

CAPTIVE PRIMATE SAFETY ACT

JUNE 17, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2964]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2964) to amend the Lacey Act Amendments of 1981 to treat nonhuman primates as prohibited wildlife species under that Act, to make corrections in the provisions relating to captive wildlife offenses under that Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Captive Primate Safety Act”.

SEC. 2. ADDITION OF NONHUMAN PRIMATES TO DEFINITION OF PROHIBITED WILDLIFE SPECIES.

Section 2(g) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(g)) is amended by inserting before the period at the end “or any nonhuman primate”.

SEC. 3. CAPTIVE WILDLIFE AMENDMENTS.

(a) PROHIBITED ACTS.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “or” after the semicolon;

(ii) in subparagraph (B)(iii), by striking “; or” and inserting a semicolon; and

(iii) by striking subparagraph (C); and

- (B) in paragraph (4), by inserting “or subsection (e)” before the period; and
- (2) in subsection (e)—
- (A) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6) respectively;
- (B) by striking “(e)” and all that follows through “Subsection (a)(2)(C) does not apply” in paragraph (1) and inserting the following:
- “(e) CAPTIVE WILDLIFE OFFENSE.—
- “(1) IN GENERAL.—It is unlawful for any person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any live animal of any prohibited wildlife species.
- “(2) LIMITATION ON APPLICATION.—This subsection—
- “(A) does not apply to a person transporting a nonhuman primate to or from a veterinarian who is licensed to practice veterinary medicine within the United States, solely for the purpose of providing veterinary care to the nonhuman primate, if—
- “(i) the person transporting the nonhuman primate carries written documentation issued by the veterinarian, including the appointment date and location;
- “(ii) the nonhuman primate is transported in a secure enclosure appropriate for that species of primate;
- “(iii) the nonhuman primate has no contact with any other animals or members of the public, other than the veterinarian and other authorized medical personnel providing veterinary care; and
- “(iv) such transportation and provision of veterinary care is in accordance with all otherwise applicable State and local laws, regulations, permits, and health certificates;
- “(B) does not apply to a person transporting a nonhuman primate to a legally designated caregiver for the nonhuman primate as a result of the death of the preceding owner of the nonhuman primate, if—
- “(i) the person transporting the nonhuman primate is carrying legal documentation to support the need for transporting the nonhuman primate to the legally designated caregiver;
- “(ii) the nonhuman primate is transported in a secure enclosure appropriate for the species;
- “(iii) the nonhuman primate has no contact with any other animals or members of the public while being transported to the legally designated caregiver; and
- “(iv) all applicable State and local restrictions on such transport, and all applicable State and local requirements for permits or health certificates, are complied with; and
- “(C) does not apply”;
- (C) in paragraph (2) (as redesignated by subparagraph (A))—
- (i) by striking “a” before “prohibited” and inserting “any”;
- (ii) by striking “(3)” and inserting “(4)”;
- (iii) by striking “(2)” and inserting “(3)”;
- (D) in paragraph (3) (as redesignated by subparagraph (A))—
- (i) in subparagraph (C)—
- (I) in clauses (ii) and (iii), by striking “animals listed in section 2(g)” each place it appears and inserting “prohibited wildlife species”; and
- (II) in clause (iv), by striking “animals” and inserting “prohibited wildlife species”; and
- (ii) in subparagraph (D), by striking “animal” each place it appears and inserting “prohibited wildlife species”;
- (E) in paragraph (4) (as redesignated by subparagraph (A)), by striking “(2)” and inserting “(3)”;
- (F) in paragraph (6) (as redesignated by subparagraph (A)), by striking “subsection (a)(2)(C)” and inserting “this subsection”; and
- (G) by inserting after paragraph (6) (as redesignated by subparagraph (A)) the following:
- “(7) APPLICATION.—This subsection shall apply beginning on the effective date of regulations promulgated under this subsection.”.
- (b) CIVIL PENALTIES.—Section 4(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(a)) is amended—
- (1) in paragraph (1), by inserting “(e),” after “subsections (b), (d),” ; and
- (2) in paragraph (1), by inserting “, (e),” after “subsection (d)”.
- (c) CRIMINAL PENALTIES.—Section 4(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(d)) is amended—

- (1) in paragraphs (1)(A) and (1)(B) and in the first sentence of paragraph (2), by inserting “(e),” after “subsections (b), (d),” each place it appears; and
- (2) in paragraph (3), by inserting “, (e),” after “subsection (d)”.

