

114TH CONGRESS  
2D SESSION

# S. 2541

To amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act to further the conservation of prohibited wildlife species.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2016

Mr. BLUMENTHAL (for himself and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act to further the conservation of prohibited wildlife species.

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 “Big Cat Public Safety  
5 Act of 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) as of February 2016—

1 (A) the global illicit trade in wildlife is esti-  
2 mated to be worth up to \$20,000,000,000 an-  
3 nually; and

4 (B) the legal wildlife trade in the United  
5 States was estimated to have a value of  
6 \$2,800,000,000 annually;

7 (2) the illegal trade in prohibited wildlife spe-  
8 cies (as defined in section 2 of the Lacey Act  
9 Amendments of 1981 (16 U.S.C. 3371)) stimulates  
10 demand and expands markets in which prohibited  
11 wildlife species are sold illegally;

12 (3) private possession, breeding, and sale of  
13 prohibited wildlife species have substantial and detri-  
14 mental effects on—

15 (A) the health and general welfare of the  
16 people of the United States; and

17 (B) the conservation of the prohibited wild-  
18 life species;

19 (4) the private possession and breeding of pro-  
20 hibited wildlife species has a substantial and direct  
21 effect on interstate commerce because prohibited  
22 wildlife species are often—

23 (A) bred and possessed—

24 (i) for use in public exhibition; or

1 (ii) for sale or transfer of ownership  
2 in the exotic pet trade; and

3 (B) transported in interstate commerce for  
4 the activities described in subparagraph (A);

5 (5) the private possession and breeding of pro-  
6 hibited wildlife species contributes to interstate traf-  
7 ficking in prohibited wildlife species and may con-  
8 tribute to the international illegal trade in prohibited  
9 wildlife species;

10 (6) prohibited wildlife species in private posses-  
11 sion and prohibited wildlife species that are subject  
12 to intrastate distribution are fungible commodities  
13 that cannot be differentiated, for purposes of con-  
14 trol, from prohibited wildlife species that are subject  
15 to interstate distribution;

16 (7) it is exceedingly difficult to distinguish be-  
17 tween—

18 (A) prohibited wildlife species that have  
19 been possessed, bred, sold, or transported in  
20 interstate commerce; and

21 (B) prohibited wildlife species that have  
22 not been possessed, bred, sold, or transported in  
23 interstate commerce;

24 (8) Federal control of intrastate private posses-  
25 sion and breeding of prohibited wildlife species is es-

1       sential to the effective control of interstate traf-  
2       ficking in prohibited wildlife species; and

3               (9) the United States is a party to the Conven-  
4       tion on International Trade in Endangered Species  
5       of Wild Fauna and Flora, done at Washington  
6       March 3, 1973 (27 UST 1087; TIAS 8249), which  
7       was designed to protect species of wild fauna and  
8       flora from exploitation through international trade.

9       **SEC. 3. DEFINITIONS.**

10       (a) IN GENERAL.—Section 2 of the Lacey Act  
11       Amendments of 1981 (16 U.S.C. 3371) is amended—

12               (1) by redesignating subsections (a) through (k)  
13       as subsections (b) through (l), respectively; and

14               (2) by inserting before subsection (b) (as so re-  
15       designated) the following:

16       “(a) BREED.—The term ‘breed’ means to inten-  
17       tionally or negligently—

18               “(1) facilitate propagation or reproduction; or

19               “(2) fail to prevent propagation or reproduc-  
20       tion.”.

21       (b) CONFORMING AMENDMENTS.—

22               (1) CONSOLIDATED FARM AND RURAL DEVEL-  
23       OPMENT ACT.—Section 349(a)(3) of the Consoli-  
24       dated Farm and Rural Development Act (7 U.S.C.

1 1997(a)(3)) is amended by striking “section 2(a)”  
2 and inserting “section 2(b)”.

3 (2) LACEY ACT AMENDMENTS OF 1981.—

4 (A) Section 3(e)(2)(C) of the Lacey Act  
5 Amendments of 1981 (16 U.S.C.  
6 3372(e)(2)(C)) is amended—

7 (i) in clause (ii), by striking “section  
8 2(g)” and inserting “section 2(h)”; and

9 (ii) in clause (iii), by striking “section  
10 2(g)” and inserting “section 2(h)”.

11 (B) Section 7(c) of the Lacey Act Amend-  
12 ments of 1981 (16 U.S.C. 3376(c)) is amended  
13 by striking “section 2(f)(2)(A)” and inserting  
14 “section 2(g)(2)(A)”.

15 **SEC. 4. PROHIBITIONS.**

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

18 (1) in subsection (a) —

19 (A) in paragraph (2)—

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

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

1 (iii) by striking subparagraph (C);

2 and

3 (B) in paragraph (4), by striking “in para-  
4 graphs (1) through (3).” and inserting “in—

5 “(A) paragraphs (1) through (3); or

6 “(B) subsection (e).”;

7 (2) by striking subsection (e) and inserting the  
8 following:

9 “(e) CAPTIVE WILDLIFE OFFENSE.—

10 “(1) IN GENERAL.—It is unlawful for any per-  
11 son—

12 “(A) to import, export, transport, sell, re-  
13 ceive, acquire, or purchase a live animal of any  
14 prohibited wildlife species—

15 “(i) in interstate or foreign commerce;

16 or

17 “(ii) in a manner substantially affect-  
18 ing interstate or foreign commerce; or

19 “(B) to breed or possess a live animal of  
20 any prohibited wildlife species.

