

112TH CONGRESS
2D SESSION

H. R. 4171

To amend the Lacey Act Amendments of 1981 to repeal certain provisions relating to criminal penalties and violations of foreign laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2012

Mr. BROUN of Georgia (for himself, Mr. WALBERG, Mrs. BACHMANN, Mr. KINGSTON, Mr. GINGREY of Georgia, Mr. HARRIS, and Mr. PETERSON) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Lacey Act Amendments of 1981 to repeal certain provisions relating to criminal penalties and violations of foreign laws, 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 “Freedom from Over-
5 Criminalization and Unjust Seizures Act of 2012”.

1 **SEC. 2. CRIMINAL PENALTIES.**

2 (a) PROHIBITED ACTS.—Section 3(a) of the Lacey
3 Act Amendments of 1981 (16 U.S.C. 3372(a)) is amend-
4 ed—

5 (1) in paragraph (2)—

6 (A) in subparagraph (A), by striking “or
7 in violation of any foreign law”; and

8 (B) in subparagraph (B)—

9 (i) in clause (i), by striking “, or any
10 foreign law,”;

11 (ii) in clause (ii), by striking “or any
12 foreign law”; and

13 (iii) in clause (iii), by striking “, or
14 under any foreign law,”; and

15 (2) in paragraph (3)—

16 (A) in subparagraph (A), by striking “for-
17 eign law or”; and

18 (B) in subparagraph (B)—

19 (i) in clause (i), by striking “, or any
20 foreign law,”;

21 (ii) in clause (ii), by striking “or any
22 foreign law”; and

23 (iii) in clause (iii), by striking “, or
24 under any foreign law,”.

25 (b) PENALTIES.—Section 4 of the Lacey Act Amend-
26 ments of 1981 (16 U.S.C. 3373) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(1) ASSESSMENT.—

“(A) IN GENERAL.—Any person who engages in conduct prohibited by any provision of this Act (other than subsections (b), (d), and (f) of section 3) and in the exercise of due care should know that the fish, wildlife, or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty, or regulation, and any person who knowingly violates subsection (d) or (f) of section 3, may be assessed a civil penalty by the Secretary for each violation in accordance with subparagraph (B) or (C), as applicable.

“(B) MARKET VALUE OF LESS THAN \$350.—If a violation under subparagraph (A) involves fish or wildlife or plants with a market value of less than \$350 and involves only the transportation, acquisition, or receipt of fish, wildlife, or plants taken or possessed in violation of any law, treaty, or regulation of the United States, tribal law, or any law or regulation of a State, the penalty assessed under sub-

1 paragraph (A) for the violation shall not exceed
2 the lesser of—

3 “(i) the maximum amount of the pen-
4 alty provided for violation of the law or
5 regulation; or

6 “(ii) \$10,000.

7 “(C) OTHER VIOLATIONS.—For any viola-
8 tion under subparagraph (A) that is not de-
9 scribed in subparagraph (B), the penalty as-
10 sessed under that subparagraph shall not ex-
11 ceed \$200,000.”; and

12 (2) by striking subsections (d) and (e).

13 (c) FORFEITURE.—Section 5 of the Lacey Act
14 Amendments of 1981 (16 U.S.C. 3374) is amended—

15 (1) by striking subsections (a) and (b) and in-
16 serting the following:

17 “(a) IN GENERAL.—All fish, wildlife, or plants im-
18 ported, exported, transported, sold, received, acquired, or
19 purchased in violation of section 3 (other than subsection
20 (b) of that section), or any regulation issued under that
21 section, shall be subject to forfeiture to the United States
22 notwithstanding any culpability requirements for civil pen-
23 alty assessment under section 4.”;

24 (2) by redesignating subsections (c) and (d) as
25 subsections (b) and (c), respectively; and

1 (3) in subsection (b) (as redesignated), by strik-
2 ing “convicted of an offense, or assessed a civil pen-
3 alty,” and inserting “assessed a civil penalty”.

