

107TH CONGRESS
1ST SESSION

H. R. 397

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2001

Mr. GALLEGLY (for himself, Mr. BEREUTER, Mr. GEORGE MILLER of California, Mrs. JOHNSON of Connecticut, Mr. LANTOS, Mr. GILMAN, Mr. ABERCROMBIE, Mr. LEACH, Mr. TANCREDO, Mr. SMITH of New Jersey, Mr. PALLONE, Mr. SHAYS, Mr. SMITH of Washington, Mr. WHITFIELD, Mr. LEVIN, Mr. KOLBE, Mr. ACKERMAN, Mr. GREENWOOD, Mr. BERMAN, Mr. HORN, Mr. WEXLER, Mr. MICA, Mr. MENENDEZ, Mr. BASS, Ms. LEE, Mr. BOEHLERT, Mr. KLECZKA, Mr. INSLEE, Mr. NADLER, Mrs. MALONEY of New York, Ms. WOOLSEY, Ms. PELOSI, Mr. DOYLE, Mr. BOUCHER, Ms. NORTON, Mr. BORSKI, Mr. OLVER, Ms. BALDWIN, Mr. PRICE of North Carolina, Ms. RIVERS, Mr. HOLT, Mr. NEAL of Massachusetts, Mr. BENTSEN, Mr. BLAGOJEVICH, Mr. LAMPSON, Mr. FILNER, Mr. PASCRELL, Ms. ESHOO, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. ROTHMAN, Mrs. MINK of Hawaii, Mr. SIMMONS, Mr. WEINER, Ms. DELAURO, Mr. COSTELLO, Mr. LUTHER, Mr. KUCINICH, Mr. SHERMAN, Mr. FRELINGHUYSEN, Ms. CARSON of Indiana, Mr. THOMPSON of California, Mr. LIPINSKI, Mr. GREEN of Wisconsin, Mr. EVANS, Mr. DELAHUNT, Mr. PHELPS, Mr. OBERSTAR, Mr. BAIRD, Mr. HINCHEY, Mr. EHLERS, Ms. MCKINNEY, Ms. ROYBAL-ALLARD, Mr. FRANK, Mr. PAYNE, Mr. TIERNEY, and Mr. STARK) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on International Relations, and Ways and Means, 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

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 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) all 8 extant species of bear—Asian black
9 bear, brown bear, polar bear, American black bear,
10 spectacled bear, giant panda, sun bear, and sloth
11 bear—are listed on Appendix I or II of the Conven-
12 tion on International Trade in Endangered Species
13 of Wild Fauna and Flora (27 UST 1087; TIAS
14 8249) (referred to in this section as “CITES”);

15 (2) Article XIV of CITES provides that Parties
16 to CITES may adopt stricter domestic measures re-
17 garding the conditions for trade, taking, possession,
18 or transport of species listed on Appendix I or II,
19 and the Parties to CITES adopted a resolution in
20 1997 (Conf. 10.8) urging the Parties to take imme-

1 diate action to demonstrably reduce the illegal trade
2 in bear parts;

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

9 (4) Federal and State undercover operations
10 have revealed that American bears have been
11 poached for their viscera;

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

16 (6) prohibitions against the importation into
17 the United States and exportation from the United
18 States, as well as prohibitions against the interstate
19 trade, of bear viscera and products containing, or la-
20 beled or advertised as containing, bear viscera will
21 assist in ensuring that the United States does not
22 contribute to the decline of any bear population as
23 a result of the commercial trade in bear viscera.

1 **SEC. 3. PURPOSES.**

2 The purpose of this Act is to ensure the long-term
3 viability of the world’s 8 bear species by—

4 (1) prohibiting interstate and international
5 trade in bear viscera and products containing, or la-
6 beled or advertised as containing, bear viscera;

7 (2) encouraging bilateral and multilateral ef-
8 forts to eliminate such trade; and

9 (3) ensuring that adequate Federal legislation
10 exists with respect to domestic trade in bear viscera
11 and products containing, or labeled or advertised as
12 containing, bear viscera.

13 **SEC. 4. DEFINITIONS.**

14 In this Act:

15 (1) BEAR VISCERA.—The term “bear viscera”
16 means the body fluids or internal organs, including
17 the gallbladder and its contents but not including
18 blood or brains, of a species of bear.

