To prohibit the transportation, sale, and purchase of donkeys or donkey hides for the purpose of producing ejiao, to prohibit the transportation, sale, and purchase of products containing ejiao, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 2023

Mr. BEYER introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Foreign Affairs, the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To prohibit the transportation, sale, and purchase of donkeys or donkey hides for the purpose of producing ejiao, to prohibit the transportation, sale, and purchase of products containing ejiao, and for other purposes.

1 Be it enacted by the Senate and House of Representa-tives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Ejiao Act of 2023”.

4
SEC. 2. FINDINGS.

Congress finds the following:

(1) Ejiao is a gelatin created from the skins of donkeys which is used in traditional Chinese medicine, beauty, cosmetic, and other luxury products.

(2) The donkey skin trade for the production of ejiao is decimating global donkey populations and harming impoverished global communities.

(3) Studies have shown that the use of ejiao is unnecessary in the production of these products since the gelatins from other sources, including plants, may be used instead.

(4) Millions of donkeys are slaughtered annually for their skins to make ejiao.

(5) The domestic Chinese and international demand for donkey skins is approximately 8,000,000 to 10,000,000 skins per year but the annual supply in China is less than 1,800,000.

(6) Such demand has led to the slaughter of massive numbers of donkeys across the globe, decimating donkey populations, most notably in Africa and Latin America.

(7) Such demand has had devastating effects on the families who depend on donkeys for survival, such as for farming and construction; transporting
water to drink, cook, and clean; taking products to
market for sale; and transporting children to school.

(8) A report by the Kenya Agricultural and
Livestock Research Organization said that 159,631
donkeys were slaughtered for their skins, 8.1 percent
of the population, in 2018. Today, up to 1,000 don-
keys a day can be slaughtered in Kenya alone, more
than 300,000 a year.

(9) Donkeys are regularly stolen and killed ille-
gally solely for their skins. Moreover, donkeys are
often stolen from families who depend on them for
their livelihoods, and who are already struggling and
living below the regional poverty line.

(10) Where owners willingly sell their donkeys,
they find that within months they are worse off fi-
nancially than they would have been had they kept
their donkeys. As prices constantly rise, it becomes
impossible for these owners to go back into the mar-
et for a new donkey.

(11) Although ejiao products are expensive, as
the Chinese middle class has expanded, demand for
ejiao products has exploded over the course of the
last decade. As a result, the donkey population in
China has collapsed by 76 percent since 1992.
(12) Ejiao companies have set up donkey breeding schemes in China in an attempt to breed the species on a scale sufficient to meet local demand. But due to the long gestation period of donkeys, and the fact that they often only give birth once a year, breeders have not been able to satisfy demand from within China, which is why ejiao companies have turned to Africa and Latin America to satisfy demand for ejiao.

(13) A crisis in donkey populations has been met with varied responses from affected countries. Bans in the trade of donkey skins in seven African countries have been poorly enforced or overturned.

(14) As demand for ejiao continues unabated, donkey populations in lower-income countries continue to nosedive, despite governmental efforts to outlaw the trade.

(15) A number of United States-based companies have already pledged to remove from the market all products containing ejiao. Despite this, far too many United States-based companies continue to sell products containing ejiao.

(16) The leading importers in the world for ejiao are mainland China and Hong Kong. However, the United States is the third largest importer of
ejiao, with $12,000,000 in annual imports of ejiao each year.

**SEC. 3. PROHIBITIONS.**

(a) **DONKEYS AND DONKEY HIDES.**—No person shall knowingly import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, in the United States, any donkey or donkey hide for the purpose of producing—

(1) ejiao; or

(2) any product containing ejiao.

(b) **PRODUCTS WITH EJIAO.**—No person shall knowingly import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce (including by means of the internet), in the United States, any product containing ejiao.

**SEC. 4. PENALTIES AND SANCTIONS.**

(a) **CIVIL PENALTIES.**—

(1) **IN GENERAL.**—Any person who engages in conduct prohibited by section 3 may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in
any district in which a person may have taken or
been in possession of——

(A) in the case of a violation of section
3(a), the donkey or donkey hide; or

(B) in the case of a violation of section
3(b), the product containing ejiao.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—No civil penalty may be assessed under this
subsection unless the person accused of the violation
is given notice and opportunity for a hearing with
respect to the violation.

(3) DETERMINATION OF AMOUNT.—In deter-
mining the amount of any penalty assessed under
this subsection, the Secretary shall take into account
the nature, circumstances, extent, and gravity of the
prohibited act committed, and with respect to the vi-
olator, the degree of culpability, ability to pay, and
such other matters as justice may require.

(b) HEARINGS.—Hearings held during proceedings
for the assessment of civil penalties under this section
shall be conducted in accordance with section 554 of title
5, United States Code. The administrative law judge may
issue subpoenas for the attendance and testimony of wit-
nesses and the production of relevant papers, books, or
documents, and may administer oaths. Witnesses sum-
moned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena issued pursuant to this subsection and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a complaint in such court within 30 days after the date of such order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. If any person fails to pay an assessment of
a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty de novo.

(d) Criminal Penalties.—

(1) Import or export; value in excess of $350.—Any person who—

(A) in violation of section 3, knowingly imports or exports—

(i) any donkey or donkey hide; or

(ii) any product containing ejiao; or

(B) violates section 3 by knowingly engaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase—

(i) any donkey or donkey hide with a market value in excess of $350; or

(ii) any product containing ejiao with a market value in excess of $350,
knowing that the donkey, donkey hide, or product containing ejiao was taken, possessed, transported, or sold in violation of such section, shall be fined not more than $20,000 (notwithstanding the maximum fine amount otherwise applicable under section 3751 of title 18, United States Code), or imprisoned for not more than 5 years, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of such donkey, donkey hide, or product containing ejiao.

