

# Union Calendar No. 573

110TH CONGRESS  
2D SESSION

# H. R. 1497

**[Report No. 110-882]**

To amend the Lacey Act Amendments of 1981 to extend its protections to plants illegally harvested outside of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2007

Mr. BLUMENAUER (for himself, Mr. WEXLER, and Mr. WELLER of Illinois) introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 24, 2008

Additional sponsors: Mr. DEFAZIO, Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. GRIJALVA, Ms. SOLIS, Mr. HINCHEY, Mrs. MALONEY of New York, Mr. McDERMOTT, Mr. LANTOS, Mr. MORAN of Virginia, Mr. WYNN, Mr. CUMMINGS, Mr. GEORGE MILLER of California, Ms. WATSON, Ms. MCCOLLUM of Minnesota, Mr. HONDA, Mr. OBEY, Ms. SUTTON, Ms. SCHAKOWSKY, Mr. KIND, Mr. INSLEE, Mr. FARR, Mr. BERMAN, Mr. KUCINICH, Mr. PAYNE, Mrs. CAPPS, Mr. BAIRD, Mr. BACA, Mr. HARE, Mr. HOLDEN, Mr. KILDEE, Mr. SHULER, Mr. ROSS, Mr. EHLERS, Mr. GILCHREST, Ms. NORTON, Mr. VAN HOLLEN, Ms. MATSUI, Mr. BARRETT of South Carolina, Mr. GERLACH, Mr. HOLT, Ms. HOOLEY, Mr. UDALL of Colorado, Ms. BORDALLO, Mr. WALDEN of Oregon, Mr. NADLER, Mr. DOGGETT, Mr. WU, Ms. ESHOO, Mr. FILNER, Mr. TOWNS, Mr. RENZI, Mr. SERRANO, Mr. GOODE, Mr. ROTHRMAN, Mr. SIRES, Mr. STUPAK, Mr. MARKEY, Mr. GUTIERREZ, Mr. FRANK of Massachusetts, Mr. ROGERS of Kentucky, Mr. INGLIS of South Carolina, Mr. SESTAK, Mr. KAGEN, and Mr. ELLISON

SEPTEMBER 24, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 13, 2007]

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# A BILL

To amend the Lacey Act Amendments of 1981 to extend its protections to plants illegally harvested outside of the United States, 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 “Legal Timber Protection  
5 Act”.*

6 **SEC. 2. PREVENTION OF ILLEGAL LOGGING PRACTICES.**

7       *(a) IN GENERAL.—The Lacey Act Amendments of  
8 1981 are amended—*

9           *(1) in section 2 (16 U.S.C. 3371)—*

10           *(A) by striking subsection (f) and inserting  
11 the following:*

12           *“(f) PLANT.—*

13           *“(1) IN GENERAL.—The term ‘plant’ means any  
14 wild member of the plant kingdom, including roots,  
15 seeds, parts, and products thereof.*

16           *“(2) EXCLUSIONS.—The term ‘plant’ excludes  
17 any common food crop or cultivar that is a species  
18 not listed—*

1                   “(A) in the Convention on International  
2                   Trade in Endangered Species of Wild Fauna  
3                   and Flora (27 UST 1087; TIAS 8249); or

4                   “(B) as an endangered or threatened species  
5                   under the Endangered Species Act of 1973 (16  
6                   U.S.C. 1531 et seq.).”;

7                   (B) in subsection (h), by inserting “also”  
8                   after “plants the term”; and

9                   (C) by striking subsection (j) and inserting  
10                   the following:

11                   “(j) TAKE.—The term ‘take’ means—

12                   “(1) to capture, kill, or collect; and

13                   “(2) with respect to a plant, also to harvest, cut,  
14                   log, or remove.”;

15                   (2) in section 3 (16 U.S.C. 3372)—

16                   (A) in subsection (a)—

17                   (i) in paragraph (2), by striking sub-  
18                   paragraph (B) and inserting the following:

19                   “(B) any plant—

20                   “(i) taken, transported, possessed, or  
21                   sold in violation of any law or regulation  
22                   of any State, or any foreign law, that pro-  
23                   tects plants or that regulates—

24                   “(I) the theft of plants;

1                   “(II) the taking of plants from a  
2                   park, forest reserve, or other officially  
3                   protected area;

4                   “(III) the taking of plants from  
5                   an officially designated area; or

6                   “(IV) the taking of plants with-  
7                   out, or contrary to, required authoriza-  
8                   tion;

9                   “(ii) taken, transported, or exported  
10                   without the payment of appropriate royal-  
11                   ties, taxes, or stumpage fees required for  
12                   such plant by any law or regulation of any  
13                   State or by any foreign law; or

14                   “(iii) exported or transshipped in vio-  
15                   lation of any limitation under any law or  
16                   regulation of any State or under any for-  
17                   eign law; or”; and

18                   (ii) in paragraph (3), by striking sub-  
19                   paragraph (B) and inserting the following:  
20                   “(B) to possess any plant—

21                   “(i) taken, transported, possessed, or  
22                   sold in violation of any law or regulation  
23                   of any State, or any foreign law, that pro-  
24                   tects plants or that regulates—

25                   “(I) the theft of plants;

1                             “(II) the taking of plants from a  
2                             park, forest reserve, or other officially  
3                             protected area;

4                             “(III) the taking of plants from  
5                             an officially designated area; or

6                             “(IV) the taking of plants with-  
7                             out, or contrary to, required authoriza-  
8                             tion;

9                             “(ii) taken, transported, or exported  
10                             without the payment of appropriate royal-  
11                             ties, taxes, or stumpage fees required for  
12                             such plant by any law or regulation of any  
13                             State or by any foreign law; or

14                             “(iii) exported or transshipped in vio-  
15                             lation of any limitation under any law or  
16                             regulation of any State or under any for-  
17                             eign law; or”; and

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

19                             “(f) PLANT DECLARATIONS.—

20                             “(1) IN GENERAL.—Effective 180 days from the  
21                             date of enactment of this subsection and except as  
22                             provided in paragraph (3), it shall be unlawful for  
23                             any person to import any plant unless the person  
24                             files upon importation where clearance is requested a  
25                             declaration that contains—

1                   “(A) the scientific name of any plant (in-  
2                   cluding the genus and species of the plant) con-  
3                   tained in the importation;

4                   “(B) a description of—

5                   “(i) the value of the importation; and  
6                   “(ii) the quantity, including the unit  
7                   of measure, of the plant; and

8                   “(C) the name of the country from which  
9                   the plant was taken.

