

117TH CONGRESS  
2D SESSION

# H. R. 7849

To amend the Internal Revenue Code of 1986 to allow a credit against tax for the purchase of certain adaptive gear required to prevent the entanglement of right whales.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2022

Mr. MOULTON (for himself and Mr. KEATING) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against tax for the purchase of certain adaptive gear required to prevent the entanglement of right whales.

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 “Conserving Lobstering  
5 And Whales Act of 2022” or the “CLAW Act of 2022”.

6 **SEC. 2. ADAPTIVE GEAR REQUIRED TO PREVENT RIGHT**  
7 **WHALE ENTANGLEMENT.**

8 (a) ALLOWANCE OF CREDIT.—

1           (1) IN GENERAL.—Subpart D of part IV of  
2           subchapter A of chapter 1 of the Internal Revenue  
3           Code of 1986 is amended by adding at the end the  
4           following new section:

5   **“SEC. 45U. ADAPTIVE GEAR REQUIRED TO PREVENT RIGHT**  
6                   **WHALE ENTANGLEMENT.**

7           “(a) IN GENERAL.—For purposes of section 38, in  
8           the case of an eligible lobstering business, the right whale  
9           entanglement prevention credit determined under this sec-  
10          tion for any taxable year is an amount equal to 30 percent  
11          of the amounts paid or incurred by the taxpayer for the  
12          taxable year for the purchase of any adaptive gear re-  
13          quired by State or Federal law or regulation to prevent  
14          the entanglement of right whales in the course of the trade  
15          or business of lobstering.

16          “(b) ELIGIBLE LOBSTERING BUSINESS.—

17                  “(1) IN GENERAL.—For purposes of this sec-  
18          tion, the term ‘eligible lobstering business’ means  
19          any person—

20                          “(A) engaged in the trade or business of  
21                          lobstering, and

22                          “(B) that submits a return of tax with re-  
23                          spect to such taxable year that includes each of  
24                          the following, as applicable, but in any case not  
25                          less than 1 of—

1 “(i) a State commercial lobster license  
2 for such person, and

3 “(ii) a Federal vessel identification  
4 number for each vessel used by such per-  
5 son in the course of the trade or business  
6 of lobstering.

7 “(2) CONTROLLED GROUPS.—All persons which  
8 are treated as a single employer under subsections  
9 (a) and (b) of section 52 shall be treated as a single  
10 taxpayer for purposes of this subsection.

11 “(c) ADAPTIVE GEAR.—For purposes of this section,  
12 the term ‘adaptive gear’ means—

13 “(1) gear required by the National Oceanic and  
14 Atmospheric Administration as part of the Atlantic  
15 Large Whale Take Reduction Plan, and

16 “(2) equipment used for electronic vessel track-  
17 ing required by the Atlantic States Marine Fisheries  
18 Commission for North Atlantic right whale risk re-  
19 duction.”.

20 (2) CREDIT MADE PART OF GENERAL BUSINESS  
21 CREDIT.—Section 38(b) of such Code is amended by  
22 striking “plus” at the end of paragraph (32), by  
23 striking the period at the end of paragraph (33) and  
24 inserting “, plus”, and by adding at the end the fol-  
25 lowing new paragraph:

1 “(34) in the case of an eligible lobstering busi-  
 2 ness, the right whale entanglement prevention credit  
 3 determined under 45U(a).”.

4 (3) CLERICAL AMENDMENT.—The table of sec-  
 5 tions for subpart D of part IV of subchapter A of  
 6 chapter 1 of such Code is amended by adding at the  
 7 end the following new item:

“Sec. 45U. Adaptive gear required to prevent right whale entanglement.”.

8 (b) DIRECT PAY OPTION.—

9 (1) IN GENERAL.—Subchapter B of chapter 65  
 10 of the Internal Revenue Code of 1986 is amended by  
 11 adding at the end the following new section:

12 **“SEC. 6431. ELECTIVE PAYMENT OF RIGHT WHALE ENTAN-**  
 13 **GLEMENT PREVENTION CREDIT.**

14 “(a) IN GENERAL.—In the case of a taxpayer making  
 15 an election (at such time and in such manner as the Sec-  
 16 retary may provide) under this section with respect to any  
 17 portion of the right whale entanglement prevention credit  
 18 determined under section 45U(a), such taxpayer shall be  
 19 treated as making a payment against the tax imposed by  
 20 subtitle A for the taxable year equal to such amount.

21 “(b) TIMING.—The payment described in subsection  
 22 (a) shall be treated as made on the later of the due date  
 23 of the return of tax (determined without extensions) for  
 24 such taxable year or the date on which such return is filed.

1       “(c) EXCLUSION FROM GROSS INCOME.—Gross in-  
2 come of the taxpayer shall be determined without regard  
3 to this section.

4       “(d) DENIAL OF DOUBLE BENEFIT.—Solely for pur-  
5 poses of section 38, in the case of a taxpayer making an  
6 election under this section, the right whale entanglement  
7 prevention credit determined under section 45U(a) shall  
8 be reduced by the amount of the portion of such credit  
9 with respect to which the taxpayer makes such election.”.

10       (2) CLERICAL AMENDMENT.—The table of sec-  
11 tions for subchapter B of chapter 65 of such Code  
12 is amended by adding at the end the following new  
13 item:

“Sec. 6431. Elective payment of right whale entanglement prevention credit.”.

14       (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 the date of the enactment of this Act.

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