21 “(2) LIMITATION ON APPLICATION.—Paragraph  
22 (1) does not apply to any person that—

23 “(A) is an institution accredited by the As-  
24 sociation of Zoos and Aquariums;

25 “(B) is a facility that—

1           “(i) has an active written contract  
2           with an Association of Zoos and Aquar-  
3           iums Species Survival Plan or Taxon Advi-  
4           sory Group for the breeding of prohibited  
5           wildlife species; and

6           “(ii) does not breed, acquire, or sell  
7           prohibited wildlife species other than the  
8           prohibited wildlife species covered by a  
9           contract described in clause (i);

10          “(C) is a State college, university, or agen-  
11          cy, or State-licensed veterinarian;

12          “(D)(i) is a wildlife sanctuary that cares  
13          for prohibited wildlife species;

14          “(ii) is a corporation that—

15                 “(I) is exempt from taxation under  
16                 section 501(a) of the Internal Revenue  
17                 Code of 1986; and

18                 “(II) is described in sections  
19                 501(c)(3) and 170(b)(1)(A)(vi) of that  
20                 Code;

21          “(iii) does not commercially trade in pro-  
22          hibited wildlife species, including offspring,  
23          parts, and byproducts of prohibited wildlife spe-  
24          cies;

1           “(iv) does not breed the prohibited wildlife  
2 species;

3           “(v) does not allow direct contact between  
4 the public and prohibited wildlife species; and

5           “(vi) does not allow the transportation and  
6 display of prohibited wildlife species off-site;

7           “(E) has custody of the prohibited wildlife  
8 species solely for the purpose of expeditiously  
9 transporting the prohibited wildlife species to a  
10 person described in this paragraph with respect  
11 to the prohibited wildlife species;

12           “(F)(i) is in possession of a prohibited  
13 wildlife species that was born before the date of  
14 enactment of the Big Cat Public Safety Act of  
15 2016;

16           “(ii) not later than 180 days after the date  
17 of enactment of the Big Cat Public Safety Act  
18 of 2016, is registered with the Animal and  
19 Plant Health Inspection Service;

20           “(iii) does not breed, acquire, or sell any  
21 prohibited wildlife species after the date of en-  
22 actment of that Act; and

23           “(iv) does not allow direct contact between  
24 the public and prohibited wildlife species; or



1           “(G)(i) holds a valid Class C license under  
2           the Animal Welfare Act (7 U.S.C. 2131 et  
3           seq.);

4           “(ii) regularly travels across State lines to  
5           conduct circus performances featuring live pro-  
6           hibited wildlife species, clowns, and aerial acts;

7           “(iii) engaged in the travel and conduct de-  
8           scribed in clause (ii) before January 1, 2015;  
9           and

10           “(iv) does not allow direct contact between  
11           the public and prohibited wildlife species.”.

12 **SEC. 5. PENALTIES.**

13           (a) CIVIL PENALTIES.—Section 4(a)(1) of the Lacey  
14 Act Amendments of 1981 (16 U.S.C. 3373(a)(1)) is  
15 amended—

16           (1) by striking “other than subsections (b),  
17           (d),” and inserting “other than subsections (b), (d),  
18           (e),”; and

19           (2) by striking “violates subsection (d)” and in-  
20           serting “violates subsection (d), (e),”.

21           (b) CRIMINAL PENALTIES.—Section 4(d)(1) of the  
22 Lacey Act Amendments of 1981 (16 U.S.C. 3373(d)(1))  
23 is amended—

24           (1) in subparagraph (A)—

25           (A) by inserting “(e),” after “(d),”; and

1 (B) by striking “or” after the comma at  
2 the end;

3 (2) in subparagraph (B)—

4 (A) by inserting “(e),” after “(d),”; and

5 (B) by adding “or” after the comma at the  
6 end; and

7 (3) by inserting after subparagraph (B) the fol-  
8 lowing:

9 “(C) knowingly violates section 3(e),”; and

10 (4) in the undesignated matter following sub-  
11 paragraph (C) (as added by paragraph (3))—

12 (A) by striking “knowing that” and all  
13 that follows through “treaty or regulation,”;  
14 and

15 (B) in the second sentence, by striking  
16 “said fish or wildlife or plants” and inserting  
17 “fish or wildlife, plants, or prohibited wildlife  
18 species concerned”.

19 **SEC. 6. FORFEITURE OF PROHIBITED WILDLIFE SPECIES.**

20 Section 5(a)(1) of the Lacey Act Amendments of  
21 1981 (16 U.S.C. 3374(a)(1)) is amended—

22 (1) by striking “or plants” and inserting “,  
23 plants, or prohibited wildlife species bred, pos-  
24 sessed,”;

1           (2) by striking “of this Act (other than sub-  
2           section 3(b))” and inserting “(other than subsection  
3           (b) of that section)”; and

4           (3) by striking “of this Act.” and inserting a  
5           period.

6 **SEC. 7. ADMINISTRATION.**

7           Section 7(a) of the Lacey Act Amendments of 1981  
8           (16 U.S.C. 3376(a)) is amended by adding at the end the  
9           following:

10           “(3) The Secretary, in consultation with other  
11           relevant Federal and State agencies, shall promul-  
12           gate any regulations necessary to implement section  
13           3(e).”.

14 **SEC. 8. TECHNICAL CORRECTION.**

15           Section 4(e), and subsections (a) and (b)(2) of section  
16           8, of the Lacey Act Amendments of 1981 (16 U.S.C.  
17           3373(e), 3377) are amended by striking “Fishery Con-  
18           servation and Management Act of 1976” each place it ap-  
19           pears and inserting “Magnuson-Stevens Fishery Con-  
20           servation and Management Act”.

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