

117TH CONGRESS
2D SESSION

S. 3472

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

JANUARY 11 (legislative day, JANUARY 10), 2022

Mr. KENNEDY (for himself and Ms. DUCKWORTH) 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bear Poaching Elimination Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) all 8 extant species of bear—Asian black
2 bear, brown bear, polar bear, American black bear,
3 spectacled bear, giant panda, sun bear, and sloth
4 bear—are listed on appendix I or II of CITES;

5 (2) Article XIV of CITES provides that Parties
6 to CITES may adopt stricter domestic measures re-
7 garding the conditions for trade, taking, possession,
8 or transport of species listed on appendix I or II of
9 CITES, and the Parties to CITES adopted a resolu-
10 tion in 1997 (Conf. 10.8) urging the Parties to take
11 immediate action to demonstrably reduce the illegal
12 trade in bear parts;

13 (3) thousands of bears in Asia are cruelly con-
14 fined in small cages to be milked for their bile, and
15 the wild Asian bear population has declined signifi-
16 cantly in recent years as a result of habitat loss and
17 poaching due to a strong demand for bear viscera
18 used in traditional medicines and cosmetics;

19 (4) Federal and State undercover operations
20 have revealed that American bears have been
21 poached for their viscera;

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

1 (6) prohibitions against the importation into
2 the United States and exportation from the United
3 States, as well as prohibitions against the interstate
4 trade, of bear viscera and products containing, or la-
5 beled or advertised as containing, bear viscera will
6 assist in ensuring that the United States does not
7 contribute to the decline of any bear population as
8 a result of the commercial trade in bear viscera.

9 **SEC. 3. PURPOSES.**

10 The purpose of this Act is to ensure the long-term
11 viability of the 8 bear species of the world by—

12 (1) prohibiting interstate and international
13 trade in bear viscera and products containing, or la-
14 beled or advertised as containing, bear viscera;

15 (2) encouraging bilateral and multilateral ef-
16 forts to eliminate that trade; and

17 (3) ensuring that adequate Federal legislation
18 exists with respect to domestic trade in bear viscera
19 and products containing, or labeled or advertised as
20 containing, bear viscera.

21 **SEC. 4. DEFINITIONS.**

22 In this Act:

23 (1) BEAR VISCERA.—The term “bear viscera”
24 means the body fluids or internal organs, including
25 the gallbladder and the contents of the gallbladder,

1 but not including the blood or brains, of a species
2 of bear.

3 (2) CITES.—The term “CITES” means the
4 Convention on International Trade in Endangered
5 Species of Wild Fauna and Flora (27 UST 1087;
6 TIAS 8249).

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

13 (4) PERSON.—The term “person” means—

14 (A) an individual, corporation, partnership,
15 trust, association, or other private entity;

16 (B) an officer, employee, agent, depart-
17 ment, or instrumentality of—

18 (i) the Federal Government;

19 (ii) any State, municipality, or polit-
20 ical subdivision of a State; or

21 (iii) any foreign government; and

22 (C) any other entity subject to the jurisdic-
23 tion of the United States.

24 (5) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

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

7 (7) TRANSPORT.—The term “transport”
8 means—

9 (A) to move, convey, carry, or ship by any
10 means; and

11 (B) to deliver or receive for the purpose of
12 movement, conveyance, carriage, or shipment.

13 **SEC. 5. PROHIBITED ACTS.**

14 (a) IN GENERAL.—Except as provided in subsection

15 (b), it shall be unlawful for a person to knowingly—

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

20 (2) sell or barter, offer to sell or barter, pur-
21 chase, possess, transport, deliver, or receive, in inter-
22 state or foreign commerce, bear viscera or any prod-
23 uct, item, or substance containing, or labeled or ad-
24 vertised as containing, bear viscera.

1 (b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT

2 PURPOSES.—A person described in section 4(4)(B) may
 3 import into, or export from, the United States, or trans-
 4 port between States, bear viscera or any product, item,
 5 or substance containing, or labeled or advertised as con-
 6 taining, bear viscera if the importation, exportation, or
 7 transportation—

8 (1) is solely for purposes of enforcing laws re-
 9 lating to the protection of wildlife; and

10 (2) is authorized by a valid permit issued under
 11 appendix I or II of CITES, in any case in which
 12 such a permit is required under CITES.

13 **SEC. 6. PENALTIES AND ENFORCEMENT.**

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

17 (b) CIVIL PENALTIES.—

18 (1) AMOUNT.—A person that violates section 5
 19 may be assessed a civil penalty by the Secretary of
 20 not more than \$25,000 for each violation.

21 (2) MANNER OF ASSESSMENT AND COLLEC-
 22 TION.—A civil penalty under this subsection shall be
 23 assessed, and may be collected, in the manner in
 24 which a civil penalty under the Endangered Species
 25 Act of 1973 (16 U.S.C. 1531 et seq.) may be as-

1 sessed and collected under section 11(a) of that Act
2 (16 U.S.C. 1540(a)).

3 (c) SEIZURE AND FORFEITURE.—Any bear viscera or
4 any product, item, or substance exported, imported, sold,
5 bartered, attempted to be exported, imported, sold, or
6 bartered, offered for sale or barter, purchased, possessed,
7 transported, delivered, or received in violation of this sec-
8 tion (including any regulation issued under this section)
9 shall be seized and forfeited to the United States.

10 (d) REGULATIONS.—After consultation with the Sec-
11 retary of the Treasury and the United States Trade Rep-
12 resentative, the Secretary shall issue such regulations as
13 are necessary to carry out this section.

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

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

1 **SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION**
2 **AND THE BEAR PARTS TRADE.**

3 The Secretary shall continue discussions concerning
4 trade in bear viscera with the appropriate representatives
5 of Parties to CITES and representatives of countries that
6 are not party to CITES that are determined by the Sec-
7 retary and the United States Trade Representative to be
8 the leading importers, exporters, or consumers of bear
9 viscera, to seek to establish coordinated efforts with those
10 countries to protect bears.

11 **SEC. 8. CERTAIN RIGHTS NOT AFFECTED.**

12 Except as provided in section 5, nothing in this Act
13 affects—

14 (1) the regulation by any State of the bear pop-
15 ulation of that State; or

16 (2) the hunting of bears that is lawful under
17 applicable State laws (including regulations).

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