SEC. 4. APPLICABILITY PROVISION AMENDMENT.

Section 3 of the Captive Wildlife Safety Act (117 Stat. 2871; Public Law 108–191) is amended—

- (1) in subsection (a), by striking “(a) IN GENERAL.—Section 3” and inserting “Section 3”; and
- (2) by striking subsection (b).

SEC. 5. REGULATIONS.

Section 7(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3376(a)) is amended by adding at the end the following new paragraph:

- “(3) The Secretary shall, in consultation with other relevant Federal and State agencies, issue regulations to implement section 3(e).”.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL LAW ENFORCEMENT PERSONNEL.

In addition to such other amounts as are authorized to carry out the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.), there is authorized to be appropriated to the Secretary of the Interior \$5,000,000 for fiscal year 2009 to hire additional law enforcement personnel of the United States Fish and Wildlife Service to enforce that Act.

PURPOSE OF THE BILL

The purpose of H.R. 2964 is to amend the Lacey Act Amendments of 1981 to treat nonhuman primates as prohibited wildlife species under that Act, to make corrections in the provisions relating to captive wildlife offenses under that Act, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2964, The Captive Primate Safety Act, would amend the Lacey Act Amendments of 1981 to add nonhuman primates to the list of animals that cannot be transported across state lines. Specifically, H.R. 2964 prohibits the import, export, transportation, sale, receipt, acquisition, or purchase in interstate or foreign commerce of nonhuman primates in order to safeguard public health and safety and protect the welfare of monkeys, apes (which include chimpanzees and orangutans), marmosets and lemurs. The bill is similar to the Captive Wildlife Safety Act (CWSA), which Congress passed in 2003 to ban interstate commerce in lions, tigers, and other big cats for the pet trade.

Although the importation of nonhuman primates into the United States for the pet trade has been banned by federal regulation since 1975 due to health concerns, these animals are readily available for purchase on the Internet and from exotic animal dealers. While some states already prohibit the possession of these animals as pets, there remains an active trade in these animals. It is estimated that 15,000 nonhuman primates currently are in private hands. This number may be low due to the largely unregulated nature of the trade.

Nonhuman primates may pose serious risks to public health and safety. They can transmit diseases such as Herpes B, monkey pox, Simian Immunodeficiency Virus, tuberculosis, yellow fever, and the Ebola virus. Further, nonhuman primates can inflict serious physical harm. While infant primates may seem as harmless as domesticated animals, they are wild creatures that inevitably grow more assertive and can become aggressive when frustrated or frightened.

The Captive Wild Animal Protection Coalition reported that from January 1, 1995 to January 1, 2005 there were 132 incidents reported of human injury caused by captive primates or escapes of captive primates in the United States.

Most people cannot provide the special care, housing, diet, maintenance, and enrichment that these animals require, including companionship with other nonhuman primates. If an owner becomes overwhelmed or unable to meet these needs, a nonhuman primate purchased in the interstate pet trade can ultimately face euthanasia, abandonment, or a lifetime of imprisonment in someone's garage or basement. Alternatively, they may end up being sold to substandard roadside menageries or dumped back into the cycle of breeding, adding to the exotic animal industry.

Interstate transport increases the probability of contact with strangers and untrained people, thereby augmenting the risks of disease spread and physical harm. Conversely, decreasing commerce in nonhuman primates, as H.R. 2964 would do, limits interactions and diminishes risks to humans.

H.R. 2964 would not affect trade or transportation of animals for zoos, research facilities, or other federally licensed and regulated entities. Federal licenses or registration are required for all commercial activity, such as breeders, dealers, research institutions, exhibitors, and transporters; therefore, they are exempt from this legislation.

