

105TH CONGRESS
2D SESSION

S. 361

AN ACT

To amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, 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 “Rhinoceros and Tiger
5 Conservation Act of 1998”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the populations of all but 1 species of rhi-
4 noceros, and the tiger, have significantly declined in
5 recent years and continue to decline;

6 (2) these species of rhinoceros and tiger are
7 listed as endangered species under the Endangered
8 Species Act of 1973 (16 U.S.C. 1531 et seq.) and
9 listed on Appendix I of the Convention on Inter-
10 national Trade in Endangered Species of Wild
11 Fauna and Flora, signed on March 3, 1973 (27
12 UST 1087; TIAS 8249) (referred to in this Act as
13 “CITES”);

14 (3) the Parties to CITES have adopted several
15 resolutions—

16 (A) relating to the conservation of tigers
17 (Conf. 9.13 (Rev.)) and rhinoceroses (Conf.
18 9.14), urging Parties to CITES to implement
19 legislation to reduce illegal trade in parts and
20 products of the species; and

21 (B) relating to trade in readily recogniz-
22 able parts and products of the species (Conf.
23 9.6), and trade in traditional medicines (Conf.
24 10.19), recommending that Parties ensure that
25 their legislation controls trade in those parts

1 and derivatives, and in medicines purporting to
2 contain them;

3 (4) a primary cause of the decline in the popu-
4 lations of tiger and most rhinoceros species is the
5 poaching of the species for use of their parts and
6 products in traditional medicines;

7 (5) there are insufficient legal mechanisms ena-
8 bling the United States Fish and Wildlife Service to
9 interdict products that are labeled or advertised as
10 containing substances derived from rhinoceros or
11 tiger species and prosecute the merchandisers for
12 sale or display of those products; and

13 (6) legislation is required to ensure that—

14 (A) products containing, or labeled or ad-
15 vertised as containing, rhinoceros parts or tiger
16 parts are prohibited from importation into, or
17 exportation from, the United States; and

18 (B) efforts are made to educate persons re-
19 garding alternatives for traditional medicine
20 products, the illegality of products containing,
21 or labeled or advertised as containing, rhinoc-
22 eros parts and tiger parts, and the need to con-
23 serve rhinoceros and tiger species generally.

1 **SEC. 3. PURPOSES OF THE RHINOCEROS AND TIGER CON-**
2 **SERVATION ACT OF 1994.**

3 Section 3 of the Rhinoceros and Tiger Conservation
4 Act of 1994 (16 U.S.C. 5302) is amended by adding at
5 the end the following:

6 “(3) To prohibit the sale, importation, and ex-
7 portation of products intended for human consump-
8 tion or application containing, or labeled or adver-
9 tised as containing, any substance derived from any
10 species of rhinoceros or tiger.”.

11 **SEC. 4. DEFINITION OF PERSON.**

12 Section 4 of the Rhinoceros and Tiger Conservation
13 Act of 1994 (16 U.S.C. 5303) is amended—

14 (1) in paragraph (4), by striking “and” at the
15 end;

16 (2) in paragraph (5), by striking the period at
17 the end and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(6) ‘person’ means—

20 “(A) an individual, corporation, partner-
21 ship, trust, association, or other private entity;

22 “(B) an officer, employee, agent, depart-
23 ment, or instrumentality of—

24 “(i) the Federal Government;

25 “(ii) any State, municipality, or politi-
26 cal subdivision of a State; or

1 “(iii) any foreign government;

2 “(C) a State, municipality, or political sub-
3 division of a State; or

4 “(D) any other entity subject to the juris-
5 diction of the United States.”.