4 (d) ENFORCEMENT.—

5 (1) IN GENERAL.—Section 6 of the Lacey Act
6 Amendments of 1981 (16 U.S.C. 3375) is amend-
7 ed—

8 (A) by striking subsection (b);

9 (B) by redesignating subsections (c) and
10 (d) as subsections (b) and (c), respectively;

11 (C) in subsection (b) (as redesignated), by
12 striking the third sentence; and

13 (D) in the first sentence of subsection (c)
14 (as redesignated)—

15 (i) by striking “an arrest, a criminal
16 conviction, civil penalty assessment, or for-
17 feiture of property” and inserting “a civil
18 penalty assessment or forfeiture of prop-
19 erty”; and

20 (ii) by striking “or criminal”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 3(c)(3) of the Fish and Wild-
23 life Improvement Act of 1978 (16 U.S.C.
24 742l(c)(3)) is amended by striking “section
25 6(d) of the Lacey Act Amendments of 1981 (16

1 U.S.C. 3375(d))” and inserting “section 6(c) of
2 the Lacey Act Amendments of 1981 (16 U.S.C.
3 3375(c))”.

4 (B) Section 503(b) of the Marine Mammal
5 Protection Act of 1972 (16 U.S.C. 1423b(b)) is
6 amended—

7 (i) by striking the subsection designa-
8 tion and heading and all that follows
9 through “The Secretary may utilize” in
10 paragraph (1) and inserting the following:

11 “(b) UTILIZATION OF OTHER GOVERNMENT RE-
12 SOURCES AND AUTHORITIES.—The Secretary may uti-
13 lize”; and

14 (ii) by striking paragraph (2).

15 (C) Section 11(d) of the Endangered Spe-
16 cies Act of 1973 (16 U.S.C. 1540(d)) is amend-
17 ed in the fourth sentence by striking “section
18 6(d) of the Lacey Act Amendments of 1981 (16
19 U.S.C. 3375(d))” and inserting “section 6(c) of
20 the Lacey Act Amendments of 1981 (16 U.S.C.
21 3375(c))”.

22 (D) Section 7(f) of the Rhinoceros and
23 Tiger Conservation Act (16 U.S.C. 5305a(f)) is
24 amended by striking “section 6(d) of the Lacey
25 Act Amendments of 1981 (16 U.S.C. 3375(d))”

1 and inserting “section 6(c) of the Lacey Act
2 Amendments of 1981 (16 U.S.C. 3375(c))”.

3 (E) Section 524(c)(4)(A) of title 28,
4 United States Code, is amended by striking
5 “section 6(d) of the Lacey Act Amendments of
6 1981 (16 U.S.C. 3375(d))” and inserting “sec-
7 tion 6(c) of the Lacey Act Amendments of 1981
8 (16 U.S.C. 3375(c))”.

9 (F) Section 1402(b)(1)(A)(ii) of the Vic-
10 tims of Crime Act of 1984 (42 U.S.C.
11 10601(b)(1)(A)(ii)) is amended by striking
12 “section 6(d) of the Lacey Act Amendments of
13 1981 (16 U.S.C. 3375(d))” and inserting “sec-
14 tion 6(c) of the Lacey Act Amendments of 1981
15 (16 U.S.C. 3375(c))”.

16 (e) EXCEPTIONS.—Section 8 of the Lacey Act
17 Amendments of 1981 (16 U.S.C. 3377) is amended by
18 striking subsection (b) and inserting the following:

19 “(b) ACTIVITIES REGULATED BY TUNA CONVENTION
20 ACTS.—Paragraphs (1), (2)(A), and (3)(A) of section 3(a)
21 shall not apply to any activity regulated by the Tuna Con-
22 ventions Act of 1950 (16 U.S.C. 951 et seq.) or the Atlan-
23 tic Tunas Convention Act of 1975 (16 U.S.C. 971 et
24 seq.).”.

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