

CAPTIVE WILDLIFE SAFETY ACT

SEPTEMBER 11, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1006]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1006) to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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 “Captive Wildlife Safety Act”.

SEC. 2. DEFINITION OF PROHIBITED WILDLIFE SPECIES.

Section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended—

(1) by redesignating subsections (g) through (j) as subsections (h) through (k), respectively; and

(2) by inserting after subsection (f) the following:

“(g) PROHIBITED WILDLIFE SPECIES.—The term ‘prohibited wildlife species’ means any lion, tiger, leopard, cheetah, jaguar, or cougar species, or any hybrid of a lion species and tiger species.”

SEC. 3. PROHIBITED ACTS.

(a) IN GENERAL.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “, or” at the end and inserting a semicolon;

(ii) in subparagraph (B), by inserting “or” after the semicolon at the end; and

(iii) by adding at the end the following:

“(C) any live animal of a prohibited wildlife species (subject to subsection (e));”;

(B) in paragraph (3)(B), by inserting “or” after the semicolon at the end; and

(C) in paragraph (4), by striking “paragraphs (1) through (4)” and inserting “paragraphs (1) through (3)”; and

(2) by adding at the end the following:

“(e) NONAPPLICABILITY OF PROHIBITED WILDLIFE SPECIES OFFENSE.—

“(1) IN GENERAL.—Subsection (a)(2)(C) does not apply to importation, exportation, transportation, sale, receipt, acquisition, or purchase of an animal of a prohibited wildlife species, by a person that, under regulations prescribed under paragraph (3), is described in paragraph (2) with respect to that species.

“(2) PERSONS DESCRIBED.—A person is described in this paragraph, if—

“(A) the person has expertise, knowledge, and experience with respect to the care of that species in captivity; and

“(B) the person—

“(i) is licensed and inspected by the Animal and Plant Health Inspection Service with respect to that species;

“(ii) is a State college, university, or agency, State-licensed wildlife rehabilitator, or State-licensed veterinarian;

“(iii) is an accredited wildlife sanctuary that cares for prohibited wildlife species; or

“(iv) has custody of the animal solely for the purpose of transporting the animal to a person described in this paragraph with respect to the species.

“(3) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the heads of other relevant Federal agencies, shall promulgate regulations describing the persons described in paragraph (2).

“(4) STATE AUTHORITY.—Nothing in this subsection preempts or supersedes the authority of a State to regulate wildlife species within that State.”.

(b) APPLICATION.—Section 3(a)(2)(C) of the Lacey Act Amendments of 1981 (as added by subsection (a)(1)(A)(iii)) shall apply beginning on the effective date of regulations promulgated under section 3(e)(3) of that Act (as added by subsection (a)(2)).

PURPOSE OF THE BILL

The purpose of H.R. 1006 is to amend the Lacey Act Amendment of 1981 to further the conservation of certain wildlife species.

BACKGROUND AND NEED FOR LEGISLATION

In 1900, Congress enacted legislation to support the efforts of states to protect their game animals and birds by prohibiting the interstate shipment of wildlife killed in violation of state or territorial law. This was the first federal law ever to address wildlife protection nationwide. Since that time, the Lacey Act has been amended several times with the most significant changes occurring with the Lacey Act Amendments of 1981. Today, the Lacey Act makes it unlawful to import, export, transport, sell, buy, or possess fish, wildlife or plants taken, possessed, transported, or sold in violation of any federal, state, foreign or Native American tribal law, treaty or regulation. The Lacey Act covers all fish and wildlife and their parts or products and plants covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. This law makes trafficking in virtually any illegally acquired wildlife a federal crime. It is also illegal to mislabel wildlife shipments, bring injurious species into the country and import live wildlife under inhumane conditions. Those who knowingly violate the Lacey Act face maximum penalties of up to five years in prison and fines as high as \$250,000 for individuals and \$500,000 for organizations.

