

1 (A) means a marine species that—
2 (i) as determined by the Secretary of
3 the Interior, lives primarily within a coral
4 reef, including species of coral; and
5 (ii) is collected commercially for the
6 aquarium and curio trade; and

7 (B) does not include a marine species de-
8 scribed in subparagraph (A) that is ordinarily
9 taken for human consumption.

10 (6) QUALIFIED AQUACULTURE OR
11 MARICULTURE FACILITY.—The term “qualified
12 aquaculture or mariculture facility” means an aqua-
13 culture or mariculture facility that, with respect to
14 a covered coral reef species—

15 (A) only sells individuals of the covered
16 coral reef species that are produced by such fa-
17 cility;

18 (B) operates in a manner that is not detri-
19 mental to the conservation of the covered coral
20 reef species in the wild;

21 (C) operates in a manner that does not
22 harm the coral reef ecosystem of the covered
23 coral reef species, including by introducing non-
24 indigenous species or pathogens; and

1 (D) operates with safeguards sufficient to
2 prevent the escape of—

3 (i) captive individuals of the covered
4 coral reef species; and

5 (ii) eggs, larvae, young, fragments,
6 and other organs of propagation of such
7 covered coral reef species.

8 (7) QUALIFIED COOPERATIVE BREEDING PRO-
9 GRAM.—The term “qualified cooperative breeding
10 program” means a cooperative breeding program
11 that—

12 (A) is designed to promote the conserva-
13 tion of a covered coral reef species and main-
14 tain such covered coral reef species in the wild
15 by enhancing the propagation and survival of
16 such covered coral reef species; and

17 (B) is developed and administered by, or in
18 conjunction with, an aquarium, conservation, or
19 zoological organization that meets standards es-
20 tablished by the appropriate Secretary.

21 (8) QUALIFIED SCIENTIFICALLY-BASED MAN-
22 AGEMENT PLAN.—The term “qualified scientifically-
23 based management plan” means a scientifically-
24 based management plan that—

1 (A) provides for the conservation of a cov-
2 ered coral reef species and the habitat of such
3 covered coral reef species;

4 (B) provides that individuals of a covered
5 coral reef species are taken in a manner and in
6 quantities that—

7 (i) do not threaten the biological sus-
8 tainability of such covered coral reef spe-
9 cies or the role of such covered coral reef
10 species in the coral reef ecosystem of such
11 covered coral reef species; and

12 (ii) minimize the adverse impact of
13 the take of such covered coral reef species
14 on the coral reef ecosystem of such covered
15 coral reef species;

16 (C) addresses factors relevant to the con-
17 servation of the covered coral reef species, in-
18 cluding—

19 (i) illegal trade;

20 (ii) domestic trade;

21 (iii) subsistence use;

22 (iv) disease;

23 (v) habitat loss; and

24 (vi) cumulative effects of the take of
25 the covered coral reef species; and

1 (D) prohibits the use of destructive collec-
2 tion practices.

3 (f) **EFFECTIVE DATE.**—This section shall take effect
4 on the date that is 1 year after the date of the enactment
5 of this section.

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