10                  “(2) DECLARATION RELATING TO PLANT PROD-  
11                  UCTS.—Until the date on which the Secretary pro-  
12                  mulgates a regulation under paragraph (6), a dec-  
13                  laration relating to a plant product shall—

14                  “(A) in the case in which the species of  
15                  plant used to produce the plant product that is  
16                  the subject of the importation varies, and the  
17                  species used to produce the plant product is un-  
18                  known, contain the name of each species of plant  
19                  that may have been used to produce the plant  
20                  product; and

21                  “(B) in the case in which the species of  
22                  plant used to produce the plant product that is  
23                  the subject of the importation is commonly taken  
24                  from more than 1 country, and the country from  
25                  which the plant was taken and used to produce

1           *the plant product is unknown, contain the name*  
2           *of each country from which the plant may have*  
3           *been taken.*

4           “(3) *EXCLUSIONS.*—Paragraphs (1) and (2)  
5           *shall not apply to plants used exclusively as pack-*  
6           *aging material to support, protect, or carry another*  
7           *item, unless the packaging material itself is the item*  
8           *being imported.*

9           “(4) *REVIEW.*—Not later than 2 years after the  
10           *date of enactment of this subsection, the Secretary*  
11           *shall review the implementation of each requirement*  
12           *described in paragraphs (1) and (2) and the effect of*  
13           *the exclusions in paragraph (3).*

14           “(5) *REPORT.*—

15           “(A) *IN GENERAL.*—Not later than 180  
16           *days after the date on which the Secretary com-*  
17           *pletes the review under paragraph (4), the Sec-*  
18           *retary shall submit to the appropriate commit-*  
19           *tees of Congress a report containing—*

20           “(i) *an evaluation of—*

21           “(I) *the effectiveness of each type*  
22           *of information required under para-*  
23           *graphs (1) and (2) in assisting enforce-*  
24           *ment of section 3; and*

1                             “(II) the potential to harmonize  
2                             each requirement described in para-  
3                             graphs (1) and (2) with other applica-  
4                             ble import regulations in existence as  
5                             of the date of the report;

6                             “(ii) recommendations for such legisla-  
7                             tion as the Secretary determines to be ap-  
8                             propriate to assist in the identification of  
9                             plants that are imported into the United  
10                            States in violation of section 3; and

11                            “(iii) an analysis of the effect of the  
12                            provisions of subsection (a) and (f) on—

13                            “(I) the cost of legal plant im-  
14                            ports; and

15                            “(II) the extent and methodology  
16                            of illegal logging practices and traf-  
17                            ficking.

18                            “(B) PUBLIC PARTICIPATION.—In con-  
19                            ducting the review under paragraph (3), the Sec-  
20                            retary shall provide public notice and an oppor-  
21                            tunity for comment.

22                            “(6) PROMULGATION OF REGULATIONS.—Not  
23                            later than 180 days after the date on which the Sec-  
24                            retary completes the review under paragraph (4), the  
25                            Secretary may promulgate regulations—

1                   “(A) to limit the applicability of any re-  
2 quirement described in paragraph (2) to specific  
3 plant products;

4                   “(B) to make any other necessary modifica-  
5 tion to any requirement described in paragraph  
6 (2), as determined by the Secretary based on the  
7 review under paragraph (4); and

8                   “(C) to limit the scope of exclusion in para-  
9 graph (3) if warranted as a result of the review  
10 under paragraph (4).”;

11                   (3) in section 7(a)(1) (16 U.S.C. 3376(a)(1)), by  
12 striking “section 4” and inserting “section 3(f), sec-  
13 tion 4.”;

14                   (4) in section 4 (16 U.S.C. 3373)—

15                   (A) by striking “subsections (b) and (d)”  
16 each place it appears and inserting “subsections  
17 (b), (d), and (f)”;

18                   (B) by inserting “or section 3(f)” after “sec-  
19 tion 3(d)” each place it appears; and

20                   (C) in subsection (a)(2), by inserting “or  
21 who violates subsection 3(f) other than as pro-  
22 vided in paragraph (1)” after “subsection 3(b)”;  
23 and

24                   (5) by adding at the end of section 5 (16 U.S.C.  
25 3374) the following:

1       “(d) CIVIL FORFEITURES.—Civil forfeitures under this  
2 section shall be governed by the provisions of chapter 46  
3 of title 18, United States Code.”.

4       (b) TECHNICAL CORRECTION.—

5           (1) CORRECTION.—Section 102(c) of Public Law  
6 100–653 is amended—

7              (A) by inserting “of the Lacey Act Amend-  
8 ments of 1981” after “Section 4”; and

9              (B) by striking “(other than section 3(b))”  
10 and inserting “(other than subsection 3(b))”.

11           (2) EFFECTIVE DATE.—Paragraph (1) shall be  
12 effective immediately upon the effectiveness of section  
13 102(c) of Public Law 100–653.



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