6 **SEC. 5. PROHIBITION ON SALE, IMPORTATION, OR EXPOR-**
7 **TATION OF PRODUCTS LABELED OR ADVER-**
8 **TISED AS RHINOCEROS OR TIGER PRODUCTS.**

9 The Rhinoceros and Tiger Conservation Act of 1994
10 (16 U.S.C. 5301 et seq.) is amended—

11 (1) by redesignating section 7 as section 9; and

12 (2) by inserting after section 6 the following:

13 **“SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPOR-**
14 **TATION OF PRODUCTS LABELED OR ADVER-**
15 **TISED AS RHINOCEROS OR TIGER PRODUCTS.**

16 “(a) PROHIBITION.—A person shall not sell, import,
17 or export, or attempt to sell, import, or export, any prod-
18 uct, item, or substance intended for human consumption
19 or application containing, or labeled or advertised as con-
20 taining, any substance derived from any species of rhinoc-
21 eros or tiger.

22 “(b) PENALTIES.—

23 “(1) CRIMINAL PENALTY.—A person engaged
24 in business as an importer, exporter, or distributor
25 that knowingly violates subsection (a) shall be fined

1 under title 18, United States Code, imprisoned not
2 more than 6 months, or both.

3 “(2) CIVIL PENALTIES.—

4 “(A) IN GENERAL.—A person that know-
5 ingly violates subsection (a), and a person en-
6 gaged in business as an importer, exporter, or
7 distributor that violates subsection (a), may be
8 assessed a civil penalty by the Secretary of not
9 more than \$12,000 for each violation.

10 “(B) MANNER OF ASSESSMENT AND COL-
11 LECTION.—A civil penalty under this paragraph
12 shall be assessed, and may be collected, in the
13 manner in which a civil penalty under the En-
14 dangered Species Act of 1973 may be assessed
15 and collected under section 11(a) of that Act
16 (16 U.S.C. 1540(a)).

17 “(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any
18 product, item, or substance sold, imported, or exported,
19 or attempted to be sold, imported, or exported, in violation
20 of this section or any regulation issued under this section
21 shall be subject to seizure and forfeiture to the United
22 States.

23 “(d) REGULATIONS.—After consultation with the
24 Secretary of the Treasury, the Secretary of Health and
25 Human Services, and the United States Trade Represent-

1 ative, the Secretary shall issue such regulations as are ap-
 2 propriate to carry out this section.

3 “(e) ENFORCEMENT.—The Secretary, the Secretary
 4 of the Treasury, and the Secretary of the department in
 5 which the Coast Guard is operating shall enforce this sec-
 6 tion in the manner in which the Secretaries carry out en-
 7 forcement activities under section 11(e) of the Endangered
 8 Species Act of 1973 (16 U.S.C. 1540(e)).

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

13 **SEC. 6. EDUCATIONAL OUTREACH PROGRAM.**

14 The Rhinoceros and Tiger Conservation Act of 1994
 15 (16 U.S.C. 5301 et seq.) (as amended by section 5) is
 16 amended by inserting after section 7 the following:

17 **“SEC. 8. EDUCATIONAL OUTREACH PROGRAM.**

18 “(a) IN GENERAL.—Not later than 180 days after
 19 the date of enactment of this section, the Secretary shall
 20 develop and implement an educational outreach program
 21 in the United States for the conservation of rhinoceros and
 22 tiger species.

23 “(b) GUIDELINES.—The Secretary shall publish in
 24 the Federal Register guidelines for the program.

1 “(c) CONTENTS.—Under the program, the Secretary
2 shall publish and disseminate information regarding—

3 “(1) laws protecting rhinoceros and tiger spe-
4 cies, in particular laws prohibiting trade in products
5 containing, or labeled or advertised as containing,
6 their parts;

7 “(2) use of traditional medicines that contain
8 parts or products of rhinoceros and tiger species,
9 health risks associated with their use, and available
10 alternatives to the medicines; and

11 “(3) the status of rhinoceros and tiger species
12 and the reasons for protecting the species.”.

13 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

14 Section 9 of the Rhinoceros and Tiger Conservation
15 Act of 1994 (16 U.S.C. 5306) (as redesignated by section
16 5(1)) is amended by striking “1996, 1997, 1998, 1999,
17 and 2000” and inserting “1996 through 2002”.

Passed the Senate October 8 (legislative day, Octo-
ber 2), 1998.

Attest:

Secretary.

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