

TRUTH IN FUR LABELING ACT OF 2010

JULY 27, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 2480]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2480) to improve the accuracy of fur product labeling, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Truth in Fur Labeling Act of 2010”.

SEC. 2. ELIMINATION OF EXEMPTION TO FUR PRODUCT LABELING REQUIREMENTS FOR PRODUCTS CONTAINING RELATIVELY SMALL QUANTITIES OR VALUES OF FUR.

(a) IN GENERAL.—Section 2(d) of the Fur Products Labeling Act (15 U.S.C. 69(d)) is amended by striking “; except that” and all that follows through “contained therein”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 3. EXEMPTION FOR DISCRETE SALES BY NON-RETAILERS.

Section 3 of the Fur Products Labeling Act (15 U.S.C. 69a) is amended by adding at the end the following:

“(g) No provision of this Act shall apply to a fur product—

“(1) the fur of which was obtained from an animal through trapping or hunting; and

“(2) when sold in a face to face transaction at a place such as a residence, craft fair, or other location used on a temporary or short term basis, by the person who trapped or hunted the animal, where the revenue from the sale of apparel or fur products is not the primary source of income of such person.”.

SEC. 4. FEDERAL TRADE COMMISSION REVIEW OF FUR PRODUCTS NAME GUIDE.

Not later than 90 days after the date of the enactment of this Act, the Federal Trade Commission shall publish in the Federal Register notice of, and an opportunity to comment on, a review of the Fur Products Name Guide (16 C.F.R. 301.0).

PURPOSE AND SUMMARY

H.R. 2480, the “Truth in Fur Labeling Act of 2009”, was introduced on May 19, 2009, by Rep. James P. Moran (D–VA), Rep. Mary Bono Mack (R–CA), and 13 other members. H.R. 2480 amends the Fur Products Labeling Act to require all fur products to be labeled.

BACKGROUND AND NEED FOR LEGISLATION

The labeling of fur products is currently regulated by the Fur Products Labeling Act of 1951, which requires that fur manufactured for use as attire have labels indicating the animal name and the country of origin.¹ Apparel with less than \$150 worth of fur is exempted from these requirements by the Rules and Regulations of the Federal Trade Commission (FTC) under the Fur Products Labeling Act.²

In today’s manufacturing of fur apparel, roughly 14% of products trimmed with animal fur go unlabeled because they fall below the \$150 threshold set by current federal law.³ In addition, an investigation by the Humane Society found real fur that was labeled as faux fur and other furs that were mislabeled.⁴

The FTC, as instructed by the Fur Products Labeling Act, produces the Fur Products Name Guide that defines how fur products

¹ 15 U.S.C. §§ 69–69j. The law also requires labeling of the manufacturer name, whether the fur is natural or dyed, and whether the fur is used or damaged.

² 16 CFR § 301.39.

³ The Humane Society of the United States, *Congress Calls for Truth in Fur Labeling In Response to Ongoing Misrepresentation* (May 20, 2009) (online at www.hsus.org/press_and_publications/press_releases/congress_calls_for_truth_in_fur_labeling_052009.html).

⁴ Id.

may be listed on the label.⁵ This guide, which was last updated by the FTC in 1967, has been criticized as outdated and inaccurate.⁶

H.R. 2480 amends the Fur Products Labeling Act by removing the FTC's authority to exempt apparel valued under a certain amount. As a result, all articles of apparel containing fur will be required to be labeled. The legislation also instructs the FTC to review the Fur Products Name Guide.

A companion bill, S. 1076, was introduced by Senator Robert Menendez (D-NJ) on May 19, 2009.

LEGISLATIVE HISTORY

H.R. 2480, the "Truth in Fur Labeling Act of 2009," was introduced on May 19, 2009, by Rep. James P. Moran (D-VA), with co-sponsors Reps. Mary Bono Mack (R-CA), Dennis Moore (D-KS), Henry Brown (R-SC), Lynn Woolsey (D-CA), Steve Cohen (D-TN), George Miller (D-CA), Earl Blumenauer (D-OR), Sam Farr (D-CA), Thaddeus McCotter (R-MI), Maurice Hinchey (D-NY), Dennis Kucinich (D-OH), Brad Sherman (D-CA), Pete King (R-NY), and Todd Russell Platts (R-PA).

The bill was referred to the Committee on Energy and Commerce and on May 20, 2009, H.R. 2480 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection. A legislative hearing was held by Subcommittee on May 13, 2010. At the hearing, witnesses representing the FTC, animal rights advocates, and the industry association expressed support for the legislation.

COMMITTEE CONSIDERATION

On June 30, 2010, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session to consider H.R. 2480. During that consideration a manager's amendment offered by Subcommittee Chairman Rush was adopted by a voice vote. Subsequently, the Subcommittee forwarded H.R. 2480 favorably to the full Committee, amended, by a voice vote.

On July 15, 2010, the Committee on Energy and Commerce met in open markup session and considered H.R. 2480 as approved by Subcommittee. The Committee agreed by a voice vote to adopt an amendment by Mr. Latta. Subsequently, the full Committee ordered H.R. 2480, favorably reported to the House, amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. A motion by Mr. Stupak ordering H.R. 2480 reported to the House, amended, was approved by a voice vote. There were no record votes taken during consideration of this bill.

⁵ 16 C.F.R. § 301.

