

111TH CONGRESS
1ST SESSION

S. 462

To amend the Lacey Act Amendments of 1981 to prohibit the importation, exportation, transportation, and sale, receipt, acquisition, or purchase in interstate or foreign commerce, of any live animal of any prohibited wildlife species, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2009

Mrs. BOXER (for herself and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Lacey Act Amendments of 1981 to prohibit the importation, exportation, transportation, and sale, receipt, acquisition, or purchase in interstate or foreign commerce, of any live animal of any prohibited wildlife species, 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 “Captive Primate Safety
5 Act”.

1 **SEC. 2. ADDITION OF NONHUMAN PRIMATES TO DEFINI-**
 2 **TION OF PROHIBITED WILDLIFE SPECIES.**

3 Section 2(g) of the Lacey Act Amendments of 1981
 4 (16 U.S.C. 3371(g)) is amended by inserting before the
 5 period at the end “or any nonhuman primate”.

6 **SEC. 3. CAPTIVE WILDLIFE AMENDMENTS.**

7 (a) PROHIBITED ACTS.—Section 3 of the Lacey Act
 8 Amendments of 1981 (16 U.S.C. 3372) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2)—

11 (i) in subparagraph (A), by inserting
 12 “or” after the semicolon;

13 (ii) in subparagraph (B)(iii), by strik-
 14 ing “; or” and inserting a semicolon; and

15 (iii) by striking subparagraph (C);
 16 and

17 (B) in paragraph (4), by inserting “or sub-
 18 section (e)” before the period; and

19 (2) in subsection (e)—

20 (A) by redesignating paragraphs (2), (3),
 21 (4), and (5) as paragraphs (3), (4), (5), and (6)
 22 respectively;

23 (B) by striking “(e)” and all that follows
 24 through “Subsection (a)(2)(C) does not apply”
 25 in paragraph (1) and inserting the following:

26 “(e) CAPTIVE WILDLIFE OFFENSE.—

1 “(1) IN GENERAL.—It is unlawful for any per-
2 son to import, export, transport, sell, receive, ac-
3 quire, or purchase in interstate or foreign commerce
4 any live animal of any prohibited wildlife species.

5 “(2) LIMITATION ON APPLICATION.—This sub-
6 section—

7 “(A) does not apply to a person trans-
8 porting a nonhuman primate to or from a vet-
9 erinarian who is licensed to practice veterinary
10 medicine within the United States, solely for
11 the purpose of providing veterinary care to the
12 nonhuman primate, if—

13 “(i) the person transporting the
14 nonhuman primate carries written docu-
15 mentation issued by the veterinarian, in-
16 cluding the appointment date and location;

17 “(ii) the nonhuman primate is trans-
18 ported in a secure enclosure appropriate
19 for that species of primate;

20 “(iii) the nonhuman primate has no
21 contact with any other animals or members
22 of the public, other than the veterinarian
23 and other authorized medical personnel
24 providing veterinary care; and

1 “(iv) such transportation and provi-
2 sion of veterinary care is in accordance
3 with all otherwise applicable State and
4 local laws, regulations, permits, and health
5 certificates;

6 “(B) does not apply to a person trans-
7 porting a nonhuman primate to a legally des-
8 ignated caregiver for the nonhuman primate as
9 a result of the death of the preceding owner of
10 the nonhuman primate, if—

11 “(i) the person transporting the
12 nonhuman primate is carrying legal docu-
13 mentation to support the need for trans-
14 porting the nonhuman primate to the le-
15 gally designated caregiver;

16 “(ii) the nonhuman primate is trans-
17 ported in a secure enclosure appropriate
18 for the species;

19 “(iii) the nonhuman primate has no
20 contact with any other animals or members
21 of the public while being transported to the
22 legally designated caregiver; and

23 “(iv) all applicable State and local re-
24 strictions on such transport, and all appli-
25 cable State and local requirements for per-

1 mits or health certificates, are complied
2 with;

3 “(C) does not apply to a person trans-
4 porting a nonhuman primate solely for the pur-
5 pose of assisting an individual who is perma-
6 nently disabled with a severe mobility impair-
7 ment, if—

8 “(i) the nonhuman primate is a single
9 animal of the genus *Cebus*;

10 “(ii) the nonhuman primate was ob-
11 tained from, and trained at, a licensed
12 nonprofit organization described in section
13 501(c)(3) of the Internal Revenue Code of
14 1986 the nonprofit tax status of which was
15 obtained—

16 “(I) before July 18, 2008; and

17 “(II) on the basis that the mis-
18 sion of the organization is to improve
19 the quality of life of severely mobility-
20 impaired individuals;

21 “(iii) the person transporting the
22 nonhuman primate is a specially trained
23 employee or agent of a nonprofit organiza-
24 tion described in clause (ii) that is trans-
25 porting the nonhuman primate to or from