H.R. 2964 also makes technical corrections to the Lacey Act Amendments of 1981 and the Captive Wildlife Safety Act in order to ensure that the CWSA provisions found in 16 U.S.C 3372 are fully enforceable.

As mentioned, the CWSA amended the Lacey Act Amendments of 1981 to make it unlawful for any person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any prohibited wildlife species. Such prohibited wildlife species include any live species of lion, tiger, leopard, cheetah, jaguar, and cougar. The purpose of the law was to prevent the sale of these species as pets.

It was not until the CWSA had been passed that the Fish and Wildlife Service and Department of Justice identified technical drafting problems with the legislation that made full implementation and enforcement impossible.

Specifically, under the Lacey Act civil and criminal wildlife trafficking prohibitions are built upon a "two-step" prohibition scheme. Under section 3372(a), each trafficking violation—with the exception of violations of the CWSA—requires proof of two separate steps involving the wildlife at issue. First, the wildlife must be taken, possessed, transported or sold by someone in violation of existing laws or treaties. Second, the wildlife must be subsequently imported, exported, transported, sold, received, acquired or purchased. These two steps cannot be collapsed by prosecutors into one step or act committed by the defendant.

As enacted, the CWSA is a one-step offense within a section of the Lacey Act that presumes two-step violations. Consequently, placement of amendments made by the CWSA in this section of the Lacey Act could make violations of the CWSA potentially difficult to enforce in court because some big cats may be legally possessed to begin with. H.R. 2964 would make the technical changes to the

law needed to allow the original intent of the legislation to be achieved. All exemptions under the existing CWSA would remain unchanged and in effect.

COMMITTEE ACTION

H.R. 2964 was introduced by Representative Eddie Bernice Johnston (D-TX) on July 10, 2007. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife and Oceans.

On March 11, 2008, the Subcommittee held a hearing on the bill. Representatives from the American Veterinary Medical Association, the Jane Goodall Institute, the Association of Zoos and Aquariums, the Humane Society of the United States and others testified in favor of the bill. The Administration opposed the bill, stating that it would expand the U.S. Fish and Wildlife Service's enforcement responsibilities into what they consider to be a responsibility of state agencies.

On June 4, 2008, the Subcommittee met to mark up the bill. Rep. Henry E. Brown, Jr. (R-SC) offered an amendment to include a one-time authorization of appropriations for law enforcement, which was adopted by voice vote. Rep. Brown also offered an amendment to allow nonhuman primates to be transported across state lines to obtain veterinary care. Chairwoman Madeleine Z. Bordallo (D-GU) offered a second-degree amendment to the Brown amendment to place conditions on such transport to ensure the protection of the nonhuman primate and the humans involved in the provision of transport and medical care. The second-degree amendment also stipulated that the transportation and provision of veterinary care must be in accordance with all otherwise applicable state and local prohibitions and restrictions. Third, the second-degree amendment required the Secretary of the Interior to issue regulations to implement the Captive Wildlife Safety Act. The Bordallo amendment was adopted by voice vote and the Brown amendment, as amended, was also adopted by voice vote. H.R. 2964, as amended, was then recommended favorably to the Full Committee.

On June 11, 2008, the Full Natural Resources Committee met to consider the bill. Ranking Member Don Young (R-AK) offered an amendment to permit the transport, with conditions, of a nonhuman primate to a legally designated caregiver in the event of the death of the preceding owner. It was adopted by unanimous consent. The bill was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that this Act may be cited as the "Captive Primate Safety Act".

Sec. 2. Addition of nonhuman primates to the definition of prohibited wildlife species

This section amends the Lacey Act Amendments of 1981 to add nonhuman primates to the definition of "Prohibited Wildlife Species."

Sec. 3. Captive wildlife amendments

This section amends the Lacey Act Amendments of 1981 to add nonhuman primates to the group of animals that cannot be imported, exported, transported, sold, received, acquired or purchased in interstate or foreign commerce. This section also provides, and places conditions on, exemptions to the prohibition for the purposes of: (1) receiving veterinary care; and (2) transferring ownership of the nonhuman primate in the event of a caregiver's death.

