

115TH CONGRESS
1ST SESSION

S. 478

To amend the Migratory Bird Treaty Act to prohibit baiting exemptions on certain land.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2017

Mr. COTTON (for himself, Mr. BOOZMAN, Mr. COCHRAN, and Mr. DONNELLY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Migratory Bird Treaty Act to prohibit baiting exemptions on certain land.

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 “Hunter and Farmer
5 Protection Act of 2017”.

6 **SEC. 2. BAITING OF MIGRATORY GAME BIRDS.**

7 Section 3 of the Migratory Bird Treaty Act (16
8 U.S.C. 704) is amended by striking subsection (b) and in-
9 serting the following:

10 “(b) PROHIBITION OF BAITING.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) BAITED AREA.—

3 “(i) IN GENERAL.—The term ‘baited
4 area’ means—

5 “(I) any area on which salt,
6 grain, or other feed has been placed,
7 exposed, deposited, distributed, or
8 scattered, if the salt, grain, or feed
9 could lure or attract migratory game
10 birds; and

11 “(II) in the case of waterfowl,
12 cranes (family Gruidae), and coots
13 (family Rallidae), a standing,
14 unharvested crop that has been ma-
15 nipulated through activities such as
16 mowing, discing, or rolling, unless the
17 activities are normal agricultural prac-
18 tices.

19 “(ii) EXCLUSIONS.—An area shall not
20 be considered to be a ‘baited area’ if the
21 area—

22 “(I) has been treated with a nor-
23 mal agricultural practice;

24 “(II) has standing crops that
25 have not been manipulated; or

1 “(III) has standing crops that
2 have been or are flooded.

3 “(B) BAITING.—The term ‘baiting’ means
4 the direct or indirect placing, exposing, depos-
5 iting, distributing, or scattering of salt, grain,
6 or other feed that could lure or attract migra-
7 tory game birds to, on, or over any areas on
8 which a hunter is attempting to take migratory
9 game birds.

10 “(C) MIGRATORY GAME BIRD.—The term
11 ‘migratory game bird’ means migratory bird
12 species—

13 “(i) that are within the taxonomic
14 families of Anatidae, Columbidae, Gruidae,
15 Rallidae, and Scolopacidae; and

16 “(ii) for which open seasons are pre-
17 scribed by the Secretary of the Interior.

18 “(D) NORMAL AGRICULTURAL PRAC-
19 TICE.—

20 “(i) IN GENERAL.—The term ‘normal
21 agricultural practice’ means any practice in
22 1 annual growing season that—

23 “(I) is carried out in order to
24 produce a marketable crop, including

1 planting, harvest, post-harvest, or soil
2 conservation practices; and

3 “(II) is recommended for the
4 successful harvest of a given crop by
5 the applicable State office of the Co-
6 operative Extension System of the De-
7 partment of Agriculture, in consulta-
8 tion with, and if requested, the con-
9 currence of, the head of the applicable
10 State department of fish and wildlife.

11 “(ii) INCLUSIONS.—

12 “(I) IN GENERAL.—Subject to
13 subclause (II), the term ‘normal agri-
14 cultural practice’ includes the destruc-
15 tion of a crop in accordance with
16 practices required by the Federal
17 Crop Insurance Corporation for agri-
18 cultural producers to obtain crop in-
19 surance under the Federal Crop In-
20 surance Act (7 U.S.C. 1501 et seq.)
21 on land on which a crop during the
22 current or immediately preceding crop
23 year was not harvestable due to a nat-
24 ural disaster (including any hurricane,
25 storm, tornado, flood, high water,

1 wind-driven water, tidal wave, tsu-
2 nami, earthquake, volcanic eruption,
3 landslide, mudslide, drought, fire,
4 snowstorm, or other catastrophe that
5 is declared a major disaster by the
6 President in accordance with section
7 401 of the Robert T. Stafford Dis-
8 aster Relief and Emergency Assist-
9 ance Act (42 U.S.C. 5170)).

10 “(II) LIMITATIONS.—The term
11 ‘normal agricultural practice’ only in-
12 cludes a crop described in subclause
13 (I) that has been destroyed or manip-
14 ulated through activities that include
15 (but are not limited to) mowing,
16 discing, or rolling if the Federal Crop
17 Insurance Corporation certifies that
18 flooding was not an acceptable method
19 of destruction to obtain crop insur-
20 ance under the Federal Crop Insur-
21 ance Act (7 U.S.C. 1501 et seq.).

22 “(E) WATERFOWL.—The term ‘waterfowl’
23 means native species of the family Anatidae.

24 “(2) PROHIBITION.—It shall be unlawful for
25 any person—

1 “(A) to take any migratory game bird by
2 baiting or on or over any baited area, if the
3 person knows or reasonably should know that
4 the area is a baited area; or

5 “(B) to place or direct the placement of
6 bait on or adjacent to an area for the purpose
7 of causing, inducing, or allowing any person to
8 take or attempt to take any migratory game
9 bird by baiting or on or over the baited area.

10 “(3) REGULATIONS.—The Secretary of the In-
11 terior may promulgate regulations to implement this
12 subsection.

13 “(4) REPORTS.—Annually, the Secretary of Ag-
14 riculture shall submit to the Secretary of the Inte-
15 rior a report that describes any changes to normal
16 agricultural practices across the range of crops
17 grown by agricultural producers in each region of
18 the United States in which the recommendations are
19 provided to agricultural producers.”.

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