

105TH CONGRESS
2^D SESSION

H.R. 2807

AMENDMENTS

TO

SENATE AMENDMENT

In the House of Representatives, U. S.,

October 14, 1998.

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2807) entitled “An Act to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products labeled as containing substances derived from rhinoceros or tiger”, with the following

AMENDMENTS:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

1 ***TITLE I—MIGRATORY BIRD***

2 ***TREATY REFORM***

3 ***SEC. 101. SHORT TITLE.***

4 *This title may be cited as the “Migratory Bird Treaty*
5 *Reform Act of 1998”.*

6 ***SEC. 102. ELIMINATING STRICT LIABILITY FOR BAITING.***

7 *Section 3 of the Migratory Bird Treaty Act (16 U.S.C.*
8 *704) is amended—*

9 (1) *by inserting “(a)” after “SEC. 3.”; and*

10 (2) *by adding at the end the following:*

11 *“(b) It shall be unlawful for any person to—*

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

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

10 **SEC. 103. CRIMINAL PENALTIES.**

11 Section 6 of the Migratory Bird Treaty Act (16 U.S.C.
12 707) is amended—

13 (1) in subsection (a), by striking “\$500” and in-
14 serting “\$15,000”;

15 (2) by redesignating subsection (c) as subsection
16 (d); and

17 (3) by inserting after subsection (b) the follow-
18 ing:

19 “(c) Whoever violates section 3(b)(2) shall be fined
20 under title 18, United States Code, imprisoned not more
21 than 1 year, or both.”.

22 **SEC. 104. REPORT.**

23 Not later than 5 years after the date of enactment of
24 this Act, the Secretary of the Interior shall submit to the
25 Committee on Environment and Public Works of the Senate

1 *and the Committee on Resources of the House of Representa-*
2 *tives a report analyzing the effect of the amendments made*
3 *by section 2, and the general practice of baiting, on migra-*
4 *tory bird conservation and law enforcement efforts under*
5 *the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.).*

6 **TITLE II—NATIONAL WILDLIFE**
7 **REFUGE SYSTEM IMPROVEMENT**

8 **SEC. 201. SHORT TITLE.**

9 *This title may be cited as the “National Wildlife Ref-*
10 *uge System Improvement Act of 1998”.*

11 **SEC. 202. UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE**
12 **AND FISH REFUGE.**

13 *(a) IN GENERAL.—In accordance with section 4(a)(5)*
14 *of the National Wildlife Refuge System Administration Act*
15 *of 1966 (16 U.S.C. 668dd(a)(5)), there are transferred to*
16 *the Corps of Engineers, without reimbursement, approxi-*
17 *mately 37.36 acres of land of the Upper Mississippi River*
18 *Wildlife and Fish Refuge in the State of Minnesota, as des-*
19 *ignated on the map entitled “Upper Mississippi National*
20 *Wildlife and Fish Refuge lands transferred to Corps of En-*
21 *gineers”, dated January 1998, and available, with accom-*
22 *panying legal descriptions of the land, for inspection in ap-*
23 *propriate offices of the United States Fish and Wildlife*
24 *Service.*

1 (b) *CONFORMING AMENDMENTS.*—*The first section and*
2 *section 2 of the Upper Mississippi River Wild Life and Fish*
3 *Refuge Act (16 U.S.C. 721, 722) are amended by striking*
4 *“Upper Mississippi River Wild Life and Fish Refuge” each*
5 *place it appears and inserting “Upper Mississippi River*
6 *National Wildlife and Fish Refuge”.*

7 **SEC. 203. KILLCOHOOK COORDINATION AREA.**

8 (a) *IN GENERAL.*—*In accordance with section 4(a)(5)*
9 *of the National Wildlife Refuge System Administration Act*
10 *of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the*
11 *United States Fish and Wildlife Service over approximately*
12 *1,439.26 acres of land in the States of New Jersey and Dela-*
13 *ware, known as the “Killcohook Coordination Area”, as es-*
14 *tablished by Executive Order No. 6582, issued February 3,*
15 *1934, and Executive Order No. 8648, issued January 23,*
16 *1941, is terminated.*

