

<http://usherp.org/2013/03/18/hr996-hr669-rewrite/> Love your parrot? Call or write your Senator about H.R. 996 that would make it illegal to own non-listed species such as all Parrots - big and small - including cockatiels, love birds and budgies (parakeets). Read the bill to see how by default everything not included on the "accepted" list would become illegal. This is a "guilty until proven innocent" approach that would add all "unaccepted" species to the Injurious Wildlife list of the Lacey Act in one massive blanket listing.

## H.R. 996: Invasive Fish and Wildlife Prevention Act (HR669 Re-write)

Posted on [March 18, 2013](#) by AWyatt | 16 Comments



Representative Louise Slaughter (D-NY) sponsor of HR 996

As predicted by the US Herpetoculture Alliance, Representative Louise Slaughter (D-NY) introduced H.R. 996: Invasive Fish and Wildlife Prevention Act on March 6, 2013. H.R. 996 is the expected re-write of H.R. 669 from 2008. H.R. 996 has 28 co-sponsors and has been referred to four different committees: House Natural Resources- *Fisheries, Wildlife, Oceans and Insular Affairs*, House Budget, House Judiciary, House Ways and Means committees. H.R. 996 seeks to set up an "accepted" (white) list of common domesticated pets and livestock, and an "unaccepted" (black) list; that by default would be everything not included on the "accepted" list. This is a "guilty until proven innocent" approach that would add all "unaccepted" species to the Injurious Wildlife list of the Lacey Act in one massive blanket listing. Hundreds of species could be criminalized as to import and interstate transport. Most reptiles and amphibians would fall to the "unaccepted" list and be subject to sanctions under the Lacey Act.

Senator Kirsten Gillibrand (D-NY), along with Senator Bill Nelson (D-FL) have confirmed to the Herp Alliance that they will introduce a companion bill into the US Senate later this session. The Herp Alliance has been busy staying ahead of this anticipated action and took numerous meetings on Capitol Hill last week to address this very issue.

### **The US Herpetoculture Alliance OPPOSES this legislative proposal to further corrupt the Lacey Act.**

*Stay tuned for an action alert from the Herp Alliance to take action to OPPOSE H.R. 996!*

#### **NO on H.R. 996**

*Text of H.R. 996 below:*

HR 996 IH

113th CONGRESS

1st Session

H. R. 996

To establish an improved regulatory process for injurious wildlife to prevent the introduction and establishment in the United States of nonnative wildlife and wild animal pathogens and parasites that are likely to cause harm.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2013

Ms. SLAUGHTER (for herself, Mr. RANGEL, Mr. LEVIN, Mr. HIGGINS, Mr. ELLISON, Mr. HASTINGS of Florida, Mr. BLUMENAUER, Mr. GRIJALVA, Ms. BORDALLO, Mr. MAFFEI, Ms. LEE of California, Mr. CONYERS, Mrs. CAPPs, Mr. MORAN, Ms. KAPTUR, Mr. WALZ, Mr. MURPHY of Florida, Mr. SABLAN, Mr. FARR, Mrs. CAROLYN B. MALONEY of New York, Mr. PETERS of Michigan, Mr. RYAN of Ohio, Ms. PINGREE of Maine, and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Ways and Means, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To establish an improved regulatory process for injurious wildlife to prevent the introduction and establishment in the United States of nonnative wildlife and wild animal pathogens and parasites that are likely to cause harm.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Invasive Fish and Wildlife Prevention Act'.

## **SEC. 2. PURPOSE.**

The purpose of this Act is to establish an improved regulatory process for injurious wildlife to prevent the introduction and establishment in the United States of nonnative wildlife and wild animal pathogens and parasites that are likely to cause—

(1) economic or environmental harm; or

(2) harm to humans or animal health.

## **SEC. 3. DEFINITIONS.**

In this Act:

(1) APPROVED WILDLIFE SANCTUARY- The term 'approved wildlife sanctuary' means a sanctuary that cares for wildlife species that—

(A)(i) is a corporation that is exempt from taxation under section 501(a) of the Internal Revenue Code 1986 and is described in sections 501(c)(3) and 170(b)(1)(A)(vi) of that Code; or

(ii) is an educational entity;

(B) does not commercially trade in animals regulated under this Act, including offspring, parts, and byproducts of those animals;

(C) does not propagate animals regulated under this Act; and

(D) meets any additional criteria that the Service determines are necessary and consistent with the purpose of this Act.