1 a designated individual who is permanently
2 disabled with a severe mobility impairment,
3 or to or from a licensed foster care home
4 providing specialty training of the
5 nonhuman primate solely for purposes of
6 assisting an individual who is permanently
7 disabled with severe mobility impairment;

8 “(iv) the person transporting the
9 nonhuman primate carries documentation
10 from the applicable nonprofit organization
11 that includes the name of the designated
12 individual referred to in clause (iii);

13 “(v) the nonhuman primate is trans-
14 ported in a secure enclosure that is appro-
15 priate for that species;

16 “(vi) the nonhuman primate has no
17 contact with any animal or member of the
18 public, other than the designated individual
19 referred to in clause (iii); and

20 “(vii) the transportation of the
21 nonhuman primate is in compliance with—

22 “(I) all applicable State and local
23 restrictions regarding the transport;
24 and

1 “(II) all applicable State and
2 local requirements regarding permits
3 or health certificates; and

4 “(D) does not apply”;

5 (C) in paragraph (2) (as redesignated by
6 subparagraph (A))—

7 (i) by striking “a” before “prohibited”
8 and inserting “any”;

9 (ii) by striking “(3)” and inserting
10 “(4)”; and

11 (iii) by striking “(2)” and inserting
12 “(3)”;

13 (D) in paragraph (3) (as redesignated by
14 subparagraph (A))—

15 (i) in subparagraph (C)—

16 (I) in clauses (ii) and (iii), by
17 striking “animals listed in section
18 2(g)” each place it appears and in-
19 serting “prohibited wildlife species”;
20 and

21 (II) in clause (iv), by striking
22 “animals” and inserting “prohibited
23 wildlife species”; and

1 (ii) in subparagraph (D), by striking
2 “animal” each place it appears and insert-
3 ing “prohibited wildlife species”;

4 (E) in paragraph (4) (as redesignated by
5 subparagraph (A)), by striking “(2)” and in-
6 serting “(3)”; and

7 (F) in paragraph (6) (as redesignated by
8 subparagraph (A))—

9 (i) by striking “subsection (a)(2)(C)”
10 and inserting “this subsection”; and

11 (ii) by striking “2004 through 2008”
12 and inserting “2010 through 2014”.

13 (b) CIVIL PENALTIES.—Section 4(a) of the Lacey
14 Act Amendments of 1981 (16 U.S.C. 3373(a)) is amend-
15 ed—

16 (1) in paragraph (1), by inserting “(e),” after
17 “subsections (b), (d),” ; and

18 (2) in paragraph (1), by inserting “, (e),” after
19 “subsection (d)”.

20 (c) CRIMINAL PENALTIES.—Section 4(d) of the
21 Lacey Act Amendments of 1981 (16 U.S.C. 3373(d)) is
22 amended—

23 (1) in paragraphs (1)(A) and (1)(B) and in the
24 first sentence of paragraph (2), by inserting “(e),”

1 after “subsections (b), (d),” each place it appears;
2 and

3 (2) in paragraph (3), by inserting “, (e),” after
4 “subsection (d)”.

5 (d) EFFECTIVE DATE; REGULATIONS.—

6 (1) EFFECTIVE DATE.—Subsections (a)
7 through (c), and the amendments made by those
8 subsections, shall take effect on the earlier of—

9 (A) the date of promulgation of regulations
10 under paragraph (2); and

11 (B) the expiration of the period referred to
12 in paragraph (2).

13 (2) REGULATIONS.—Not later than 180 days
14 after the date of enactment of this Act, the Sec-
15 retary of the Interior shall promulgate regulations
16 implementing the amendments made by this section.

17 **SEC. 4. APPLICABILITY PROVISION AMENDMENT.**

18 Section 3 of the Captive Wildlife Safety Act (117
19 Stat. 2871; Public Law 108–191) is amended—

20 (1) in subsection (a), by striking “(a) IN GEN-
21 ERAL.—Section 3” and inserting “Section 3”; and

22 (2) by striking subsection (b).

1 **SEC. 5. REGULATIONS.**

2 Section 7(a) of the Lacey Act Amendments of 1981
3 (16 U.S.C. 3376(a)) is amended by adding at the end the
4 following:

5 “(3) The Secretary shall, in consultation with
6 other relevant Federal and State agencies, promul-
7 gate regulations to implement section 3(e).”.

8 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR ADDI-**
9 **TIONAL LAW ENFORCEMENT PERSONNEL.**

10 In addition to such other amounts as are authorized
11 to be appropriated to carry out the Lacey Act Amend-
12 ments of 1981 (16 U.S.C. 3371 et seq.), there is author-
13 ized to be appropriated to the Secretary of the Interior,
14 for use in hiring additional law enforcement personnel of
15 the United States Fish and Wildlife Service to enforce that
16 Act, \$5,000,000 for fiscal year 2010.

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