Sec. 4. Applicability provision amendment

This section makes technical corrections to ensure the implementation and enforcement of the Captive Wildlife Safety Act (117 Stat. 2871; Public Law 108–191).

Sec. 5. Applicability provision amendment

This section directs the Secretary of the Interior, in consultation with other relevant federal and state agencies, to issue regulations to implement the Captive Wildlife Safety Act.

Sec. 6. Applicability provision amendment

This section authorizes an appropriation to the Secretary of the Interior of \$5 million for fiscal year 2009 to hire additional law enforcement personnel of the U.S. Fish and Wildlife Service to enforce the Captive Wildlife Safety Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Lacey Act Amendments of 1981 to treat nonhuman primates as prohibited wildlife species under that Act,

to make corrections in the provisions relating to captive wildlife offenses under that Act.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2964—Captive Primate Safety Act

Summary: H.R. 2964 would amend the Lacey Act to prohibit interstate and foreign trade of nonhuman primates. The legislation also would authorize the appropriation of \$5 million for 2009 for enforcement of the bill. CBO estimates that implementing the bill would cost \$17 million over the 2009–2013 period, assuming appropriation of the amounts authorized for 2009 and amounts estimated to be necessary after that. The bill could increase revenue collections and direct spending, but we estimate that any such net changes would be insignificant.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 2964 would impose a private-sector mandate, as defined in UMRA, on certain entities that handle nonhuman primates. CBO expects that the direct costs of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates (\$136 million in 2008, adjusted for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2964 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2008–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	5	3	4	4	4	20
Estimated Outlays	2	3	4	4	4	17

Basis of estimate: H.R. 2964 would make it illegal to import, export, transport, sell, receive, acquire, or purchase nonhuman primates (such as monkeys and apes). Violators of the proposed prohibition on interstate and foreign trade of such animals would be subject to criminal and civil penalties.

Based on information provided by the U.S. Fish and Wildlife Service (USFWS), CBO estimates that implementing H.R. 2964 would cost about \$4 million annually, primarily for additional staff to conduct inspections and investigations to enforce the legislation. CBO expects that the agency would take about three years to reach that level of effort. Thus, we estimate that the added duties for USFWS would cost about \$17 million over the 2009–2013 period, assuming appropriation of the \$5 million authorized to be appropriated for 2009 and the amounts estimated to be necessary after that.

Enacting H.R. 2964 could increase revenues from civil and criminal fines. Based on information obtained from the USFWS about the relatively small number of violations likely to occur, CBO esti-

mates that any such increase would be less than \$500,000 annually. Moreover, such changes would be fully offset by increases in direct spending from the Crime Victims Fund (where criminal fines are deposited) or the resource management account of the USFWS (where civil fines are deposited and used for rewards to informers and for other program costs).

Estimated impact on state, local, and tribal governments: H.R. 2964 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2964 would impose a private-sector mandate as defined in UMRA. The bill would prohibit any person from importing, exporting, transporting, selling, receiving, acquiring, or purchasing nonhuman primates in interstate or foreign commerce. Several groups would be exempted from the prohibition, including entities that are licensed or registered by a federal agency. Importers, dealers, exhibitors, transporters, and research facilities that handle nonhuman primates are currently required to obtain a permit or license, or register with a federal agency. Therefore, those entities would not be affected by the provisions in the bill.

The cost to any sanctuaries that would need to get accredited would be small. H.R. 2964 also would exempt, under the conditions specified in the bill, individuals transporting nonhuman primates to veterinarians or to designated care givers upon the death of the owner. CBO expects that those individuals would incur minimal costs to meet those conditions. The costs to others who would be affected by the mandate also would be minimal. Consequently, CBO expects that the local direct cost of complying with the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted for inflation).

