

111TH CONGRESS
1ST SESSION

H. R. 3480

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

JULY 31, 2009

Mr. GRIJALVA (for himself, Mr. CAMPBELL, Mr. FORTENBERRY, Ms. DELAURO, Mr. NADLER of New York, Mr. HINCHEY, Mr. VAN HOLLEN, Mr. GEORGE MILLER of California, Mr. DOYLE, Mr. HARE, Mr. PASCRELL, Mr. BLUMENAUER, Mr. GALLEGLY, Mr. BERMAN, Mr. LEWIS of Georgia, Mrs. CAPPs, Mr. FRANK of Massachusetts, Mr. HOLT, Ms. HIRONO, Mr. SERRANO, Mrs. MALONEY, Ms. LEE of California, Mr. COHEN, Mr. KUCINICH, Mrs. CHRISTENSEN, Mr. CONYERS, Ms. LINDA T. SÁNCHEZ of California, Mr. MARKEY of Massachusetts, Mr. SHERMAN, Mr. PRICE of North Carolina, and Mr. FARR) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Foreign Affairs 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 2009”.

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-
21 diate action to demonstrably reduce the illegal trade
22 in bear parts;

23 (3) thousands of bears in Asia are cruelly con-
24 fined in small cages to be milked for their bile, and
25 the wild Asian bear population has declined signifi-

1 cantly in recent years, as a result of habitat loss and
2 poaching due to a strong demand for bear viscera
3 used in traditional medicines and cosmetics;

4 (4) Federal and State undercover operations
5 have revealed that American bears have been
6 poached for their viscera;

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

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

19 **SEC. 3. PURPOSES.**

20 The purpose of this Act is to ensure the long-term
21 viability of the world's 8 bear species by—

22 (1) prohibiting interstate and international
23 trade in bear viscera and products containing, or la-
24 beled or advertised as containing, bear viscera;

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

3 (3) ensuring that adequate Federal legislation
4 exists with respect to domestic trade in bear viscera
5 and products containing, or labeled or advertised as
6 containing, bear viscera.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

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

13 (2) IMPORT.—The term “import” means to
14 land on, bring into, or introduce into any place sub-
15 ject to the jurisdiction of the United States, whether
16 or not the landing, bringing, or introduction con-
17 stitutes an importation within the meaning of the
18 customs laws of the United States.

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

20 (A) an individual, corporation, partnership,
21 trust, association, or other private entity;

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

24 (i) the Federal Government;

1 (ii) any State, municipality, or polit-
2 ical subdivision of a State; or

3 (iii) any foreign government;

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

6 (4) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

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

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

18 **SEC. 5. PROHIBITED ACTS.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (b), a person shall not—

21 (1) import into, or export from, the United
22 States bear viscera or any product, item, or sub-
23 stance containing, or labeled or advertised as con-
24 taining, bear viscera; or

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

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

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

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

21 **SEC. 6. PENALTIES AND ENFORCEMENT.**

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

25 (b) CIVIL PENALTIES.—

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

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

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

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

21 (e) ENFORCEMENT.—The Secretary, the Secretary of
22 the Treasury, and the Secretary of the department in
23 which the Coast Guard is operating shall enforce this sec-
24 tion in the manner in which the Secretaries carry out en-

1 forcement activities under section 11(e) of the Endangered
2 Species Act of 1973 (16 U.S.C. 1540(e)).

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

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

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

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

20 Except as provided in section 5, nothing in this Act
21 shall be construed to affect the regulation by any State
22 of its bear population or to affect the hunting of bears
23 that is lawful under applicable State laws and regulations.

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