

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To make funds available to reimburse certain fishermen for legal fees and costs incurred in connection with improper fines and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To make funds available to reimburse certain fishermen for legal fees and costs incurred in connection with improper fines 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 “Fisheries Fee Fairness  
5       Act of 2011”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8               (1) APPROPRIATE LEGAL FEES AND COSTS.—

9       The term “appropriate legal fees and costs” means

1 the legal fees and costs incurred by a covered per-  
2 son—

3 (A) that the Secretary determines were ap-  
4 propriately incurred by the covered person in  
5 association with challenging a fisheries enforce-  
6 ment penalty that was directed to be remitted  
7 to the covered person; and

8 (B) prior to the date that is 30 days after  
9 such a fisheries enforcement penalty was di-  
10 rected to be remitted to the covered person by  
11 the Secretary.

12 (2) COVERED PERSON.—The term “covered  
13 person” means—

14 (A) a person that the Secretary directed be  
15 remitted a fisheries enforcement penalty in the  
16 Decision Memorandum; or

17 (B) a person that—

18 (i) received a Notice of Violation and  
19 Assessment for a fisheries enforcement  
20 penalty issued on or after March 17, 1994  
21 that was settled or otherwise resolved prior  
22 to February 3, 2010;

23 (ii) paid a civil penalty for such fish-  
24 eries enforcement penalty;

1 (iii) submitted a complaint prior to  
2 May 7, 2011 seeking remittance of such  
3 civil penalty; and

4 (iv) the Secretary directs receive such  
5 remittance or a portion of such remittance.

6 (3) DECISION MEMORANDUM.—The term “De-  
7 cision Memorandum” means the Secretarial Decision  
8 Memorandum issued by the Secretary on May 17,  
9 2011, entitled Decisions regarding Certain NOAA  
10 Fisheries Enforcement Cases Based on Special Mas-  
11 ter Swartwood’s Report and Recommendations.

12 (4) SECRETARY.—The term “Secretary” means  
13 the Secretary of Commerce.

14 **SEC. 3. AUTHORITY TO REIMBURSE LEGAL FEES AND**  
15 **COSTS.**

16 (a) IN GENERAL.—Notwithstanding any other provi-  
17 sion of law, the Secretary may use sums made available  
18 under section 311(e)(1) of the Magnuson-Stevens Fishery  
19 Conservation and Management Act (16 U.S.C.  
20 1861(e)(1)) to reimburse appropriate legal fees and costs  
21 to covered persons.

22 (b) TIMING.—

23 (1) SUBMISSION OF REQUEST.—A covered per-  
24 son seeking reimbursement of appropriate legal fees

1       and costs under subsection (a) shall submit to the  
2       Secretary a request for such reimbursement—

3               (A) in the case the covered person is de-  
4       scribed in section 2(2)(A), not later than 1 year  
5       after the date of the enactment of this Act; or

6               (B) in the case of a covered person de-  
7       scribed in section 2(2)(B), not later than 1 year  
8       after the date the Secretary directs such cov-  
9       ered person receive a remittance of a fisheries  
10      enforcement penalty.

11       (2) DETERMINATION.—Not later than 90 days  
12      after receiving an application under paragraph (1),  
13      the Secretary shall make a final determination on  
14      whether to provide such reimbursement and the  
15      amount of any such reimbursement.

16      (c) MAXIMUM REIMBURSEMENT.—The Secretary  
17      may not provide more than \$200,000 in reimbursement  
18      of appropriate legal fees and costs under subsection (a)  
19      to a covered person.