Previous CBO estimate: On August 20, 2007, CBO transmitted a cost estimate for S. 1498, the Captive Primates Safety Act, as ordered reported by the Senate Committee on Public Works and Environment on July 31, 2007. S. 1498 and H.R. 2964 are very similar. The estimated total costs of the two versions of the legislation are the same, but the timing of outlays is slightly different because we assume that H.R. 2964 will be enacted at a later date.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Melissa Merrill; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2964 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

LACEY ACT AMENDMENTS OF 1981

* * * * *

SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) * * *

* * * * *

(g) PROHIBITED WILDLIFE SPECIES.—The term “prohibited wildlife species” means any live species of lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of such species *or any nonhuman primate*.

* * * * *

SEC. 3. PROHIBITED ACTS.

(a) OFFENSES OTHER THAN MARKING OFFENSES.—It is unlawful for any person—

(1) * * *

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law; *or*

(B) any plant—

(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

(I) * * *

* * * * *

(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants【; or】;

【(C) any prohibited wildlife species (subject to subsection (e));】

* * * * *

(4) to attempt to commit any act described in paragraphs (1) through (3) *or subsection (e)*.

* * * * *

【(e) NONAPPLICABILITY OF PROHIBITED WILDLIFE SPECIES OFFENSE.—

【(1) IN GENERAL.—Subsection (a)(2)(C) does not apply】

(e) CAPTIVE WILDLIFE OFFENSE.—

(1) *IN GENERAL.*—It is unlawful for any person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any live animal of any prohibited wildlife species.

(2) *LIMITATION ON APPLICATION.*—This subsection—

(A) does not apply to a person transporting a nonhuman primate to or from a veterinarian who is licensed to practice veterinary medicine within the United States, solely for the purpose of providing veterinary care to the nonhuman primate, if—

(i) the person transporting the nonhuman primate carries written documentation issued by the veterinarian, including the appointment date and location;

(ii) the nonhuman primate is transported in a secure enclosure appropriate for that species of primate;

(iii) the nonhuman primate has no contact with any other animals or members of the public, other than the veterinarian and other authorized medical personnel providing veterinary care; and

(iv) such transportation and provision of veterinary care is in accordance with all otherwise applicable State and local laws, regulations, permits, and health certificates;

(B) does not apply to a person transporting a nonhuman primate to a legally designated caregiver for the nonhuman primate as a result of the death of the preceding owner of the nonhuman primate, if—

(i) the person transporting the nonhuman primate is carrying legal documentation to support the need for transporting the nonhuman primate to the legally designated caregiver;

(ii) the nonhuman primate is transported in a secure enclosure appropriate for the species;

(iii) the nonhuman primate has no contact with any other animals or members of the public while being transported to the legally designated caregiver; and

(iv) all applicable State and local restrictions on such transport, and all applicable State and local requirements for permits or health certificates, are complied with; and

(C) does not apply to importation, exportation, transportation, sale, receipt, acquisition, or purchase of an animal of [a] any prohibited wildlife species, by a person that, under regulations prescribed under paragraph [(3)] (4), is described in paragraph [(2)] (3) with respect to that species.

[(2)] (3) *PERSONS DESCRIBED.*—A person is described in this paragraph, if the person—

(A) * * *

* * * * *

(C) is an accredited wildlife sanctuary that cares for prohibited wildlife species and—

(i) * * *

* * * * *

(ii) does not commercially trade in [animals listed in section 2(g)] *prohibited wildlife species*, including offspring, parts, and byproducts of such animals;

(iii) does not propagate [animals listed in section 2(g)] *prohibited wildlife species*; and

(iv) does not allow direct contact between the public and [animals] *prohibited wildlife species*; or

(D) has custody of the [animal] *prohibited wildlife species* solely for the purpose of expeditiously transporting the [animal] *prohibited wildlife species* to a person described in this paragraph with respect to the species.

[(3)] (4) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in cooperation with the Director of the Animal and Plant Health Inspection Service, shall promulgate regulations describing the persons described in paragraph [(2)] (3).

