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113TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
113–596

EXPEDITED DEPARTURE OF CERTAIN SNAKE SPECIES ACT

SEPTEMBER 15, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2158]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2158) to exempt from the Lacey Act Amendments of 1981 the expedited removal from the United States of certain snake species, 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 "Expedited Departure of Certain Snake Species Act".

SEC. 2. COMPLIANCE WITH LACEY ACT.

(a) IN GENERAL.—For purposes of the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.), a qualified stop of a covered snake shall not be treated as occurring in interstate commerce.

(b) DEFINITIONS.—In this section:

(1) COVERED SNAKE.—The term "covered snake" means any—

(A) Burmese python *(Python molurus bivittatus)*;

(B) Indian python *(Python molurus molurus)*;

(C) Northern African python *(Python sebae)*;

(D) Southern African python *(Python natalensis)*; and

(E) Yellow anaconda *(Eunectes notaeus)*.

(2) DESIGNATED AIRPORT.—The term "designated airport" means an airport located at a designated port as defined by the United States Fish and Wildlife Service under section 14.12 of title 50, Code of Federal Regulations.

(3) QUALIFIED SECURE CONTAINER.—The term "qualified secure container" means a container that—

(A) contains the covered snake in a closely woven, double-seam sewn, cloth sack that is in a second cloth sack of similar construction; and

(B) on which there is a prominent label that states "Dangerous Reptiles".

(4) QUALIFIED STOP.—The term "qualified stop"—

(A) except as provided in subparagraph (C), means any intermediate stop in a designated airport of a covered snake in a qualified secure container in the course of transport of such snake that—

(i) begins in a designated airport; and

(ii) ends at a place outside of the United States not later than 48 hours after such transport begins;

(B) may include transfer of the qualified secure container in an airport between aircraft used for such transport outside of the United States; and

(C) does not include any stop in Hawaii.

PURPOSE OF THE BILL

The purpose of H.R. 2158 is to exempt from the Lacey Act Amendments of 1981 the expedited removal from the United States of certain snake species.

BACKGROUND AND NEED FOR LEGISLATION

In 1900, Congress enacted legislation now termed the Lacey Act (16 U.S.C. 3371 et seq.) to support the efforts of states to protect their resident game and birds. It prevented hunters from killing game in one state and escaping prosecution by moving it across state lines. It criminalizes the shipment of parts or bodies of "wild animals or birds" killed in violation of a state law. In addition, the law established an "injurious wildlife" category where non-native wildlife that were causing problems for native wildlife or habitat can be controlled by prohibiting the importation and interstate commerce of these species.

According to the Fish and Wildlife Service, there are 230 species that have been listed as "injurious wildlife" including 142 species of fish, mollusks, crustaceans; 79 mammal species; five species of reptiles; and four species of birds. The Lacey Act does not regulate intrastate commerce, possession, the breeding of a listed species or the *export* of a listed species. According to the Service, "this means that you can export a listed snake without acquiring authorization under the Lacey Act. While you can export specimens of these four species, you cannot pass State lines while transporting specimens to an airport, and the plane cannot land in another State while in transit to its final destination."

It is this interpretation that has caused great difficulty for individuals and companies who desire to sell these listed species to customers outside of the United States. It is even counterproductive to the stated goals of the Service to reduce the population of these four species by removing them from this country. For example, a small business owner in the State of Florida had completed a sale of ten listed Burmese pythons to a reptile breeder in Indonesia, which ironically is the native habitat of these snakes. Unfortunately, he was told that he could not ship these snakes on a plane leaving the "designated port" of Miami, Florida, because that flight had to stop in Anchorage, Alaska, which is also a designated port, to take on fuel to complete its transit to Jakarta, Indonesia. De-

spite the fact that the shipper had obtained all of the necessary permits, the Service defined the stop in Alaska as interstate commerce. In addition, small businesses in California are having great difficulty shipping their listed snake species to Europe because many flights from the West Coast must stop in Newark, New Jersey, or JFK Airport in New York.

H.R. 2158 is a narrow modification of the Lacey Act. It only affects these five snake species. Prior to its listing, the Burmese python was widely held and traded throughout the United States. There are no other species on the "injurious wildlife" list that even remotely approached the $1 billion economic value of these snakes. The bill limits the transportation of three snakes outside of the United States in a commercial air plane. The measure does not expand the list of designated ports identified in federal regulations (50 CFR 14.12) and removes Honolulu, Hawaii, as an eligible port. It does not alleviate the need to obtain appropriate export permits nor does it forgive the payment of export permit fees, wildlife inspection fees or other required costs. All appropriate state laws must be complied with prior to shipment.

