

106TH CONGRESS
1ST SESSION

S. 1109

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 SENATE OF THE UNITED STATES

MAY 24, 1999

Mr. McCONNELL (for himself, Mr. SMITH of New Hampshire, Mr. KOHL, Mr. FRIST, Mr. GREGG, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. ROBB, Mr. GRAMS, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TORRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. KERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bear Protection Act
3 of 1999”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) all 8 extant species of bear—Asian black
7 bear, brown bear, polar bear, American black bear,
8 spectacled bear, giant panda, sun bear, and sloth
9 bear—are listed on Appendix I or II of the Conven-
10 tion on International Trade in Endangered Species
11 of Wild Fauna and Flora (27 UST 1087; TIAS
12 8249) (referred to in this section as “CITES”);

13 (2) Article XIV of CITES provides that Parties
14 to CITES may adopt stricter domestic measures re-
15 garding the conditions for trade, taking, possession,
16 or transport of species on Appendix I or II, and the
17 Parties to CITES adopted a resolution (Conf. 10.8)
18 urging Parties to take immediate action to demon-
19 strably reduce the illegal trade in bear parts and de-
20 rivatives;

21 (3) the Asian bear populations have declined
22 significantly in recent years, as a result of habitat
23 loss and poaching due to a strong demand for bear
24 viscera used in traditional medicines and cosmetics;

1 (4) Federal and State undercover operations
2 have revealed that American bears have been
3 poached for their viscera;

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

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

16 **SEC. 3. PURPOSES.**

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

19 (1) prohibiting international trade in bear
20 viscera and products containing, or labeled or adver-
21 tised as containing, bear viscera;

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

24 (3) ensuring that adequate Federal legislation
25 exists with respect to domestic trade in bear viscera

1 and products containing, or labeled or advertised as
2 containing, bear viscera.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

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

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

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

16 (A) an individual, corporation, partnership,
17 trust, association, or other private entity;

18 (B) an officer, employee, agent, depart-
19 ment, or instrumentality of—

20 (i) the Federal Government;

21 (ii) any State, municipality, or polit-
22 ical subdivision of a State; or

23 (iii) any foreign government;

24 (C) a State, municipality, or political sub-
25 division of a State; and

1 (D) any other entity subject to the juris-
2 diction of the United States.

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

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

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

15 **SEC. 5. PROHIBITED ACTS.**

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

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

22 (2) sell or barter, offer to sell or barter, pur-
23 chase, possess, transport, deliver, or receive, in inter-
24 state or foreign commerce, bear viscera or any prod-

1 uct, item, or substance containing, or labeled or ad-
2 vertised as containing, bear viscera.

3 (b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT
4 PURPOSES.—A person described in subparagraph (B) or
5 (C) of section 4(3) may import into, or export from, the
6 United States, or transport between States, bear viscera
7 or any product, item, or substance containing, or labeled
8 or advertised as containing, bear viscera if the importa-
9 tion, exportation, or transportation—

10 (1) is solely for wildlife law enforcement pur-
11 poses; and

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

18 **SEC. 6. PENALTIES AND ENFORCEMENT.**

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

22 (b) CIVIL PENALTIES.—

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

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

7 (c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any bear
8 viscera, or any product, item, or substance sold, imported,
9 or exported, or attempted to be sold, imported, or ex-
10 ported, in violation of this section (including any regula-
11 tion issued under this section) shall be seized and forfeited
12 to the United States.

13 (d) REGULATIONS.—After consultation with the Sec-
14 retary of the Treasury, the Secretary of Health and
15 Human Services, and the United States Trade Represent-
16 ative, the Secretary shall issue such regulations as are nec-
17 essary to carry out this section.

18 (e) ENFORCEMENT.—The Secretary, the Secretary of
19 the Treasury, and the Secretary of the department in
20 which the Coast Guard is operating shall enforce this sec-
21 tion in the manner in which the Secretaries carry out en-
22 forcement activities under section 11(e) of the Endangered
23 Species Act of 1973 (16 U.S.C. 1540(e)).

24 (f) USE OF PENALTY AMOUNTS.—Amounts received
25 as penalties, fines, or forfeiture of property under this sec-

1 tion shall be used in accordance with section 6(d) of the
2 Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

3 **SEC. 7. DISCUSSIONS CONCERNING TRADE PRACTICES.**

4 The Secretary and the Secretary of State shall dis-
5 cuss issues involving trade in bear viscera with the appro-
6 priate representatives of countries trading with the United
7 States that are determined by the Secretary and the
8 United States Trade Representative to be the leading im-
9 porters, exporters, or consumers of bear viscera, and at-
10 tempt to establish coordinated efforts with the countries
11 to protect bears.

12 **SEC. 8. REPORT.**

13 Not later than 1 year after the date of enactment
14 of this Act, the Secretary, in cooperation with appropriate
15 State agencies, shall submit to the Committee on Environ-
16 ment and Public Works of the Senate and the Committee
17 on Resources of the House of Representatives a report de-
18 tailing the progress of efforts to end the illegal trade in
19 bear viscera.

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