There is no universal tracking system for big cats held in captivity. It is estimated that there are between 30,000 and 40,000 exotic animals living in the United States. Of this total, some 12,000

are tigers, which is greater than the number of wild tigers living in their native habitat. While about 500 of these captive tigers are maintained by zoological institutions, the rest are privately owned by individuals. Ownership of exotic animals is not limited to tigers; the list also includes other large cats. Ownership of these species is largely facilitated by hundreds of web sites that market exotic animals as pets with prices starting as low as \$300.

Home care of an exotic animal can be extremely difficult because few veterinarians are qualified or willing to treat privately-owned large cats. In addition, because many large cats are purchased as appealing cubs, they are often abandoned after they reach 300 pounds. At this size, cats can consume at least 20 pounds of meat a day and they become dangerous. The placement of these unwanted animals is difficult because most zoos are unwilling to take them due to space and genetic diversity concerns and few sanctuary facilities exist. The net result is that many of these animals are abandoned, euthanized, or harvested for their pelts and meat.

Both the American Veterinary Medical Association and the U.S. Department of Agriculture have launched information campaigns detailing the inherent personal and public risks and animal welfare issues concerning exotic pet ownership.

This legislation would amend the Lacey Act Amendments of 1981 to incorporate under its "prohibited wildlife species" designation any live lions, tigers, leopards, cheetahs, jaguars and cougars. The proposal stipulates that this prohibition shall not apply to a list of entities including: licensed, registered or federally inspected zoos, circus, research facilities or aquariums; any person accredited by the American Sanctuary Association or Association of Sanctuaries; any state college, university or agency, state-licensed wildlife rehabilitator, or state-licensed veterinarian and individuals transporting a wildlife animal to an exempted entity.

COMMITTEE ACTION

H.R. 1006 was introduced on February 27, 2003, by Congressman Howard "Buck" McKeon (R-CA). The legislation was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On June 12, 2003, the Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on the measure. On July 15, 2003, the full Resources Committee met to consider the bill. The Subcommittee on Fisheries Conservation, Wildlife and Oceans was discharged from further consideration of the bill by unanimous consent. Congressman Wayne T. Gilchrest (R-MD) offered an amendment in the nature of a substitute that added hybrids of lions and tigers to the list of prohibited wildlife species and established criteria that a person must have expertise, knowledge, experience and is licensed and inspected by the Animal and Plant Health Inspection Service with respect to the care of large cats to obtain an exemption. The amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article 1, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. 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 which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill "could increase direct spending and revenues, but we estimate that any such changes would be minimal and largely offsetting."

3. General Performance Goals and Objectives. This bill does not authorize funding and, therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 28, 2003.

Hon. RICHARD POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1006, the Captive Wildlife Safety Act.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 1006—Captive Wildlife Safety Act

Summary: H.R. 1006 would amend current law to prohibit interstate and foreign trade of certain species of animals. CBO estimates that implementing the bill would cost about \$4 million annually, assuming appropriation of the necessary amounts. The bill could increase direct spending and revenues, but we estimate that any such changes would be minimal and largely offsetting.

H.R. 1006 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The bill would impose a private-sector mandate, but CBO estimates that the direct costs of the mandate would fall well below the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation) in any of the next five years.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1006 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	4	4	4	4	4
Estimated outlays	4	4	4	4	4

Basis of estimate: H.R. 1006 would amend current law to make it illegal to import, export, transport, sell, receive, acquire, or purchase species of lion, tiger, leopard, cheetah, jaguar, cougar, and certain hybrids. Violators of the proposed prohibition on interstate and foreign trade of such animals would be subject to criminal and civil penalties. The bill specifies certain types of individuals and institutions that would be exempted from the proposed prohibition.

Based on information from the U.S. Fish and Wildlife Service (USFWS), CBO estimates that implementing H.R. 1006 would cost about \$4 million annually, assuming appropriation of the necessary amounts. That amount includes \$3.5 million for additional staff to conduct the kinds of inspections and investigations that the bill would require and up to \$500,000 for administrative costs to issue permits to individuals and institutions that would be exempted from the proposed prohibition.

