117th Congress 2d Session

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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

Mr. Kennedy (for himself and Ms. Duckworth) introduced the following bill; which was read twice and referred to the Committee on

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 Elimina-
5 tion Act of 2022”.

6 SEC. 2. FINDINGS.

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

(2) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on appendix I or II of CITES, and the Parties to CITES adopted a resolution in 1997 (Conf. 10.8) urging the Parties to take immediate action to demonstrably reduce the illegal trade in bear parts;

(3) thousands of bears in Asia are cruelly confined in small cages to be milked for their bile, and the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

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

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and
(6) prohibitions against the importation into
the United States and exportation from the United
States, as well as prohibitions against the interstate
trade, of bear viscera and products containing, or la-
beled or advertised as containing, bear viscera will
assist in ensuring that the United States does not
contribute to the decline of any bear population as
a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

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

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

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

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

SEC. 4. DEFINITIONS.

In this Act:

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

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

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

(4) PERSON.—The term “person” means—

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

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

(i) the Federal Government;

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

(iii) any foreign government; and

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

(5) SECRETARY.—The term “Secretary” means
the Secretary of the Interior.
(6) STATE.—The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

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

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

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

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to knowingly—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.
(b) Exception for Wildlife Law Enforcement Purposes.—A person described in section 4(4)(B) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for purposes of enforcing laws relating to the protection of wildlife; and

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

SEC. 6. PENALTIES AND ENFORCEMENT.

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

(b) Civil Penalties.—

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

(2) Manner of Assessment and Collection.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) may be as-
possessed and collected under section 11(a) of that Act
(16 U.S.C. 1540(a)).

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

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

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

(f) USE OF PENALTY AMOUNTS.—Amounts received
as penalties, fines, or forfeiture of property under this sec-
tion shall be used in accordance with section 6(d) of the
Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).
SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.

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

SEC. 8. CERTAIN RIGHTS NOT AFFECTED.

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

(1) the regulation by any State of the bear population of that State; or

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