

Calendar No. 933

106TH CONGRESS
2^D SESSION

S. 1109

[Report No. 106-484]

To conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 1999

Mr. MCCONNELL (for himself, Mr. SMITH of New Hampshire, Mr. KOHL, Mr. FRIST, Mr. GREGG, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. ROBB, Mr. GRAMS, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TORRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. KERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, Mr. LIEBERMAN, Mr. FITZGERALD, Mr. EDWARDS, Mr. REED, Mr. HATCH, Mr. DASCHLE, Mr. SARBANES, Mr. ROTH, Mr. DODD, Mr. WELLSTONE, Mr. BRYAN, Mr. FEINGOLD, Mr. SESSIONS, Mr. KYL, Mr. BOND, Mr. KERREY, Ms. COLLINS, Mr. BAYH, Mr. ASHCROFT, Ms. MIKULSKI, Mr. INOUYE, Mr. SMITH of Oregon, Mr. BENNETT, Mr. SPECTER, Ms. SNOWE, Mr. BROWBACK, Mr. DORGAN, and Mr. L. CHAFEE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

OCTOBER 4 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. SMITH of New Hampshire, without amendment

A BILL

To conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, 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 “Bear Protection Act
5 of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) all 8 extant species of bear—Asian black
9 bear, brown bear, polar bear, American black bear,
10 spectacled bear, giant panda, sun bear, and sloth
11 bear—are listed on Appendix I or II of the Conven-
12 tion on International Trade in Endangered Species
13 of Wild Fauna and Flora (27 UST 1087; TIAS
14 8249) (referred to in this section as “CITES”);

15 (2) Article XIV of CITES provides that Parties
16 to CITES may adopt stricter domestic measures re-
17 garding the conditions for trade, taking, possession,
18 or transport of species on Appendix I or II, and the
19 Parties to CITES adopted a resolution (Conf. 10.8)
20 urging Parties to take immediate action to demon-

1 strably reduce the illegal trade in bear parts and de-
2 rivatives;

3 (3) the Asian bear populations have declined
4 significantly in recent years, as a result of habitat
5 loss and poaching due to a strong demand for bear
6 viscera used in traditional medicines and cosmetics;

7 (4) Federal and State undercover operations
8 have revealed that American bears have been
9 poached for their viscera;

10 (5) while most American black bear populations
11 are generally stable or increasing, commercial trade
12 could stimulate poaching and threaten certain popu-
13 lations if the demand for bear viscera increases; and

14 (6) prohibitions against the importation into
15 the United States and exportation from the United
16 States, as well as prohibitions against the interstate
17 trade, of bear viscera and products containing, or la-
18 beled or advertised as containing, bear viscera will
19 assist in ensuring that the United States does not
20 contribute to the decline of any bear population as
21 a result of the commercial trade in bear viscera.

22 **SEC. 3. PURPOSES.**

23 The purpose of this Act is to ensure the long-term
24 viability of the world's 8 bear species by—

1 (1) prohibiting international trade in bear
2 viscera and products containing, or labeled or adver-
3 tised as containing, bear viscera;

4 (2) encouraging bilateral and multilateral ef-
5 forts to eliminate such trade; and

6 (3) ensuring that adequate Federal legislation
7 exists with respect to domestic trade in bear viscera
8 and products containing, or labeled or advertised as
9 containing, bear viscera.

10 **SEC. 4. DEFINITIONS.**

11 In this Act:

12 (1) **BEAR VISCERA.**—The term “bear viscera”
13 means the body fluids or internal organs, including
14 the gallbladder and its contents but not including
15 blood or brains, of a species of bear.

16 (2) **IMPORT.**—The term “import” means to
17 land on, bring into, or introduce into any place sub-
18 ject to the jurisdiction of the United States, whether
19 or not the landing, bringing, or introduction con-
20 stitutes an importation within the meaning of the
21 customs laws of the United States.

22 (3) **PERSON.**—The term “person” means—

23 (A) an individual, corporation, partnership,
24 trust, association, or other private entity;

1 (B) an officer, employee, agent, depart-
2 ment, or instrumentality of—

3 (i) the Federal Government;

4 (ii) any State, municipality, or polit-
5 ical subdivision of a State; or

6 (iii) any foreign government;

7 (C) a State, municipality, or political sub-
8 division of a State; and

9 (D) any other entity subject to the juris-
10 diction of the United States.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (5) STATE.—The term “State” means a State,
14 the District of Columbia, the Commonwealth of
15 Puerto Rico, the Virgin Islands, Guam, the Com-
16 monwealth of the Northern Mariana Islands, Amer-
17 ican Samoa, and any other territory, commonwealth,
18 or possession of the United States.