19 (2) IMPORT.—The term “import” means to
20 land on, bring into, or introduce into any place sub-
21 ject to the jurisdiction of the United States, whether
22 or not the landing, bringing, or introduction con-
23 stitutes an importation within the meaning of the
24 customs laws of the United States.

25 (3) PERSON.—The term “person” means—

1 (A) an individual, corporation, partnership,
2 trust, association, or other private entity;

3 (B) an officer, employee, agent, depart-
4 ment, or instrumentality of—

5 (i) the Federal Government;

6 (ii) any State, municipality, or polit-
7 ical subdivision of a State; or

8 (iii) any foreign government;

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

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (5) STATE.—The term “State” means a State,
14 the District of Columbia, the Commonwealth of
15 Puerto Rico, the Virgin Islands, Guam, the Com-
16 monwealth of the Northern Mariana Islands, Amer-
17 ican Samoa, and any other territory, commonwealth,
18 or possession of the United States.

19 (6) TRANSPORT.—The term “transport” means
20 to move, convey, carry, or ship by any means, or to
21 deliver or receive for the purpose of movement, con-
22 veyance, carriage, or shipment.

23 **SEC. 5. PROHIBITED ACTS.**

24 (a) IN GENERAL.—Except as provided in subsection

25 (b), a person shall not—

1 (1) import into, or export from, the United
2 States bear viscera or any product, item, or sub-
3 stance containing, or labeled or advertised as con-
4 taining, bear viscera; or

5 (2) sell or barter, offer to sell or barter, pur-
6 chase, possess, transport, deliver, or receive, in inter-
7 state or foreign commerce, bear viscera or any prod-
8 uct, item, or substance containing, or labeled or ad-
9 vertised as containing, bear viscera.

10 (b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT
11 PURPOSES.—A person described in subparagraph (B) of
12 section 4(3) may import into, or export from, the United
13 States, or transport between States, bear viscera or any
14 product, item, or substance containing, or labeled or ad-
15 vertised as containing, bear viscera if the importation, ex-
16 portation, or transportation—

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

19 (2) is authorized by a valid permit issued under
20 Appendix I or II of the Convention on International
21 Trade in Endangered Species of Wild Fauna and
22 Flora (27 UST 1087; TIAS 8249), in any case in
23 which such a permit is required under the Conven-
24 tion.

1 **SEC. 6. PENALTIES AND ENFORCEMENT.**

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

5 (b) CIVIL PENALTIES.—

6 (1) AMOUNT.—A person that knowingly violates
7 section 5 may be assessed a civil penalty by the Sec-
8 retary of not more than \$25,000 for each violation.

9 (2) MANNER OF ASSESSMENT AND COLLEC-
10 TION.—A civil penalty under this subsection shall be
11 assessed, and may be collected, in the manner in
12 which a civil penalty under the Endangered Species
13 Act of 1973 may be assessed and collected under
14 section 11(a) of that Act (16 U.S.C. 1540(a)).

15 (c) SEIZURE AND FORFEITURE.—Any bear viscera or
16 any product, item, or substance exported, imported, sold,
17 bartered, attempted to be exported, imported, sold,
18 bartered, offered for sale or barter, purchased, possessed,
19 transported, delivered, or received in violation of this sec-
20 tion (including any regulation issued under this section)
21 shall be seized and forfeited to the United States.

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

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

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

11 **SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION**
12 **AND THE BEAR PARTS TRADE.**

13 The Secretary shall continue discussions concerning
14 trade in bear viscera with the appropriate representatives
15 of Parties to the Convention on International Trade in
16 Endangered Species of Wild Fauna and Flora and with
17 other representatives of countries that are not party to
18 the Convention which are determined by the Secretary and
19 the United States Trade Representative to be the leading
20 importers, exporters, or consumers of bear viscera, in
21 order to seek to establish coordinated efforts with these
22 countries to protect bears.

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

24 Except as provided in section 5, nothing in this Act
25 shall be construed to affect the regulation by any State

- 1 of its bear population or to affect the hunting of bears
- 2 that is lawful under applicable State laws and regulations.

○