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S. 2480

To prevent the introduction and spread of nonindigenous pests and pathogens through the importation of wood articles, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 1998

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To prevent the introduction and spread of nonindigenous pests and pathogens through the importation of wood articles, 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 “Invasive Pest Control
5 Act of 1998”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the importation of unprocessed logs, lumber,
9 and other unmanufactured wood articles into the
10 United States may result in the introduction of non-

1 indigenous pests and pathogens to native North
2 American forests;

3 (2) when environmental conditions are favor-
4 able, nonindigenous pests and pathogens may prey
5 on and devastate native North American tree spe-
6 cies, devastate habitat, disrupt other native species
7 and the environment, and disrupt the economy of af-
8 fected forest areas;

9 (3) the Comptroller General of the United
10 States has reported that the potential economic dis-
11 ruption to communities affected by nonindigenous
12 pests and pathogens entering the United States, in-
13 cluding forest pests, costs an estimated
14 \$41,000,000,000 annually in lost production and ex-
15 penses for prevention and control;

16 (4) commercial forestry is estimated to lose for-
17 est products valued at \$4,000,000,000 each year due
18 to infestations of nonindigenous pests and patho-
19 gens;

20 (5) once introduced into the United States on
21 unprocessed logs, lumber, and other unmanufactured
22 wood articles, nonindigenous pests and pathogens
23 are unintentionally or unknowingly transported and
24 introduced into inland forests and habitats by truck
25 transport and train shipment to mills, consumers,

1 and producers and by a variety of other means, in-
2 cluding wind, water, and wildlife;

3 (6) examples of nonindigenous pests and patho-
4 gens infesting forests of the United States that have
5 caused or have the potential to cause adverse eco-
6 nomic and ecological effects include—

7 (A) Dutch Elm disease, which—

8 (i) was introduced into the United
9 States in the 1920's with a shipment of
10 European logs delivered to the Port of
11 New York and then forwarded to the Mid-
12 west by train;

13 (ii) has spread throughout the United
14 States, now to an estimated 1,000,000
15 trees; and

16 (iii) has decimated the American and
17 other native elm species;

18 (B) the Gypsy Moth, which—

19 (i) has no natural predators in the
20 United States;

21 (ii) spread rapidly and now infests
22 Northeast forest in approximately 200,000
23 square miles, with smaller infestations oc-
24 ccurring in several other areas from the
25 Carolinas to British Columbia; and

1 (iii) feeds on hundreds of different
2 tree species and during outbreaks can de-
3 foliate many hardwood and shrub species
4 in their path, seriously weakening trees
5 and stunting the growth of, and eventually
6 killing, many of the trees;

7 (C) the Asian Long-Horned Beetle,
8 which—

9 (i) is a new exotic pest that has been
10 discovered at ports across the United
11 States;

12 (ii) has no natural enemies and has
13 attacked mostly Norway and sugar maples,
14 some of the most valuable trees in the
15 Northeast; and

16 (iii) is considered a serious threat to
17 the maple sugar industry, lumber industry,
18 homeowner property values, and tourism in
19 the Northeast; and

20 (D) more recent nonindigenous pests and
21 pathogens that have become established in the
22 forests of the United States and are causing
23 economic and ecological degradation with re-
24 spect to the natural forest resources of the
25 United States, including the Port Orford Cedar

1 Root Rot, the Pine Wilt disease, the Eurasian
2 poplar rust fungus (discovered on the West
3 Coast), and the pine shoot beetle (introduced in
4 the Great Lakes area); and

5 (7) if preventive management measures are not
6 taken in a timely manner throughout the United
7 States to prevent nonindigenous pests and pathogens
8 from entering the United States on unprocessed
9 wood products or to control their entry, further in-
10 troductions and infestations of nonindigenous plants
11 and pathogens will occur.

12 **SEC. 3. PURPOSES.**

13 The purpose of this Act are—

14 (1) to prevent the unintentional introduction
15 and dispersion of nonindigenous pests and pathogens
16 into forests of the United States through the impor-
17 tation of unprocessed logs, lumber, and other un-
18 manufactured wood articles;

19 (2) to preserve and protect the health of the
20 forests of the United States, the forest-dependent
21 economy of the United States, native North Amer-
22 ican tree species, and irreplaceable habitat from the
23 potentially devastating effects of nonindigenous pests
24 and pathogens;

1 (3) to coordinate federally conducted, funded,
2 or authorized research, prevention, control, informa-
3 tion dissemination, and other activities regarding
4 forest pests and pathogens; and

5 (4) to understand and minimize the economic
6 and ecological impact of nonindigenous pests and
7 pathogens.

8 **SEC. 4. DEFINITIONS.**

9 In this Act:

10 (1) SECRETARY.—The term “Secretary” means
11 the Secretary of Agriculture.

12 (2) TREATMENT.—The term “treatment”
13 means—

14 (A) in the case of—

15 (i) a wood article that is greater than
16 14 centimeters in diameter at the broadest
17 point; and

18 (ii) wood chips, sawdust, wood mulch,
19 and wood shavings;

20 debarking and heating the wood article until
21 the core reaches at least 71.1 degrees Celsius
22 for at least 75 minutes; and

23 (B) in the case of a wood article that is
24 less than 14 centimeters in diameter at the
25 broadest point—

1 (i) fumigation with an effective fumi-
2 gant;

3 (ii) kiln drying according to the Dry
4 Kiln Operator's Manual, Agriculture
5 Handbook No. 188; or

6 (iii) pressure treatment with an effec-
7 tive chemical preservative.