17 (b) *EXECUTIVE ORDERS.*—*Executive Order No. 6582,*
18 *issued February 3, 1934, and Executive Order No. 8648,*
19 *issued January 23, 1941, are revoked.*

20 **SEC. 204. LAKE ELSIE NATIONAL WILDLIFE REFUGE.**

21 (a) *IN GENERAL.*—*In accordance with section 4(a)(5)*
22 *of the National Wildlife Refuge System Administration Act*
23 *of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the*
24 *United States Fish and Wildlife Service over approximately*
25 *634.7 acres of land and water in Richland County, North*

1 *Dakota, known as the “Lake Elsie National Wildlife Ref-*
2 *uge”, as established by Executive Order No. 8152, issued*
3 *June 12, 1939, is terminated.*

4 (b) *EXECUTIVE ORDER.—Executive Order No. 8152,*
5 *issued June 12, 1939, is revoked.*

6 **SEC. 205. KLAMATH FOREST NATIONAL WILDLIFE REFUGE.**

7 *Section 28 of the Act of August 13, 1954 (25 U.S.C.*
8 *564w-1), is amended in subsections (f) and (g) by striking*
9 *“Klamath Forest National Wildlife Refuge” each place it*
10 *appears and inserting “Klamath Marsh National Wildlife*
11 *Refuge”.*

12 **SEC. 206. VIOLATION OF NATIONAL WILDLIFE REFUGE SYS-**
13 **TEM ADMINISTRATION ACT.**

14 *Section 4 of the National Wildlife Refuge System Ad-*
15 *ministration Act of 1966 (16 U.S.C. 668dd) is amended—*

16 (1) *in the first sentence of subsection (c), by*
17 *striking “knowingly”; and*

18 (2) *in subsection (f)—*

19 (A) *by striking “(f) Any” and inserting the*
20 *following:*

21 *“(f) PENALTIES.—*

22 *“(1) KNOWING VIOLATIONS.—Any”;*

23 *(B) by inserting “knowingly” after “who”;*

24 *and*

25 *(C) by adding at the end the following:*

1 “(2) *OTHER VIOLATIONS.*—Any person who oth-
2 *erwise violates or fails to comply with any of the pro-*
3 *visions of this Act (including a regulation issued*
4 *under this Act) shall be fined under title 18, United*
5 *States Code, or imprisoned not more than 180 days,*
6 *or both.”.*

7 ***TITLE III—WETLANDS AND***
8 ***WILDLIFE ENHANCEMENT***

9 ***SEC. 301. SHORT TITLE.***

10 *This title may be cited as the “Wetlands and Wildlife*
11 *Enhancement Act of 1998”.*

12 ***SEC. 302. REAUTHORIZATION OF NORTH AMERICAN WET-***
13 ***LANDS CONSERVATION ACT.***

14 *Section 7(c) of the North American Wetlands Con-*
15 *servaion Act (16 U.S.C. 4406(c)) is amended by striking*
16 *“not to exceed” and all that follows and inserting “not to*
17 *exceed \$30,000,000 for each of fiscal years 1999 through*
18 *2003.”.*

19 ***SEC. 303. REAUTHORIZATION OF PARTNERSHIPS FOR WILD-***
20 ***LIFE ACT.***

21 *Section 7105(h) of the Partnerships for Wildlife Act*
22 *(16 U.S.C. 3744(h)) is amended by striking “for each of*
23 *fiscal years” and all that follows and inserting “not to ex-*
24 *ceed \$6,250,000 for each of fiscal years 1999 through*
25 *2003.”.*

1 **SEC. 304. MEMBERSHIP OF THE NORTH AMERICAN WET-**
2 **LANDS CONSERVATION COUNCIL.**

3 (a) *IN GENERAL.*—Notwithstanding section 4(a)(1)(D)
4 of the North American Wetlands Conservation Act (16
5 U.S.C. 4403(a)(1)(D)), during the period of 1999 through
6 2002, the membership of the North American Wetlands Con-
7 servation Council under section 4(a)(1)(D) of that Act shall
8 consist of—

9 (1) 1 individual who shall be the Group Man-
10 ager for Conservation Programs of Ducks Unlimited,
11 Inc. and who shall serve for 1 term of 3 years begin-
12 ning in 1999; and

13 (2) 2 individuals who shall be appointed by the
14 Secretary of the Interior in accordance with section
15 4 of that Act and who shall each represent a different
16 organization described in section 4(a)(1)(D) of that
17 Act.

