

Union Calendar No. 439

112TH CONGRESS
2^D SESSION

H. R. 3210

[Report No. 112-604]

To amend the Lacey Act Amendments of 1981 to limit the application of that Act with respect to plants and plant products that were imported before the effective date of amendments to that Act enacted in 2008, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 14, 2011

Mr. COOPER (for himself, Mrs. BONO MACK, and Mrs. BLACKBURN) introduced the following bill; which was referred to the Committee on Natural Resources

JULY 17, 2012

Additional sponsors: Mr. ROE of Tennessee, Mr. GRIMM, Mr. MARCHANT, Mr. PAUL, Mr. DESJARLAIS, Mr. ROHRABACHER, Mr. COBLE, Mrs. ELLMERS, Mr. YOUNG of Alaska, Mr. HUNTER, Mr. MANZULLO, Mr. PAULSEN, Mr. MCCLINTOCK, Mr. KINGSTON, Mr. RUPPERSBERGER, Mr. RYAN of Ohio, Mr. POSEY, Mr. MATHESON, and Mr. McCOTTER

JULY 17, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on October 14, 2011]

A BILL

To amend the Lacey Act Amendments of 1981 to limit the application of that Act with respect to plants and plant products that were imported before the effective date of amendments to that Act enacted in 2008, 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 “Retailers and Enter-*
5 *tainers Lacey Implementation and Enforcement Fairness*
6 *Act” or the “RELIEF Act”.*

7 **SEC. 2. FINDINGS.**

8 *Congress finds the following:*

9 (1) *Amendments to the Lacey Act Amendments*
10 *of 1981 were enacted as part of the Food, Conserva-*
11 *tion, and Energy Act of 2008 (Public Law 110–246).*

12 (2) *The 2008 amendments were intended to level*
13 *the playing field for American businesses engaged in*
14 *the responsible harvest, shipment, manufacture, and*
15 *trade of plants and plant products whose prices had*
16 *been undercut by a black market fueled by irrespon-*
17 *sible and illegal taking of protected plants around the*
18 *globe.*

19 (3) *The 2008 amendments were overly broad and*
20 *their enforcement as enacted could criminalize actions*
21 *of a good-faith owner, purchaser, or retailer of a*
22 *plant or plant product, subjecting them to penalties*
23 *that include forfeiture, fines, and imprisonment.*

24 (4) *Sanctions for violating the 2008 amendments*
25 *should be proportional to the act in violation. An in-*

1 *dividual who is not in the commercial shipping busi-*
2 *ness should not be held to the same standard of com-*
3 *pliance under that Act.*

4 (5) *Individuals fear that they risk incurring*
5 *those penalties by merely owning or traveling with a*
6 *vintage musical instrument, antique furniture, or an-*
7 *other wood product.*

8 (6) *The Department of the Interior and Depart-*
9 *ment of Justice have stated “people who unknowingly*
10 *possess a musical instrument or other object con-*
11 *taining wood that was illegally taken, possessed,*
12 *transported or sold in violation of law and who, in*
13 *the exercise of due care would not have known that*
14 *it was illegal, do not have criminal exposure.”.*

15 (7) *It is necessary to clarify the 2008 amend-*
16 *ments so that legally harvested new plant products*
17 *can enter the market place.*

18 (8) *Declaration requirements for plant products*
19 *imported or manufactured prior to May 22, 2008, are*
20 *unreasonable since the sourcing of plant products was*
21 *not previously required by law.*

22 (9) *Federal law enforcement officials should not*
23 *engage in overzealous enforcement action under the*
24 *2008 amendments.*

1 (10) *It is important to ensure that the appro-*
2 *priate agencies have the necessary funding to imple-*
3 *ment the current phases of the declaration require-*
4 *ment before considering any future phases.*

5 (11) *The appropriate agencies have the responsi-*
6 *bility of providing a publicly accessible database so*
7 *that everyone can be notified of the foreign laws of*
8 *countries as they apply to the importation of plants.*

9 **SEC. 3. TREATMENT OF PLANTS AND PLANT PRODUCTS**

10 **UNDER LACEY ACT AMENDMENTS OF 1981.**

11 (a) *LIMITATION ON APPLICATION OF ACT TO CERTAIN*
12 *PLANTS AND PLANT PRODUCTS.—The Lacey Act Amend-*
13 *ments of 1981 (16 U.S.C. 3371 et seq.) is amended by redes-*
14 *ignating section 9 as section 10, and by inserting after sec-*
15 *tion 8 the following:*