⁶ Humane Society Legislative Fund, *Fact Sheet: Support the Truth in Fur Labeling Act S. 1076/H.R. 2480* (online at www.hslf.org/pdfs/fur-labeling-fact-sheet-tafa.pdf) (accessed May 10, 2010).

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report, including the finding that all fur products should be labeled.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate regarding H.R. 2480 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including the requirement that all fur products be labeled.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 2480. Article I, section 8, clauses 3 and 18 of the Constitution of the United States grants the Congress the power to enact this law.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2480 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

FEDERAL ADVISORY COMMITTEE STATEMENT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations.

FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement whether the provisions of the reported bill include unfunded mandates. In com-

pliance with this requirement the Committee adopts as its own the estimates prepared by the Congressional Budget Office and included herein.

COMMITTEE COST ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 2480. Clause 3(d)(3)(B) of that rule, however, provides that this requirement does not apply when the Committee adopts as its own the cost estimate of H.R. 2480 prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2480 from the Director of the Congressional Budget Office:

JULY 26, 2010.

Hon. HENRY A. WAXMAN,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2480, the Truth in Fur Labeling Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2480—Truth in Fur Labeling Act of 2010

H.R. 2480 would require products that contain a small quantity of fur to comply with provisions of current law that prohibit false or misleading branding, advertising, or invoicing of fur products. Currently, products containing a small quantity of fur, as defined by the Federal Trade Commission (FTC), are exempt from the labeling requirements. The bill also would exempt products containing fur obtained by trapping or hunting and sold in a face-to-face transaction from the labeling requirements. The FTC would be required to develop regulations to carry out those new requirements.

Based on information from the FTC, CBO expects that developing and enforcing the new regulations would impose a minimal cost on the agency; therefore, CBO estimates that implementing H.R. 2480 would not significantly increase spending subject to appropriation. Enacting H.R. 2480 could increase civil and criminal penalties and thus would affect federal revenues and direct spending; therefore, pay-as-you-go procedures would apply. However, CBO estimates that such effects would not be significant in any year.

H.R. 2480 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 2480 would impose private-sector mandates, as defined in UMRA, on manufacturers of fur products, fur-trimmed products, and fur accessories. The bill would expand existing labeling requirements for products containing animal fur to include items using relatively small amounts of animal fur. The labels include information about the name of the animal used, manufacturer, country of origin, and other information. According to information from the FTC, about 140,000 products—less than 14 percent of the market—would be affected by the mandate, and the incremental cost of compliance would be low. Therefore, CBO estimates that the aggregate cost of the mandates would fall well below the annual threshold for private-sector mandates (\$141 million in 2010, adjusted annually for inflation).

The CBO staff contacts for this estimate are Susan Willie (for federal costs) and Marin Randall (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates the short title of the Act as the “Truth in Fur Labeling Act of 2010.”

Section 2. Elimination of exemption to fur product labeling requirements for products containing relatively small quantities or values of fur

Section 2(a) of H.R. 2480 amends section 2(d) of the Fur Products Labeling Act (15 U.S.C. 69(d)) to remove the authority of the FTC to exempt articles of wearing apparel from the requirements of the Act by reason of the relatively small quantity or value of the fur or used fur contained in such articles. All “fur products” as defined in the Fur Products Labeling Act will therefore be subject to the requirements of that Act.

Section 3. Exemption for discrete sales by non-retailers

Section 3 exempts certain fur products sold by hunters or trappers from the requirements of the Fur Products Labeling Act. In order to qualify for the exemption, the fur product must have been obtained from an animal by trapping or hunting, must be sold by the person who trapped or hunted the animal, must be sold in a face-to-face transaction in a home or a location used on a temporary or short term basis, and the revenue from the sale of apparel or fur products must not be the primary source of income for the seller. This exemption would not apply to the resale of those same fur products by the original purchasers or any successor purchasers.

Section 4. Federal Trade Commission review of Fur Products Name Guide

Section 4 directs the FTC to review the Fur Products Name Guide (16 CFR 301.0). Notice of the review shall be published in

the *Federal Register*, and the public shall have an opportunity to comment on the review.

EXPLANATION OF AMENDMENT

Mr. Latta offered an amendment to create a new section of the bill exempting certain fur products sold by trappers or hunters from the requirements of the Fur Products Labeling Act. The amendment became new section 3 of the Act and is explained in the section-by-section analysis. The full Committee agreed to the amendment by a voice vote.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FUR PRODUCTS LABELING ACT

* * * * *

SEC. 2. As used in this Act—

(a) * * *

* * * * *

(d) The term “fur product” means any article of wearing apparel made in whole or in part of fur or used fur~~];~~ except that such term shall not include such articles (other than any dog or cat fur product to which section 308 of the Tariff Act of 1930 applies) as the Commission shall exempt by reason of the relatively small quantity or value of the fur or used fur contained therein~~].~~

* * * * *

MISBRANDING, FALSE ADVERTISING, AND INVOICING DECLARED UNLAWFUL

SEC. 3. (a) * * *

* * * * *

(g) *No provision of this Act shall apply to a fur product—*

(1) the fur of which was obtained from an animal through trapping or hunting; and

(2) when sold in a face to face transaction at a place such as a residence, craft fair, or other location used on a temporary or short term basis, by the person who trapped or hunted the animal, where the revenue from the sale of apparel or fur products is not the primary source of income of such person.

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