18 (b) *PUBLICATION OF POLICY.*—Not later than June 30,
19 1999, the Secretary of the Interior shall publish in the Fed-
20 eral Register, after notice and opportunity for public com-
21 ment, a policy for making appointments under section
22 4(a)(1)(D) of the North American Wetlands Conservation
23 Act (16 U.S.C. 4403(a)(1)(D)).

1 **TITLE IV—RHINOCEROS AND**
2 **TIGER CONSERVATION**

3 **SEC. 401. SHORT TITLE.**

4 *This title may be cited as the “Rhinoceros and Tiger*
5 *Conservation Act of 1998”.*

6 **SEC. 402. FINDINGS.**

7 *Congress finds that—*

8 (1) *the populations of all but 1 species of rhinoc-*
9 *eros, and the tiger, have significantly declined in re-*
10 *cent years and continue to decline;*

11 (2) *these species of rhinoceros and tiger are listed*
12 *as endangered species under the Endangered Species*
13 *Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Ap-*
14 *pendix I of the Convention on International Trade in*
15 *Endangered Species of Wild Fauna and Flora, signed*
16 *on March 3, 1973 (27 UST 1087; TIAS 8249) (re-*
17 *ferred to in this title as “CITES”);*

18 (3) *the Parties to CITES have adopted several*
19 *resolutions—*

20 (A) *relating to the conservation of tigers*
21 *(Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14),*
22 *urging Parties to CITES to implement legisla-*
23 *tion to reduce illegal trade in parts and products*
24 *of the species; and*

1 (B) relating to trade in readily recognizable
2 parts and products of the species (Conf. 9.6), and
3 trade in traditional medicines (Conf. 10.19), rec-
4 ommending that Parties ensure that their legis-
5 lation controls trade in those parts and deriva-
6 tives, and in medicines purporting to contain
7 them;

8 (4) a primary cause of the decline in the popu-
9 lations of tiger and most rhinoceros species is the
10 poaching of the species for use of their parts and
11 products in traditional medicines;

12 (5) there are insufficient legal mechanisms ena-
13 bling the United States Fish and Wildlife Service to
14 interdict products that are labeled or advertised as
15 containing substances derived from rhinoceros or tiger
16 species and prosecute the merchandisers for sale or
17 display of those products; and

18 (6) legislation is required to ensure that—

19 (A) products containing, or labeled or ad-
20 vertised as containing, rhinoceros parts or tiger
21 parts are prohibited from importation into, or
22 exportation from, the United States; and

23 (B) efforts are made to educate persons re-
24 garding alternatives for traditional medicine
25 products, the illegality of products containing, or

1 *labeled or advertised as containing, rhinoceros*
2 *parts and tiger parts, and the need to conserve*
3 *rhinoceros and tiger species generally.*

4 **SEC. 403. PURPOSES OF THE RHINOCEROS AND TIGER CON-**
5 **SERVATION ACT OF 1994.**

6 *Section 3 of the Rhinoceros and Tiger Conservation*
7 *Act of 1994 (16 U.S.C. 5302) is amended by adding at the*
8 *end the following:*

9 “(3) *To prohibit the sale, importation, and ex-*
10 *portation of products intended for human consump-*
11 *tion or application containing, or labeled or adver-*
12 *tised as containing, any substance derived from any*
13 *species of rhinoceros or tiger.”.*

14 **SEC. 404. DEFINITION OF PERSON.**

15 *Section 4 of the Rhinoceros and Tiger Conservation*
16 *Act of 1994 (16 U.S.C. 5303) is amended—*

17 (1) *in paragraph (4), by striking “and” at the*
18 *end;*

19 (2) *in paragraph (5), by striking the period at*
20 *the end and inserting “; and”; and*

21 (3) *by adding at the end the following:*

22 “(6) ‘person’ means—

23 “(A) *an individual, corporation, partner-*
24 *ship, trust, association, or other private entity;*

1 “(B) an officer, employee, agent, depart-
2 ment, or instrumentality of—

3 “(i) the Federal Government;

4 “(ii) any State, municipality, or polit-
5 ical subdivision of a State; or

6 “(iii) any foreign government;

7 “(C) a State, municipality, or political sub-
8 division of a State; or

9 “(D) any other entity subject to the juris-
10 diction of the United States.”.