(2) AQUATIC NUISANCE SPECIES TASK FORCE- The term 'Aquatic Nuisance Species Task Force' means the Aquatic Nuisance Species Task Force established under section 1201 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702).

(3) DIRECTOR- The term 'Director' means the Director of the United States Fish and Wildlife Service.

(4) FUND- The term 'Fund' means the Injurious Wildlife Prevention Fund established by section 16(a).

(5) IMPORT- The term 'import' means to bring into, or introduce into, or attempt to bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether the bringing into or introduction constitutes an importation within the meaning of the customs laws of the United States.

(6) INDIAN TRIBE- The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) NATIONAL INVASIVE SPECIES COUNCIL- The term 'National Invasive Species Council' means the National Invasive Species Council established by Executive Order 13112 on February 8, 1999 (64 Fed. Reg. 6183).

(8) NATIVE- The term 'native', with respect to a wildlife taxon, means a wildlife taxon that historically occurred or currently occurs in the United States, other than as a result of an intentional or unintentional introduction by humans.

(9) NONNATIVE WILDLIFE TAXON-

(A) IN GENERAL- The term 'nonnative wildlife taxon' means any family, genus, species, or subspecies of live animal that is not native to the United States, regardless of whether the animal was born or raised in captivity.

(B) INCLUSIONS- The term 'nonnative wildlife taxon' includes any viable egg, sperm, gamete, or other reproductive material or offspring of an animal of a family, genus, species, or subspecies described in subparagraph (A).

(C) EXCLUSIONS- The term 'nonnative wildlife taxon' does not include-

(i) any taxon that is-

(I) specifically defined or regulated as a plant pest or approved for biological control purposes under the Plant Protection Act (7 U.S.C. 7701 et seq.); or

(II) defined or regulated as a threat to livestock or poultry under the Animal Health Protection Act (7 U.S.C. 8301 et seq.); or

(ii) any common and clearly domesticated species or subspecies, including-

(I) cat (*Felis catus*);

(II) cattle or oxen (*Bos taurus*);

(III) chicken (*Gallus gallus domesticus*);

(IV) common canary (*Serinus canaria domesticus*);

(V) dog (*Canis lupus familiaris*);

(VI) donkey or ass (*Equus asinus*);

(VII) domesticated members of the family Anatidae (geese);

(VIII) duck (domesticated *Anas* spp.);

(IX) domesticated ferret (*Mustela furo*);

(X) gerbil (*Meriones unguiculatus*);

(XI) goat (*Capra aegagrus hircus*);

(XII) guinea pig or Cavy (*Cavia porcellus*);

(XIII) goldfish (*Carassius auratus auratus*);

(XIV) domesticated hamsters (*Cricetulus griseus*, *Mesocricetus auratus*, *Phodopus campbelli*, *Phodopus sungorus*, and *Phodopus roborovskii*);

(XV) horse (*Equus caballus*);

(XVI) llama (*Lama glama*);

(XVII) mule or hinny (*Equus caballus* x *E. asinus*);

(XVIII) pig or hog (*Sus scrofa domestica*);

(XIX) domesticated varieties of rabbit (*Oryctolagus cuniculus*);

(XX) sheep (*Ovis aries*); or

(XXI) any other species or subspecies that the Director determines to be common and clearly domesticated.

(10) PERSON- The term 'person' means—

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

(B) any officer, employee, agent, department, or instrumentality of the Federal Government, or of any tribal government, or of any State, municipality, or political subdivision of a State, or of any foreign government; and

(C) any other entity subject to the jurisdiction of the Federal United States.

(11) QUALIFIED INSTITUTION- The term 'qualified institution' means an institution that is determined by the Director to be-

(A) for scientific, veterinary, or medical research or education, or a zoo or aquarium accredited by the Association of Zoos and Aquariums; or

(B) an approved wildlife sanctuary.

(12) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

(13) STATE- The term 'State' means-

(A) each of the several States of the United States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(14) UNITED STATES- The term 'United States' means-

(A) the States; and

(B) any land and water, including the territorial sea and the Exclusive Economic Zone, within the jurisdiction or sovereignty of the Federal Government.

## **SEC. 4. PROPOSALS FOR REGULATION OF NONNATIVE WILDLIFE TAXA.**

(a) Proposals- Any person or entity, or the Director, at the discretion of the Director, may propose the regulation of, or revised regulation of, 1 or more taxa.

(b) Information- A proposal by a person or agency should include adequate information to allow the Director to determine whether the taxon meets the criteria for designation as Injurious I or Injurious II under section 5(a)(1)(A).

