

116TH CONGRESS  
2D SESSION

# S. 3196

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2020

Mr. KENNEDY (for himself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## 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 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) all 8 extant species of bear—Asian black  
2 bear, brown bear, polar bear, American black bear,  
3 spectacled bear, giant panda, sun bear, and sloth  
4 bear—are listed on appendix I or II of CITES;

5           (2) Article XIV of CITES provides that Parties  
6 to CITES may adopt stricter domestic measures re-  
7 garding the conditions for trade, taking, possession,  
8 or transport of species listed on appendix I or II of  
9 CITES, and the Parties to CITES adopted a resolu-  
10 tion in 1997 (Conf. 10.8) urging the Parties to take  
11 immediate action to demonstrably reduce the illegal  
12 trade in bear parts;

13           (3) thousands of bears in Asia are cruelly con-  
14 fined in small cages to be milked for their bile, and  
15 the wild Asian bear population has declined signifi-  
16 cantly in recent years as a result of habitat loss and  
17 poaching due to a strong demand for bear viscera  
18 used in traditional medicines and cosmetics;

19           (4) Federal and State undercover operations  
20 have revealed that American bears have been  
21 poached for their viscera;

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

1           (6) prohibitions against the importation into  
2           the United States and exportation from the United  
3           States, as well as prohibitions against the interstate  
4           trade, of bear viscera and products containing, or la-  
5           beled or advertised as containing, bear viscera will  
6           assist in ensuring that the United States does not  
7           contribute to the decline of any bear population as  
8           a result of the commercial trade in bear viscera.

9 **SEC. 3. PURPOSES.**

10          The purpose of this Act is to ensure the long-term  
11          viability of the 8 bear species of the world by—

12           (1) prohibiting interstate and international  
13           trade in bear viscera and products containing, or la-  
14           beled or advertised as containing, bear viscera;

15           (2) encouraging bilateral and multilateral ef-  
16           forts to eliminate that trade; and

17           (3) ensuring that adequate Federal legislation  
18           exists with respect to domestic trade in bear viscera  
19           and products containing, or labeled or advertised as  
20           containing, bear viscera.

21 **SEC. 4. DEFINITIONS.**

22          In this Act:

23           (1) **BEAR VISCERA.**—The term “bear viscera”  
24           means the body fluids or internal organs, including  
25           the gallbladder and the contents of the gallbladder,

1 but not including the blood or brains, of a species  
2 of bear.

3 (2) CITES.—The term “CITES” means the  
4 Convention on International Trade in Endangered  
5 Species of Wild Fauna and Flora (27 UST 1087;  
6 TIAS 8249).

7 (3) IMPORT.—The term “import” means to  
8 land on, bring into, or introduce into any place sub-  
9 ject to the jurisdiction of the United States, whether  
10 or not the landing, bringing, or introduction con-  
11 stitutes an importation within the meaning of the  
12 customs laws of the United States.

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

14 (A) an individual, corporation, partnership,  
15 trust, association, or other private entity;

16 (B) an officer, employee, agent, depart-  
17 ment, or instrumentality of—

18 (i) the Federal Government;

19 (ii) any State, municipality, or polit-  
20 ical subdivision of a State; or

21 (iii) any foreign government; and

22 (C) any other entity subject to the jurisdic-  
23 tion of the United States.

24 (5) SECRETARY.—The term “Secretary” means  
25 the Secretary of the Interior.

1           (6) STATE.—The term “State” means a State,  
2           the District of Columbia, the Commonwealth of  
3           Puerto Rico, the Virgin Islands, Guam, the Com-  
4           monwealth of the Northern Mariana Islands, Amer-  
5           ican Samoa, and any other territory, commonwealth,  
6           or possession of the United States.

7           (7) TRANSPORT.—The term “transport”  
8           means—

9                   (A) to move, convey, carry, or ship by any  
10           means; and

11                   (B) to deliver or receive for the purpose of  
12           movement, conveyance, carriage, or shipment.

13 **SEC. 5. PROHIBITED ACTS.**

14           (a) IN GENERAL.—Except as provided in subsection  
15 (b), it shall be unlawful for a person to knowingly—

16                   (1) import into, or export from, the United  
17           States bear viscera or any product, item, or sub-  
18           stance containing, or labeled or advertised as con-  
19           taining, bear viscera; or

20                   (2) sell or barter, offer to sell or barter, pur-  
21           chase, possess, transport, deliver, or receive, in inter-  
22           state or foreign commerce, bear viscera or any prod-  
23           uct, item, or substance containing, or labeled or ad-  
24           vertised as containing, bear viscera.

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

8 (1) is solely for purposes of enforcing laws re-  
9 lating to the protection of wildlife; and

10 (2) is authorized by a valid permit issued under  
11 appendix I or II of CITES, in any case in which  
12 such a permit is required under CITES.

13 **SEC. 6. PENALTIES AND ENFORCEMENT.**

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

17 (b) CIVIL PENALTIES.—

18 (1) AMOUNT.—A person that violates section 5  
19 may be assessed a civil penalty by the Secretary of  
20 not more than \$25,000 for each violation.

21 (2) MANNER OF ASSESSMENT AND COLLEC-  
22 TION.—A civil penalty under this subsection shall be  
23 assessed, and may be collected, in the manner in  
24 which a civil penalty under the Endangered Species  
25 Act of 1973 (16 U.S.C. 1531 et seq.) may be as-

1       sessed and collected under section 11(a) of that Act  
2       (16 U.S.C. 1540(a)).

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

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

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

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

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

3 The Secretary shall continue discussions concerning  
4 trade in bear viscera with the appropriate representatives  
5 of Parties to CITES and representatives of countries that  
6 are not party to CITES that are determined by the Sec-  
7 retary and the United States Trade Representative to be  
8 the leading importers, exporters, or consumers of bear  
9 viscera, to seek to establish coordinated efforts with those  
10 countries to protect bears.

11 **SEC. 8. CERTAIN RIGHTS NOT AFFECTED.**

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

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

16 (2) the hunting of bears that is lawful under  
17 applicable State laws (including regulations).

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