11 **SEC. 405. PROHIBITION ON SALE, IMPORTATION, OR EXPOR-**
12 **TATION OF PRODUCTS LABELED OR ADVER-**
13 **TISED AS RHINOCEROS OR TIGER PRODUCTS.**

14 *The Rhinoceros and Tiger Conservation Act of 1994*
15 *(16 U.S.C. 5301 et seq.) is amended—*

16 (1) by redesignating section 7 as section 9; and

17 (2) by inserting after section 6 the following:

18 **“SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPOR-**
19 **TATION OF PRODUCTS LABELED OR ADVER-**
20 **TISED AS RHINOCEROS OR TIGER PRODUCTS.**

21 “(a) *PROHIBITION.*—A person shall not sell, import,
22 *or export, or attempt to sell, import, or export, any product,*
23 *item, or substance intended for human consumption or ap-*
24 *plication containing, or labeled or advertised as containing,*

1 *any substance derived from any species of rhinoceros or*
2 *tiger.*

3 “(b) *PENALTIES.*—

4 “(1) *CRIMINAL PENALTY.*—*A person engaged in*
5 *business as an importer, exporter, or distributor that*
6 *knowingly violates subsection (a) shall be fined under*
7 *title 18, United States Code, imprisoned not more*
8 *than 6 months, or both.*

9 “(2) *CIVIL PENALTIES.*—

10 “(A) *IN GENERAL.*—*A person that know-*
11 *ingly violates subsection (a), and a person en-*
12 *gaged in business as an importer, exporter, or*
13 *distributor that violates subsection (a), may be*
14 *assessed a civil penalty by the Secretary of not*
15 *more than \$12,000 for each violation.*

16 “(B) *MANNER OF ASSESSMENT AND COL-*
17 *LECTION.*—*A civil penalty under this paragraph*
18 *shall be assessed, and may be collected, in the*
19 *manner in which a civil penalty under the En-*
20 *dangered Species Act of 1973 may be assessed*
21 *and collected under section 11(a) of that Act (16*
22 *U.S.C. 1540(a)).*

23 “(c) *PRODUCTS, ITEMS, AND SUBSTANCES.*—*Any*
24 *product, item, or substance sold, imported, or exported, or*
25 *attempted to be sold, imported, or exported, in violation of*

1 *this section or any regulation issued under this section shall*
2 *be subject to seizure and forfeiture to the United States.*

3 “(d) *REGULATIONS.*—*After consultation with the Sec-*
4 *retary of the Treasury, the Secretary of Health and Human*
5 *Services, and the United States Trade Representative, the*
6 *Secretary shall issue such regulations as are appropriate*
7 *to carry out this section.*

8 “(e) *ENFORCEMENT.*—*The Secretary, the Secretary of*
9 *the Treasury, and the Secretary of the department in which*
10 *the Coast Guard is operating shall enforce this section in*
11 *the manner in which the Secretaries carry out enforcement*
12 *activities under section 11(e) of the Endangered Species Act*
13 *of 1973 (16 U.S.C. 1540(e)).*

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

18 **SEC. 406. EDUCATIONAL OUTREACH PROGRAM.**

19 *The Rhinoceros and Tiger Conservation Act of 1994*
20 *(16 U.S.C. 5301 et seq.) (as amended by section 405) is*
21 *amended by inserting after section 7 the following:*

22 **“SEC. 8. EDUCATIONAL OUTREACH PROGRAM.**

23 “(a) *IN GENERAL.*—*Not later than 180 days after the*
24 *date of enactment of this section, the Secretary shall develop*
25 *and implement an educational outreach program in the*

1 *United States for the conservation of rhinoceros and tiger*
2 *species.*

3 “(b) *GUIDELINES.*—*The Secretary shall publish in the*
4 *Federal Register guidelines for the program.*

5 “(c) *CONTENTS.*—*Under the program, the Secretary*
6 *shall publish and disseminate information regarding—*