(c) Public and Agency Comment-

(1) IN GENERAL- Upon receipt of a proposal that the Director determines to be complete, and for any proposal the Director elects to prepare, the Director shall publish notice of the proposal in the Federal Register and provide an opportunity for at least 60 days of public comment.

(2) REGULATIONS FOR COMPLETE PROPOSALS- Not later than 180 days after the date of enactment of this Act, the Secretary, acting through the Director, shall promulgate regulations on the criteria for complete proposals.

(d) Determination- Not later than 180 days after the date of publication of a proposal under subsection (c), or as soon thereafter as is feasible, the Director shall make a determination as to whether the proposal should be approved or disapproved.

(e) Notice of Determination- The Director shall-

(1) publish in the Federal Register notice of the determination made under subsection (d); and

(2) make the basis for the determination available on a publicly available Federal Internet site.

## **SEC. 5. SCIENTIFIC RISK ASSESSMENT AND RISK DETERMINATION REGULATIONS.**

(a) Assessment and Determination-

(1) IN GENERAL- The Secretary, acting through the Director, shall promulgate regulations-

(A) to further specify the criteria for regulating a nonnative wildlife taxon as-

(i) an Injurious I taxon, which shall be a taxon-

(I) that the Director determines—

(aa) to be injurious to human beings, the interests of agriculture, horticulture, or forestry, or wildlife or wildlife resources of the United States; and

(bb) to have a high degree of potential harm and is a taxon with which qualified institutions have not previously had significant experience in maintaining successfully in captivity and preventing escapes or releases; and

(II) except as provided in section 12, the importation and transportation of which in interstate commerce shall be conducted only pursuant to a permit issued under section 12 to a qualified institution; or

(ii) an Injurious II taxon, which shall be a taxon—

(I) that the Director determines—

(aa) to be injurious to human beings, the interests of agriculture, horticulture, or forestry, or wildlife or wildlife resources of the United States; but

(bb) to have a degree of potential for harm that is less than the degree of potential harm of an Injurious I taxon or is a taxon with which qualified institutions have previously had significant experience in maintaining successfully in captivity and preventing escapes or releases; and

(II) for which no permit is required if the taxon is—

(aa) imported to a qualified institution;

(bb) transported in interstate commerce and intrastate commerce to and among qualified institutions; or

(cc) held by a qualified institution;

(B) to establish a process for assessing and analyzing the risks of taxa that may have been, or foreseeably could be, imported into, or found in interstate commerce within, the United States; and

(C) that may also provide for cases in which exceptions or additions to the Injurious I taxon or Injurious II taxon criteria may be necessary to address extraordinary risks.

(2) BASIS, AVAILABILITY, AND REVIEW- The Director shall—

(A) ensure that the risk assessment and risk determination processes conducted under this section are based on sound science; and

(B) make the results of each such assessment and determination available to the public.

(3) PREVIOUSLY LISTED TAXA- Each wildlife taxon previously designated by statute or by the Secretary as injurious under section 42(a) of title 18, United States Code (including under any regulation promulgated under that authority), shall, after the effective date of the final regulations promulgated

under this subsection, be promptly designated by the Director as an Injurious I taxon or Injurious II taxon under this subsection, based on a determination by the Director of whether the taxon meets the criteria described in clause (i) or (ii), respectively, of paragraph (1)(A).

(4) DEADLINES-

(A) PROPOSED REGULATIONS- Not later than 1 year after the date of enactment of this Act, the Secretary shall publish in the Federal Register a proposed version of the regulations required under this subsection.

(B) FINAL REGULATIONS- Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations required under this subsection, including a public notification of the process for submission of a proposal under section 4(a).

(C) ADDITIONAL REQUIREMENT OF PRE-IMPORT RISK SCREENING FOR ALL TAXA NOVEL TO THE UNITED STATES-

(i) IN GENERAL- Not later than 3 years after the date of enactment of this Act, the Secretary shall by regulation--

(I) define the phrase 'non-native wildlife taxa novel to the United States' for the purpose of this section; and

(II) set forth a process to ensure that all unregulated non-native wildlife taxa novel to the United States are thereafter reviewed by the Director prior to allowance of their importation to the United States to determine whether they should be regulated under any of clause (i) or (ii) of paragraph (1)(A).

(ii) AVOIDANCE OF NEW INCENTIVES- In promulgating the regulation under clause (i), the Secretary shall seek to avoid creating a new incentive for animal importers to import novel taxa prior to the effective date of the regulation.