Upon arrival at one of the 17 designated ports, the snakes and their permits will be examined by a Service wildlife inspector, the snakes must be transported in a secure container, and the snakes are held in a secure cargo location prior to being placed on an airline. In addition, an international airway bill must be obtained. This is a receipt issued by an international airline for goods and it is evidence of the contract of carriage. It is the most important document issued to the shipper either directly by the airline or its authorized agent.

This legislation will stipulate that the export of these five species of nonnative snakes will not trigger the interstate commerce restrictions of the Lacey Act as long as these snakes leave the United States from one of the 17 designated ports, only stops at another designated port, and their transit ends in a foreign country no later than 48 hours after leaving the first designated port. The remaining eligible "designated ports" include Anchorage, Alaska; Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Chicago, Illinois; Dallas/Fort Worth, Texas; Houston, Texas; Los Angeles, California; Louisville, Kentucky; Memphis, Tennessee, Miami, Florida; New Orleans, Louisiana; New York, New York; Newark, New Jersey; Portland, Oregon; San Francisco, California; and Seattle, Washington.

According to the Pet Industry Joint Advisory Council and the U.S. Association of Reptile Keepers, there are at least 30 small businesses in this country who would find the clarification contained within the Expedited Departure of Certain Snake Species Act helpful. The majority of these companies are located in Florida, California and Texas.

COMMITTEE ACTION

H.R. 2158 was introduced on May 23, 2013, by Congressman John Fleming (R–LA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs. On July 25, 2013, the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs held a hearing on the bill. On July 16, 2014, the Natural

Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs was discharged by unanimous consent. Congressman John Fleming (R–LA) offered an amendment designated .001 to the bill; the amendment was adopted by unanimous consent. The bill as amended was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

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.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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)(2)(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. 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:

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H.R. 2158 would allow exporters of certain species of snakes to transport those snakes between airports within the United States en route to foreign countries. The bill also would allow those snakes to be transferred between planes at airports in the United States. Because those species, which include the Burmese python, Indian Python, Northern and Southern African pythons, and the yellow anaconda, are classified as injurious wildlife under the Lacey Act, they must be transported from certain airports in the United States directly to foreign airports under current law.

Based on information provided by the U.S. Fish and Wildlife Service, the agency responsible for enforcing the Lacey Act, CBO estimates that implementing H.R. 2158 would not affect the federal budget. Because enacting the bill would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

H.R. 2158 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of 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. Based on information provided by the U.S. Fish

and Wildlife Service, the agency responsible for enforcing the Lacey Act, CBO estimates that implementing H.R. 2158 would not affect the federal budget.

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 exempt from the Lacey Act Amendments of 1981 the expedited removal from the United States of certain snake species.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 2158 would exempt from certain interstate commerce restrictions for four species of large constrictor snakes listed as injurious wildlife under the Lacey Act. While amendments added at Committee markup improved this legislation significantly over the introduced version, we cannot support the core concept of the bill: exporting invasive species to other countries.

In 2010, the U.S. Fish and Wildlife Service (Service) proposed listing nine large constrictor snake species as injurious under the Lacey Act, which would have banned their import, export, and movement across state lines. A report by the U.S. Geologic Survey noted that while individuals of these species had only established themselves in the wild in South Florida and Puerto Rico, a number of southern states, Hawaii, and all of the U.S. insular areas have suitable habitat and climate to support their survival. In particular the Burmese python, which can grow to over 18 feet in length, could potentially establish populations throughout the South, and as far north as Delaware and Oregon. After public comment and review of the proposed rule by the Office of Management and Budget (OMB), the final rule, established in January 2012, was limited to four species: the Burmese python, the yellow anaconda, and the northern and southern African pythons.

H.R. 2158 was introduced by Fish, Wildlife, Oceans and Insular Affairs Subcommittee Chairman Fleming (R–LA) on May 23, 2013. It exempts the four injurious species of constrictor snakes from Lacey Act interstate commerce restrictions if the snakes are being shipped to a destination outside the United States. Airplanes carrying the snakes would be allowed to make stops within the United States, with the exception of Hawaii, for the purposes of refueling or taking on cargo or passengers. One major concern with the bill as introduced was the likelihood of snakes escaping during transport. At markup, the Committee adopted an amendment to define the type of secure container necessary for transporting the snakes, and to clarify that stops may only be made at one of the 18 designated ports for wildlife trade (excepting Honolulu). This amendment was a welcome addition, but does not address all of our concerns with the bill.

By allowing this exemption, the United States would be encouraging owners of these dangerous and environmentally destructive reptiles to export their problems to other countries whose laws have not yet caught up with ours. That is not responsible public policy. It is also likely that the Service will soon list as injurious several more of the constrictor snake species originally proposed in 2010, which would create a confusing inconsistency for law enforcement and snake owners should this bill become law. For these reasons, I oppose H.R. 2158 as reported.

PETER DEFAZIO.