8 (3) WOOD ARTICLE.—The term “wood article”
9 means a log, lumber, whole tree, cut tree or portion
10 of a tree (not solely consisting of leaves), flower,
11 fruit, bud, seed, bark, cork, lath, hog fuel, sawdust,
12 painted raw wood product, excelsior (wood wool),
13 wood chip, wood mulch, wood shaving, picket, stake,
14 shingle, pallet, wood packing material, humus, com-
15 post, or litter, that is unprocessed or has received
16 only primary processing.

17 **SEC. 5. RESTRICTIONS ON MOVEMENT OF PLANTS, PLANT**
18 **PRODUCTS, BIOLOGICAL CONTROL ORGA-**
19 **NISMS, PLANT PESTS, NOXIOUS WEEDS,**
20 **WOOD ARTICLES, AND MEANS OF CONVEY-**
21 **ANCE.**

22 (a) IN GENERAL.—Except as provided in subsection
23 (b), the Secretary may prohibit or restrict the importation,
24 entry, exportation, or movement in interstate commerce
25 of a plant, plant product, biological control organism,

1 plant pest, noxious weed, wood article, or means of convey-
2 ance if the Secretary determines that the prohibition or
3 restriction is necessary to prevent the introduction into the
4 United States or the interstate dispersion of a nonindige-
5 nous pest, pathogen, or noxious weed.

6 (b) IMPORTED WOOD ARTICLES.—Each wood article
7 (other than a pallet, solid wood packing material, or
8 dunnage) to be imported into the United States shall be—

9 (1) subject to treatment not more than 24
10 hours prior to importation, in the exporting country
11 or a hold aboard a ship during transport; and

12 (2) subject to treatment not later than 24 hours
13 after importation at the United States port of entry.

14 (c) PALLETS AND SOLID WOOD PACKING MATE-
15 RIALS.—

16 (1) TREATMENT DURING INTERIM PERIOD.—

17 During the 5-year period beginning on the date of
18 enactment of this Act, each pallet, solid wood pack-
19 ing material, and dunnage composed of wood used to
20 import an article into the United States shall be—

21 (A) subject to treatment in accordance
22 with its dimensions prior to first importation
23 into the United States; and

24 (B) marked with an international symbol
25 designating the treatment method.

1 (F) the Agricultural Research Service;
2 (G) the Agricultural Marketing Service;
3 (H) the Natural Resource Conservation
4 Service; and

5 (I) the Environmental Protection Agency;
6 (4) a representative of the agency of each State
7 responsible for managing natural resources in the
8 State, appointed by the Governor of the State;

9 (5) a representative of each nongovernmental
10 organization with an interest or expertise in plant
11 health and ecosystem protection (as determined by
12 the President), appointed by the head of the organi-
13 zation, including representatives of—

14 (A) public interest environmental groups;

15 (B) affected industry representatives;

16 (C) ecologists; and

17 (D) scientists in relevant disciplines.

18 (c) DUTIES.—The Task Force shall develop criteria
19 for establishing precautionary phytosanitary procedures to
20 minimize the likelihood of the introduction or dispersion
21 of nonindigenous pests and pathogens in the course of
22 international or interstate commerce or travel.

23 **SEC. 7. FEES.**

24 The Secretary of the Treasury shall—

1 (1) require a person that imports a wood article
2 into the United States to obtain a permit before the
3 article may be imported into the United States;

4 (2) require the person to pay an application fee
5 for the permit, in an amount determined by the Sec-
6 retary of Agriculture; and

7 (3) transfer all fees collected under paragraph
8 (2) to the Fund established under section 8.

9 **SEC. 8. PEST REDUCTION IN WOOD ARTICLES FUND.**

10 (a) ESTABLISHMENT.—There is established in the
11 Treasury of the United States a revolving fund, to be
12 known as the “Pest Reduction in Wood Articles Fund”,
13 to be used in accordance with this section (referred to in
14 this section as the “Fund”), consisting of—

15 (1) such amounts as are appropriated to the
16 Fund under subsection (b); and

17 (2) any interest earned on investment of
18 amounts in the Fund under subsection (d).

19 (b) TRANSFERS TO FUND.—There are appropriated
20 to the Fund amounts equivalent to amounts collected as
21 fees and received in the Treasury under section 7.

22 (c) EXPENDITURES FROM FUND.—

23 (1) IN GENERAL.—Subject to paragraph (2), on
24 request by the Secretary of Agriculture, the Sec-
25 retary of the Treasury shall transfer from the Fund

1 to the Secretary of Agriculture such amounts as the
2 Secretary of Agriculture determines are necessary to
3 support the costs of certifying treatment facilities
4 and conducting research to develop appropriate tech-
5 nology for the control of the importation of non-
6 indigenous species on unprocessed logs, lumber, and
7 other unmanufactured wood articles.

8 (2) ADMINISTRATIVE EXPENSES.—An amount
9 not exceeding 10 percent of the amounts in the
10 Fund shall be available in each fiscal year to pay the
11 administrative expenses necessary of carrying out
12 this Act.

13 (d) INVESTMENT OF AMOUNTS.—

14 (1) IN GENERAL.—The Secretary of the Treas-
15 ury shall invest such portion of the Fund as is not,
16 in the judgment of the Secretary, required to meet
17 current withdrawals. Investments may be made only
18 in interest-bearing obligations of the United States.

19 (2) ACQUISITION OF OBLIGATIONS.—For the
20 purpose of investments under paragraph (1), obliga-
21 tions may be acquired—

22 (A) on original issue at the issue price; or

23 (B) by purchase of outstanding obligations

24 at the market price.

1 (3) SALE OF OBLIGATIONS.—Any obligation ac-
2 quired by the Fund may be sold by the Secretary of
3 the Treasury at the market price.

4 (4) CREDITS TO FUND.—The interest on, and
5 the proceeds from the sale or redemption of, any ob-
6 ligations held in the Fund shall be credited to and
7 form a part of the Fund.

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