(iii) NEW REGULATION FOR IMPORTS OF TAXA NOVEL TO THE UNITED STATES- Not later than 1 year after the date of promulgation of the regulation under clause (i), the Secretary shall implement the regulation.

(b) Scientific Risk Assessment- The regulations promulgated under subsection (a) shall require consideration, in an initial scientific risk assessment of a taxon, of at least--

(1) the scientific name and native range of the taxon;

(2) whether the taxon has established or spread, or caused harm to the economy, the environment, or the health of other animal species in the United States or in an ecosystem similar to an ecosystem in the United States;

(3) whether environmental conditions suitable for the establishment or spread of the taxon exist or will exist in the United States;

(4) the likelihood of establishment and spread of the taxon;

(5) whether the taxon will cause harm to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States;

(6) whether the taxon will damage land, water, or facilities of the National Park System or other public land;



(7) the best available scientific risk screening systems or predictive models that apply to the taxon; and

(8) other factors important to assessing risks, if any, associated with the taxon, in accordance with the purpose of this Act.

(c) Risk Determination- Prior to designating any nonnative wildlife taxon as an Injurious I taxon or Injurious II taxon under subsection (a), after conducting a risk assessment, the Director shall prepare a risk determination that takes into consideration—

(1) the results of the risk assessment; and

(2) at a minimum—

(A) the capabilities and any efforts of States, local governments, and Indian tribes to address the risks, if any, identified by the Director with respect to the taxon, including the results of any risk assessments conducted for the taxon that are available to the Director;

(B) the potential for reduction, mitigation, control, and management of any risks identified; and

(C) whether any risks identified already are adequately addressed under other applicable law.

(d) Discretionary Analysis-

(1) IN GENERAL- In preparing the risk determination for a taxon, the Director may consider the economic, social, and cultural impacts of a decision on whether to regulate the taxon.

(2) OTHER REQUIREMENTS- This section shall satisfy the requirements of, and apply in lieu of any other requirement to complete an analysis under, any other law (including a regulation or Executive order) on economic, social, or cultural impact.

(e) Notice and Consultation- In promulgating regulations under subsection (a), the Director shall notify and consult with, at a minimum—

(1) affected States, Indian tribes, qualified institutions, and other stakeholders;

(2) the Aquatic Nuisance Species Task Force;

(3) the National Invasive Species Council;

(4) the Department of Agriculture;

(5) the Centers for Disease Control and Prevention; and

(6) the National Oceanic and Atmospheric Administration.

## **SEC. 6. EMERGENCY TEMPORARY DESIGNATION.**

(a) In General- If the Director determines an emergency exists because an unregulated nonnative wildlife taxon poses an imminent threat of harm to individuals in or wildlife of the United States, or the economy or environment of the United States, the Director may immediately temporarily designate the nonnative wildlife taxon as Injurious I in accordance with section 5(a)(1)(A)(i).

(b) Notice of Temporary Designation- The Director shall promptly-

(1) publish in the Federal Register notice of each temporary designation under this subsection; and

(2) make the basis for the designation available on a publicly available Federal Internet site and through other appropriate means.

(c) Determination- Not later than 1 year after temporarily designating a nonnative wildlife taxon using the emergency authority under this section, the Director shall-

(1) make a final determination regarding whether the taxon should be further regulated under either of clause (i) or (ii) of section 5(a)(1)(A);

(2) publish notice of that final determination in the Federal Register; and

(3) make the basis for the determination available on a publicly available Federal Internet site.

(d) Limitation on Procedures- The procedures under sections 4 and 5 of this Act and section 553 of title 5, United States Code, shall not apply to temporary designations under this section.

(e) State Requests- If the Governor of a State requests a temporary emergency designation under this section, the Director shall respond promptly with a written determination on the request.

## **SEC. 7. INFORMATION ON IMPORTED ANIMALS.**

(a) Improved Information- The Director shall-

(1) not later than 18 months after the date of enactment of this Act, establish an electronic database that describes, using scientific names to the species level (or subspecies level, if applicable), all quantities of imports of all live wildlife, and the regulatory status of the wildlife, in a form that permits that information to be rapidly accessed; and

(2) not later than 30 days after the date of importation of wildlife described in paragraph (1), make the information described in that paragraph (other than confidential business information associated with those imports that is protected under other Federal law) available on a publicly available Federal Internet site.