(2) Other prohibited conduct.—Any person who knowingly engages in conduct prohibited by section 3 and in the exercise of due care should know that the donkey, donkey hide, or product containing ejiao was taken, possessed, transported, or sold in violation of such section shall be fined not more than $10,000 (notwithstanding the maximum fine amount otherwise applicable under section 3751 of title 18, United States Code), or imprisoned for not more than 1 year, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the dis-
strict where the violation first occurred, but also in
any district in which the defendant may have taken
or been in possession of such donkey, donkey hide,
or product containing ejiao.

SEC. 5. FORFEITURE.

(a) IN GENERAL.—

(1) DONKEYS AND DONKEY HIDES.—All don-
keys or donkey hides imported, exported, trans-
ported, sold, received, acquired, or purchased con-
trary to the provisions of section 3(a), or any regula-
tion issued pursuant to such section, shall be subject
to forfeiture to the United States notwithstanding
any culpability requirements for civil penalty assess-
ment or criminal prosecution included in section 4.

(2) PRODUCTS WITH EJIAO.—All products con-
taining ejiao imported, exported, transported, sold,
received, acquired, or purchased contrary to the pro-
visions of section 3(b), or any regulation issued pur-
suant to such section, shall be subject to forfeiture
to the United States notwithstanding any culpability
requirements for civil penalty assessment or criminal
prosecution included in section 4.

(3) EQUIPMENT.—All vessels, vehicles, aircraft,
and other equipment used to aid in the importing,
exporting, transporting, selling, receiving, acquiring,
or purchasing of donkeys, donkey hides, or products containing ejiao in a criminal violation of this Act for which a felony conviction is obtained shall be subject to forfeiture to the United States if—

(A) the owner of such vessel, vehicle, aircraft, or equipment was at the time of the alleged illegal act a consenting party or privy thereto or in the exercise of due care should have known that such vessel, vehicle, aircraft, or equipment would be used in a criminal violation of this Act; and

(B) the violation involved—

(i) the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, a donkey or donkey hide; or

(ii) the import, export, transportation, sale, receipt, acquisition, or purchase of a product containing ejiao.

(b) **APPLICATION OF CUSTOMS LAWS.**—All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act,
insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department may, for the purposes of this Act, also be exercised or performed by the Secretary or by such persons as the Secretary may designate: Provided, That any warrant for search or seizure shall be issued in accordance with rule 41 of the Federal Rules of Criminal Procedure.

(c) Storage Cost.—Any person convicted of an offense, or assessed a civil penalty, under section 4 shall be liable for the costs incurred in the storage, care, and maintenance of any donkey, donkey hide, or product containing ejiao seized in connection with the violation concerned.

(d) Civil Forfeitures.—Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code.

SEC. 6. ENFORCEMENT.

(a) In General.—The provisions of this Act and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any
State agency or Indian tribe for purposes of enforcing this Act.

(b) Powers.—

(1) In general.—Any person authorized under subsection (a) to enforce this Act—

(A) may carry firearms;

(B) may, when enforcing this Act, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

(C) may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General:

Provided, That an arrest for a felony violation of this Act that is not committed in the presence or view of any such person and that involves only the transportation, acquisition, receipt, purchase, or sale of a donkey, donkey hide, or product containing ejiao taken or pos-
sessed in violation of any law or regulation of any State shall require a warrant;

(D) may make an arrest without a warrant for a misdemeanor violation of this Act if he has reasonable grounds to believe that the person to be arrested is committing a violation in his presence or view; and

(E) may execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act.

(2) DETENTION AND INSPECTION.—Any person authorized under subsection (a) to enforce this Act, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation pur-
poses, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits required by the country of natal origin, birth, or reexport of the donkey. Any donkey, donkey hide, product containing ejiao, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such donkey, donkey hide, product containing ejiao, property, or item pursuant to section 5 of this Act; except that the Secretary may, in lieu of holding such donkey, donkey hide, product containing ejiao, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) District Court Jurisdiction.—The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any actions arising under this Act. The venue provisions of title 18 and title 28 of the United States Code shall apply to any actions arising under this Act. The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or
affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulations issued thereunder.

(d) **Rewards and Certain Incidental Expenses.—**

(1) **In General.**—The Secretary or the Secretary of the Treasury shall pay, from sums received as penalties, fines, or forfeitures of property for any violation of this Act or any regulation issued hereunder—

(A) a reward to any person who furnishes information which leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this Act or any regulation issued hereunder; and

(B) the reasonable and necessary costs incurred by any person in providing temporary care for any donkey pending the disposition of any civil or criminal proceeding alleging a violation of this Act with respect to that donkey.

(2) **Amount.**—The amount of the reward referred to in paragraph (1)(A), if any, is to be designated by the Secretary or the Secretary of the Treasury, as appropriate.
(3) **INELIGIBILITY.**—Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this subsection.

**SEC. 7. DEFINITIONS.**

In this Act:

(1) **DONKEY.**—The term “donkey” means a wild, feral, or domestic donkey, ass, mule, burro, or hinny, including *Equus africanus* and *Equus asinus*.

(2) **EJIAO.**—The term “ejiao” means a gelatin created from the skin of a donkey (also known as “gelatina nigra”).

(3) **IMPORT.**—The term “import” means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) **SECRETARY.**—The term “Secretary” means, except as otherwise provided, the Secretary of Commerce.

(5) **TAKEN.**—The term “taken” means captured, killed, or collected.