16 **“SEC. 9. LIMITATION ON APPLICATION TO CERTAIN PLANTS**
17 **AND PLANT PRODUCTS.**

18 *“This Act does not apply with respect to—*

19 *“(1) any plant that was imported into the*
20 *United States before May 22, 2008; or*

21 *“(2) any finished plant or plant product the as-*
22 *sembly and processing of which was completed before*
23 *May 22, 2008.”.*

1 (b) *LIMITATIONS ON APPLICATION OF PLANT DEC-*
2 *LARATION REQUIREMENT.*—Section 3(f) of such Act (16
3 *U.S.C. 3372(f)*) is amended—

4 (1) in paragraph (1), by inserting “that is en-
5 *tered for consumption (as that term is defined in part*
6 *141.0a of title 19, Code of Federal Regulations, as in*
7 *effect on the date of enactment of the Retailers and*
8 *Entertainers Lacey Implementation and Enforcement*
9 *Fairness Act)”* after “plant”; and

10 (2) in paragraph (3)—

11 (A) by inserting “(A)” before “Paragraphs
12 (1)”; and

13 (B) by adding at the end the following:

14 “(B)(i) *In the case of a plant product that is de-*
15 *derived from a tree, a declaration under paragraph (1)*
16 *or (2) is not required to include information referred*
17 *to in subparagraph (A), (B), or (C) of that paragraph*
18 *unless the plant product is solid wood.*

19 “(ii) *The Administrator of the Animal and*
20 *Plant Health Inspection Service shall issue regula-*
21 *tions that define the term ‘solid wood’ for purposes of*
22 *this subparagraph.*”.

23 (c) *APPLICATION OF CIVIL FORFEITURE LAWS.*—Sec-
24 *tion 5(d) of such Act (16 U.S.C. 3374(d))* is amended—

25 (1) by inserting “(1)” before “Civil”;

1 (2) by inserting “, except as provided in para-
2 graphs (2) and (3) of this subsection” before the pe-
3 riod at the end; and

4 (3) by adding at the end the following:

5 “(2) Subsection (d)(4) of section 983 of such chapter,
6 and the second sentence of subsection (a)(1)(F) of such sec-
7 tion, shall not apply to plants or plant products.

8 “(3) This section is the sole authority for civil seizure
9 or forfeiture actions alleging, or predicated upon, a viola-
10 tion of section 3.”.

11 **SEC. 4. LIMITATION ON APPLICATION OF FOREIGN LAWS.**

12 (a) *PROHIBITED ACTS.*—Section 3(a) of such Act (16
13 U.S.C. 3372(a)) is amended—

14 (1) in paragraph (2)(B), in clause (ii) and in
15 clause (iii), by striking “foreign law” and inserting
16 “foreign law that is directed at the protection, con-
17 servation, and management of plants”; and

18 (2) in paragraph (3)(B), in clause (ii) and in
19 clause (iii), by striking “foreign law” and inserting
20 “foreign law that is directed at the protection, con-
21 servation, and management of plants”.

22 (b) *CIVIL PENALTIES.*—Section 4(a)(1) of such Act (16
23 U.S.C. 3373(a)(1)) is amended by striking “foreign law”
24 and inserting “foreign law that is directed at the protection,
25 conservation, and management of plants”.

1 **SEC. 5. REVIEW AND REPORT.**

2 *Section 3(f) of such Act (16 U.S.C. 3372(f)) is amend-*
3 *ed—*

4 *(1) in paragraph (4), by striking “Not later than*
5 *two years after the date of enactment of this sub-*
6 *section,” and inserting “Not later than 180 days after*
7 *the date of enactment of the Retailers and Enter-*
8 *tainers Lacey Implementation and Enforcement Fair-*
9 *ness Act,”; and*

10 *(2) in paragraph (5)—*

11 *(A) by striking “Not later than 180 days*
12 *after the date on which the Secretary completes*
13 *the review under paragraph (4), the Secretary”*
14 *and inserting “Not later than 180 days after the*
15 *date the Secretary completes the review under*
16 *paragraph (4), the Director of the United States*
17 *Fish and Wildlife Service”;*

18 *(B) by striking “and” after the semicolon at*
19 *the end of subparagraph (B);*

20 *(C) by striking the period at the end of sub-*
21 *paragraph (C) and inserting “; and”; and*

22 *(D) by adding at the end the following:*

23 *“(D) an evaluation of the feasibility of cre-*
24 *ating and maintaining a publicly available*
25 *database of laws of foreign countries from which*
26 *plants are exported.”.*

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