H.R. 1006 could increase revenues from civil and criminal fines. Based on information from the USFWS and the Animal and Plant Health Inspection Service about the relatively small number of cases likely to occur, however, CBO estimates that any such increase would be less than \$500,000 annually. Moreover, such changes would be fully offset by increases in direct spending from the Crime Victims Fund (where criminal fines are deposited) or the resource management account of the USFWS (where civil fines are deposited and used for rewards to informers and for other program costs).

Estimated impact on state, local, and tribal governments: H.R. 1006 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: H.R. 1006 would require individuals who participate in interstate or foreign import, export,

transport, sale, receipt, acquisition, or purchase of any live lion, tiger, leopard, cheetah, jaguar, or cougar, or any hybrid of a lion species and tiger species to have expertise, knowledge, and experience with respect to the care of that species and to be licensed and inspected by the Animal and Plant Health Inspection Service (APHIS), be an accredited wildlife sanctuary, or have custody of the animal solely for the purpose of transporting the animal to an exempted individual. Under current law, interstate and foreign trade of certain cats listed under the bill is prohibited. Information provided by APHIS and representatives of wildlife sanctuary associations indicates that there would be no significant activity in new licensing or accreditations as a result of the bill. In addition, CBO estimates that the costs to transporters to comply with the mandate would not be substantial. Thus, CBO estimates that the costs of the mandate to the private sector would fall well below the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

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):

LACEY ACT AMENDMENTS OF 1981

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SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) * * *

* * * * *

(g) *PROHIBITED WILDLIFE SPECIES.*—The term “prohibited wildlife species” means any lion, tiger, leopard, cheetah, jaguar, or cougar species, or any hybrid of a lion species and tiger species.

[(g)] (h) The term “Secretary” means, except as otherwise provided in the Act, the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090); except that with respect to the provisions of this Act which pertain to the importation or exportation of plants the term means the Secretary of Agriculture.

[(h)] (i) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

[(i)] (j) The term “taken” means captured, killed, or collected.

[(j)] (k) The term “transport” means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 3. PROHIBITED ACTS.

(a) OFFENSES OTHER THAN MARKING OFFENSES.—It is unlawful for any person—

(1) * * *

* * * * *

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law[, or];

(B) any plant taken, possessed, transported, or sold in violation of any law or regulation of any State; or

(C) any live animal of a prohibited wildlife species (subject to subsection (e));

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18, United States Code)—

(A) * * *

(B) to possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State; or

(4) to attempt to commit any act described in [paragraphs (1) through (4)] paragraphs (1) through (3).

* * * * *

(e) NONAPPLICABILITY OF PROHIBITED WILDLIFE SPECIES OFFENSE.—

(1) IN GENERAL.—Subsection (a)(2)(C) does not apply to importation, exportation, transportation, sale, receipt, acquisition, or purchase of an animal of a prohibited wildlife species, by a person that, under regulations prescribed under paragraph (3), is described in paragraph (2) with respect to that species.

(2) PERSONS DESCRIBED.—A person is described in this paragraph, if—

(A) the person has expertise, knowledge, and experience with respect to the care of that species in captivity; and

(B) the person—

(i) is licensed and inspected by the Animal and Plant Health Inspection Service with respect to that species;

(ii) is a State college, university, or agency, State-licensed wildlife rehabilitator, or State-licensed veterinarian;

(iii) is an accredited wildlife sanctuary that cares for prohibited wildlife species; or

(iv) has custody of the animal solely for the purpose of transporting the animal to a person described in this paragraph with respect to the species.

(3) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the heads of other relevant Federal agencies, shall promulgate regulations describing the persons described in paragraph (2).

(4) STATE AUTHORITY.—Nothing in this subsection preempts or supersedes the authority of a State to regulate wildlife species within that State.

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