[(4)] (5) STATE AUTHORITY.—Nothing in this subsection preempts or supersedes the authority of a State to regulate wildlife species within that State.

[(5)] (6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out [subsection (a)(2)(C)] *this subsection* \$3,000,000 for each of fiscal years 2004 through 2008.

(7) APPLICATION.—*This subsection shall apply beginning on the effective date of regulations promulgated under this subsection.*

* * * * *

SEC. 4. PENALTIES AND SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who engages in conduct prohibited by any provision of this Act (other than subsections (b), (d), (e), and (f) of section 3) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty, or regulation, and any person who knowingly violates subsection (d), (e), or (f) of section 3, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation: *Provided*, That when the violation involves fish or wildlife or plants with a market value of less than \$350, and involves only the transportation, acquisition, or receipt of fish or wildlife or plants taken or possessed in violation of any law, treaty, or regulation of the United States, any Indian tribal law, any foreign law, or any law or regulation of any State, the penalty assessed shall not exceed the maximum provided for violation of said law, treaty, or regulation, or \$10,000, whichever is less.

* * * * *

(d) CRIMINAL PENALTIES.—

(1) Any person who—

(A) knowingly imports or exports any fish or wildlife or plants in violation of any provision of this Act (other than subsections (b), (d), (e), and (f) of section 3), or

(B) violates any provision of this Act (other than subsections (b), (d), (e), and (f) of section 3) by knowingly en-

gaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants with a market value in excess of \$350,

knowing that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation, shall be fined not more than \$20,000, or imprisoned for not more than five 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 the said fish or wildlife or plants.

(2) Any person who knowingly engages in conduct prohibited by any provision of this Act (other than subsections (b), (d), (e), and (f) of section 3) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation shall be fined not more than \$10,000, or imprisoned for not more than one year, 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 the said fish or wildlife or plants.

(3) Any person who knowingly violates subsection (d), (e), or (f) of section 3—

(A) * * *

* * * * *

SEC. 7. ADMINISTRATION.

(a) REGULATIONS.—

(1) * * *

* * * * *

(3) *The Secretary shall, in consultation with other relevant Federal and State agencies, issue regulations to implement section 3(e).*

* * * * *

CAPTIVE WILDLIFE SAFETY ACT

* * * * *

SEC. 3. PROHIBITED ACTS.

[(a) IN GENERAL.—Section 3] *Section 3* of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) * * *

* * * * *

[(b) APPLICATION.—Section 3(a)(2)(C) of the Lacey Act Amendments of 1981 (as added by subsection (a)(1)(A)(iii)) shall apply beginning on the effective date of regulations promulgated under section 3(e)(3) of that Act (as added by subsection (a)(2)).]

* * * * *

DISSENTING VIEWS

According to various sources, there are approximately 15,000 primate pets in the United States. All pet primates have been born in the United States and sold by USDA licensed breeders for the past 33 years and they cost between \$3,000 to \$30,000 each. The Captive Wild Animal Protection Coalition has stated that 132 people have been injured by primates in the past ten years with nearly 40 percent of those injuries occurring in laboratories, research facilities, sanctuaries and zoos. These facilities are all exempt under the Captive Primate Safety Act. In contrast, there is evidence indicating that large dogs send nearly 300,000 people to hospital emergency rooms each year.

It has been argued that primates infect their human hosts with a variety of deadly diseases. In fact, there is little documented evidence that primate pets are infecting their human owners or even have the same diseases that are found in wild primate populations. During testimony on this legislation, Dr. Sian Evans, the Director of the DuMond Conservancy for Primates and Tropical Forests testified that: "Pet primates are not a documented source of disease for humans. There is no documentation or scientific evidence to support these claims."

In summary, there are more than 40 states that either prohibit or require a license or permit to own a non-human primate, a significant number of injuries caused by primates have happened at exempted facilities such as laboratories, sanctuaries and zoos, there is no documented evidence that primate pets are infecting their owners and there is a real question of whether the U.S. Fish and Wildlife Service should be responsible for regulating the pet industry, particularly at a cost of \$5 million.

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