

The Consequences of Allowing Sale of HI-caught Marlin on the U.S. Mainland

The authors and sponsors of the Billfish Conservation Act (HR 2706) clearly stated on the record their intent that the law's Exemption for Traditional Fisheries and Markets limit possession and sale of billfish to Hawaii and the Pacific Insular Islands. The language itself, however, is not so clear on this point. The BCA, if interpreted to allow sale of U.S.-caught billfish landed in Hawaii and the PIA on the mainland, would have predictable consequences, and the bad would heavily outweigh any good that might result from such an interpretation.

PROS

U.S. fishermen from Hawaii and PIA would be able to profit from selling "a small amount of billfish," (Source: WESPAC) above and beyond local demand (i.e., "traditional fisheries and markets"), to consumers in the continental United States.

CONS

The U.S. would be in violation of its fair trade obligations by closing markets to foreign-caught billfish while keeping them open to domestic fishermen. Such a discriminatory action could open the BCA to legal challenge and jeopardize its substantial conservation benefits.

Preferential treatment to fishermen from HI/PIA would constitute discrimination under Magnuson-Stevens Act National Standard 4 by allowing residents from one state (or territory) to sell fish in other states where residents are prohibited from possessing or selling their catch under regional fishery management plans enacted under the MSA.

Enforcement would be more costly and difficult. The CBO's analysis of HR 2706, estimating negligible costs associated with enforcement, was based on the assumption that billfish and billfish products may not be possessed or sold outside of Hawaii and the PIA. The chances of prohibited billfish (Atlantic or Pacific) entering illegitimately into U.S. commerce and undermining the act's conservation objectives would greatly increase.

Gains in billfish conservation from restricting foreign imports to the mainland would be offset if exclusive access to these markets for Hawaiian fishermen results in higher marlin landings in HI and the PIA, where currently there are no limits on total catch.