19 (6) TRANSPORT.—The term “transport” means
20 to move, convey, carry, or ship by any means, or to
21 deliver or receive for the purpose of movement, con-
22 veyance, carriage, or shipment.

23 **SEC. 5. PROHIBITED ACTS.**

24 (a) IN GENERAL.—Except as provided in subsection

25 (b), a person shall not—

1 (1) import into, or export from, the United
2 States bear viscera or any product, item, or sub-
3 stance containing, or labeled or advertised as con-
4 taining, bear viscera; or

5 (2) sell or barter, offer to sell or barter, pur-
6 chase, possess, transport, deliver, or receive, in inter-
7 state or foreign commerce, bear viscera or any prod-
8 uct, item, or substance containing, or labeled or ad-
9 vertised as containing, bear viscera.

10 (b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT
11 PURPOSES.—A person described in subparagraph (B) or
12 (C) of section 4(3) may import into, or export from, the
13 United States, or transport between States, bear viscera
14 or any product, item, or substance containing, or labeled
15 or advertised as containing, bear viscera if the importa-
16 tion, exportation, or transportation—

17 (1) is solely for wildlife law enforcement pur-
18 poses; and

19 (2) is authorized by a valid permit issued under
20 Appendix I or II of the Convention on International
21 Trade in Endangered Species of Wild Fauna and
22 Flora (27 UST 1087; TIAS 8249), in any case in
23 which such a permit is required under the Conven-
24 tion.

1 **SEC. 6. PENALTIES AND ENFORCEMENT.**

2 (a) **CRIMINAL PENALTIES.**—A person that knowingly
3 violates section 5 shall be fined under title 18, United
4 States Code, imprisoned not more than 1 year, or both.

5 (b) **CIVIL PENALTIES.**—

6 (1) **AMOUNT.**—A person that knowingly violates
7 section 5 may be assessed a civil penalty by the Sec-
8 retary of not more than \$25,000 for each violation.

9 (2) **MANNER OF ASSESSMENT AND COLLEC-**
10 **TION.**—A civil penalty under this subsection shall be
11 assessed, and may be collected, in the manner in
12 which a civil penalty under the Endangered Species
13 Act of 1973 may be assessed and collected under
14 section 11(a) of that Act (16 U.S.C. 1540(a)).

15 (c) **PRODUCTS, ITEMS, AND SUBSTANCES.**—Any bear
16 viscera, or any product, item, or substance sold, imported,
17 or exported, or attempted to be sold, imported, or ex-
18 ported, in violation of this section (including any regula-
19 tion issued under this section) shall be seized and forfeited
20 to the United States.

21 (d) **REGULATIONS.**—After consultation with the Sec-
22 retary of the Treasury, the Secretary of Health and
23 Human Services, and the United States Trade Represent-
24 ative, the Secretary shall issue such regulations as are nec-
25 essary to carry out this section.

1 (e) ENFORCEMENT.—The Secretary, the Secretary of
2 the Treasury, and the Secretary of the department in
3 which the Coast Guard is operating shall enforce this sec-
4 tion in the manner in which the Secretaries carry out en-
5 forcement activities under section 11(e) of the Endangered
6 Species Act of 1973 (16 U.S.C. 1540(e)).

7 (f) USE OF PENALTY AMOUNTS.—Amounts received
8 as penalties, fines, or forfeiture of property under this sec-
9 tion shall be used in accordance with section 6(d) of the
10 Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

11 **SEC. 7. DISCUSSIONS CONCERNING TRADE PRACTICES.**

12 The Secretary and the Secretary of State shall dis-
13 cuss issues involving trade in bear viscera with the appro-
14 priate representatives of countries trading with the United
15 States that are determined by the Secretary and the
16 United States Trade Representative to be the leading im-
17 porters, exporters, or consumers of bear viscera, and at-
18 tempt to establish coordinated efforts with the countries
19 to protect bears.

20 **SEC. 8. REPORT.**

21 Not later than 1 year after the date of enactment
22 of this Act, the Secretary, in cooperation with appropriate
23 State agencies, shall submit to the Committee on Environ-
24 ment and Public Works of the Senate and the Committee
25 on Resources of the House of Representatives a report de-

- 1 tailing the progress of efforts to end the illegal trade in
- 2 bear viscera.

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