7 “(1) *laws protecting rhinoceros and tiger species,*
8 *in particular laws prohibiting trade in products con-*
9 *taining, or labeled or advertised as containing, their*
10 *parts;*

11 “(2) *use of traditional medicines that contain*
12 *parts or products of rhinoceros and tiger species,*
13 *health risks associated with their use, and available*
14 *alternatives to the medicines; and*

15 “(3) *the status of rhinoceros and tiger species*
16 *and the reasons for protecting the species.”.*

17 **SEC. 407. AUTHORIZATION OF APPROPRIATIONS.**

18 *Section 9 of the Rhinoceros and Tiger Conservation*
19 *Act of 1994 (16 U.S.C. 5306) (as redesignated by section*
20 *405(1)) is amended by striking “1996, 1997, 1998, 1999,*
21 *and 2000” and inserting “1996 through 2002”.*

1 **TITLE V—CHESAPEAKE BAY**
2 **INITIATIVE**

3 **SEC. 501. SHORT TITLE.**

4 *This title may be cited as the “Chesapeake Bay Initia-*
5 *tive Act of 1998”.*

6 **SEC. 502. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.**

7 *(a) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS*
8 *NETWORK.—*

9 *(1) IN GENERAL.—The Secretary of the Interior*
10 *(referred to in this section as the “Secretary”), in co-*
11 *operation with the Administrator of the Environ-*
12 *mental Protection Agency (referred to in this section*
13 *as the “Administrator”), shall provide technical and*
14 *financial assistance, in cooperation with other Fed-*
15 *eral agencies, State and local governments, nonprofit*
16 *organizations, and the private sector—*

17 *(A) to identify, conserve, restore, and inter-*
18 *pret natural, recreational, historical, and cul-*
19 *tural resources within the Chesapeake Bay Wa-*
20 *tershed;*

21 *(B) to identify and utilize the collective re-*
22 *sources as Chesapeake Bay Gateways sites for*
23 *enhancing public education of and access to the*
24 *Chesapeake Bay;*

1 (C) to link the Chesapeake Bay Gateways
2 sites with trails, tour roads, scenic byways, and
3 other connections as determined by the Secretary;

4 (D) to develop and establish Chesapeake
5 Bay Watertrails comprising water routes and
6 connections to Chesapeake Bay Gateways sites
7 and other land resources within the Chesapeake
8 Bay Watershed; and

9 (E) to create a network of Chesapeake Bay
10 Gateways sites and Chesapeake Bay Watertrails.

11 (2) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may
12 include—
13

14 (A) State or Federal parks or refuges;

15 (B) historic seaports;

16 (C) archaeological, cultural, historical, or
17 recreational sites; or

18 (D) other public access and interpretive
19 sites as selected by the Secretary.

20 (b) CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.—
21

22 (1) IN GENERAL.—The Secretary, in cooperation
23 with the Administrator, shall establish a Chesapeake
24 Bay Gateways Grants Assistance Program to aid
25 State and local governments, local communities, non-

1 *profit organizations, and the private sector in con-*
2 *serving, restoring, and interpreting important his-*
3 *toric, cultural, recreational, and natural resources*
4 *within the Chesapeake Bay Watershed.*

5 (2) *CRITERIA.*—*The Secretary, in cooperation*
6 *with the Administrator, shall develop appropriate eli-*
7 *gibility, prioritization, and review criteria for grants*
8 *under this section.*

9 (3) *MATCHING FUNDS AND ADMINISTRATIVE EX-*
10 *PENSES.*—*A grant under this section—*

11 (A) *shall not exceed 50 percent of eligible*
12 *project costs;*

13 (B) *shall be made on the condition that*
14 *non-Federal sources, including in-kind contribu-*
15 *tions of services or materials, provide the re-*
16 *mainder of eligible project costs; and*

17 (C) *shall be made on the condition that not*
18 *more than 10 percent of all eligible project costs*
19 *be used for administrative expenses.*

20 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
21 *authorized to be appropriated to carry out this section*
22 *\$3,000,000 for each of fiscal years 1999 through 2003.*

Amend the title so as to read “An Act to clarify restrictions under the Migratory Bird Treaty Act on baiting and to facilitate acquisition of migratory bird habitat, and for other purposes.”.

Attest:

Clerk.