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1ST SESSION

S. 1125

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

JUNE 28, 2001

Mr. McCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRICELLI, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bear Protection Act
3 of 2001”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

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

13 (2)(A) Article XIV of CITES provides that
14 Parties to CITES may adopt stricter domestic meas-
15 ures regarding the conditions for trade, taking, pos-
16 session, or transport of species listed on Appendix I
17 or II; and

18 (B) the Parties to CITES adopted a resolution
19 in 1997 (Conf. 10.8) urging the Parties to take im-
20 mediate action to demonstrably reduce the illegal
21 trade in bear parts;

22 (3)(A) thousands of bears in Asia are cruelly
23 confined in small cages to be milked for their bile;
24 and

25 (B) the wild Asian bear population has declined
26 significantly in recent years as a result of habitat

1 loss and poaching due to a strong demand for bear
2 viscera used in traditional medicines and cosmetics;

3 (4) Federal and State undercover operations
4 have revealed that American bears have been
5 poached for their viscera;

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

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

18 **SEC. 3. PURPOSES.**

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

21 (1) prohibiting interstate and international
22 trade in bear viscera and products containing, or la-
23 beled or advertised as containing, bear viscera;

24 (2) encouraging bilateral and multilateral ef-
25 forts to eliminate such trade; and

1 (3) ensuring that adequate Federal legislation
2 exists with respect to domestic trade in bear viscera
3 and products containing, or labeled or advertised as
4 containing, bear viscera.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) BEAR VISCERA.—The term “bear viscera”
8 means the body fluids or internal organs, including
9 the gallbladder and its contents but not including
10 the blood or brains, of a species of bear.

11 (2) CITES.—The term “CITES” means the
12 Convention on International Trade in Endangered
13 Species of Wild Fauna and Flora (27 UST 1087;
14 TIAS 8249).

15 (3) IMPORT.—The term “import” means to
16 land on, bring into, or introduce into any place sub-
17 ject to the jurisdiction of the United States, regard-
18 less of whether the landing, bringing, or introduction
19 constitutes an importation within the meaning of the
20 customs laws of the United States.

21 (4) PERSON.—The term “person” means—

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

24 (B) an officer, employee, agent, depart-
25 ment, or instrumentality of—

- 1 (i) the Federal Government;
2 (ii) any State or political subdivision
3 of a State; or
4 (iii) any foreign government; and
5 (C) any other entity subject to the jurisdic-
6 tion of the United States.

7 (5) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

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

15 (7) TRANSPORT.—The term “transport” means
16 to move, convey, carry, or ship by any means, or to
17 deliver or receive for the purpose of movement, con-
18 veyance, carriage, or shipment.

19 **SEC. 5. PROHIBITED ACTS.**

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

21 (b), a person shall not—

22 (1) import into, or export from, the United
23 States bear viscera or any product, item, or sub-
24 stance containing, or labeled or advertised as con-
25 taining, bear viscera; or

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

6 (b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT
 7 PURPOSES.—A person described in section 4(4)(B) may
 8 import into, or export from, the United States, or trans-
 9 port between States, bear viscera or any product, item,
 10 or substance containing, or labeled or advertised as con-
 11 taining, bear viscera if the importation, exportation, or
 12 transportation—

13 (1) is solely for the purpose of enforcing laws
 14 relating to the protection of wildlife; and

15 (2) is authorized by a valid permit issued under
 16 Appendix I or II of CITES, in any case in which
 17 such a permit is required under CITES.

18 **SEC. 6. PENALTIES AND ENFORCEMENT.**

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

22 (b) CIVIL PENALTIES.—

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

1 (2) MANNER OF ASSESSMENT AND COLLEC-
2 TION.—A civil penalty under this subsection shall be
3 assessed, and may be collected, in the manner in
4 which a civil penalty under the Endangered Species
5 Act of 1973 may be assessed and collected under
6 section 11(a) of that Act (16 U.S.C. 1540(a)).

7 (c) SEIZURE AND FORFEITURE.—Any bear viscera or
8 any product, item, or substance imported, exported, sold,
9 bartered, attempted to be imported, exported, sold, or
10 bartered, offered for sale or barter, purchased, possessed,
11 transported, delivered, or received in violation of this sec-
12 tion (including any regulation issued under this section)
13 shall be seized and forfeited to the United States.

14 (d) REGULATIONS.—After consultation with the Sec-
15 retary of the Treasury and the United States Trade Rep-
16 resentative, the Secretary shall issue such regulations as
17 are necessary to carry out this section.

18 (e) ENFORCEMENT.—The Secretary, the Secretary of
19 the Treasury, and the Secretary of the department in
20 which the Coast Guard is operating shall enforce this sec-
21 tion in the manner in which the Secretaries carry out en-
22 forcement activities under section 11(e) of the Endangered
23 Species Act of 1973 (16 U.S.C. 1540(e)).

24 (f) USE OF PENALTY AMOUNTS.—Amounts received
25 as penalties, fines, or forfeiture of property under this sec-

tion shall be used in accordance with section 6(d) of the
Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

**SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION
AND THE BEAR PARTS TRADE.**

In order to seek to establish coordinated efforts with
other countries to protect bears, the Secretary shall con-
tinue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to
CITES; and

(2) the appropriate representatives of countries
that are not parties to CITES and that are deter-
mined by the Secretary and the United States Trade
Representative to be the leading importers, export-
ers, or consumers of bear viscera.

SEC. 8. CERTAIN RIGHTS NOT AFFECTED.

Except as provided in section 5, nothing in this Act
affects—

(1) the regulation by any State of the bear pop-
ulation of the State; or

(2) any hunting of bears that is lawful under
applicable State law (including regulations).

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