(b) Annual Report of Information- Not later than 3 years after the date of enactment of this Act, and not later than each April 1 thereafter, the Director shall issue, including on a publicly available Federal Internet site, a report that includes, at a minimum, a description of-

(1) all nonnative wildlife imported, using scientific names of the wildlife to the species or subspecies level, to the extent known; and

(2) cumulative quantities of imported wildlife and the regulatory status of the wildlife.

(c) Monitoring Import Information- In consultation with inspection, customs, and border officials in the Departments of Agriculture and Homeland Security, the Director shall regularly–

(1) monitor the identities and quantities of nonnative wildlife taxa being imported, with particular emphasis on wildlife newly in the import trade to the United States; and

(2) determine, to the maximum extent practicable, whether the newly traded taxa would meet the criteria for regulation, and should be regulated, under any of clause (i) or (ii) of section 5(a)(1)(A).

## **SEC. 8. INJURIOUS WILDLIFE DETERMINATIONS.**

(a) In General- Immediately upon the date of enactment of this Act, the Secretary shall make more rapid determinations on proposals for regulation of wildlife under section 42 of title 18, United States Code.

(b) Streamlining of Determinations- In carrying out subsection (a) and other provisions of this Act, the Secretary–

(1) shall use the best available scientific risk screening systems or predictive models that apply to the taxon under consideration;

(2) shall forego time-consuming optional administrative steps, unless the Secretary determines the steps to be essential; and

(3) notwithstanding chapter 6, and section 804, of title 5, United States Code, may forego economic impact analyses.

## **SEC. 9. EFFECT ON INJURIOUS WILDLIFE PROVISION.**

This Act and the regulations promulgated under this Act shall take precedence over any conflicting regulation promulgated under section 42 of title 18, United States Code.

## **SEC. 10. PREVENTION OF WILDLIFE PATHOGENS AND PARASITES.**

(a) In General- The Secretary shall have the primary authority to prevent, and the primary responsibility for preventing, the importation of, and interstate commerce in, wildlife pathogens and harmful parasites.

(b) Regulations-

(1) IN GENERAL- In addition to regulations required under section 5(a), the Secretary shall promulgate such regulations as are necessary--

(A) to minimize the likelihood of introduction or dissemination of any disease or harmful parasite of native or nonnative wildlife; and

(B) to impose any additional necessary import restrictions, including management measures, health certifications, quarantine requirements, specifications for conveyances, holding water, and associated materials, shipment and handling requirements, and other measures that the Secretary determines to be necessary--

(i) to prevent the importation of, and interstate commerce in, wildlife pathogens and harmful parasites; and

(ii) to address--

(I) a particular taxon;

(II) the place of origin of a particular taxon; and

(III) the conveyance and materials associated with wildlife transport.

(c) Relationship to Other Authorities-

(1) IN GENERAL- Except as provided in paragraph (2), the Secretary shall exclude from regulation under this section any pathogen, parasite, or host taxon that is--

(A) defined or regulated by the Department of Health and Human Services as a threat to humans under section 361 of the Public Health Service Act (42 U.S.C. 264);

(B) defined or regulated by the Department of Agriculture as a threat to livestock or poultry under the Animal Health Protection Act (7 U.S.C. 8301 et seq.); or

(C) specifically defined or regulated by the Department of Agriculture as a plant pest or approved for biological control purposes under the Plant Protection Act (7 U.S.C. 7701 et seq.).

(2) EXCEPTION- The Secretary may regulate a pathogen, parasite, or host taxon described in any of subparagraphs (A) through (C) of paragraph (1) to the extent that the taxon also poses a wildlife disease risk.

(d) Coordination-

(1) IN GENERAL- In promulgating regulations under and otherwise carrying out this section and section 7, the Secretary shall consult and coordinate with--

(A) other Federal agencies and departments with authority to regulate taxa;

(B) State wildlife agencies;

(C) State veterinarians; and

(D) other officials with related authorities.

(2) CONSULTATION BY SECRETARY OF AGRICULTURE- In any case in which the Secretary of Agriculture participates in the World Organization for Animal Health, the Secretary of Agriculture shall confer and consult with the Secretary on any matters relating to prevention of wildlife diseases that may threaten the United States.

## **SEC. 11. PROHIBITIONS.**

(a) Prohibitions- Except as provided in this section or section 12, it shall be unlawful for any person subject to the jurisdiction of the United States--

(1) to import into the United States any nonnative wildlife taxon the Director has designated as Injurious I or Injurious II under section 5(a)(1)(A) or under section 6, or to knowingly possess such an animal, or the descendant of such an animal, that was imported in violation of this subsection;

(2) to engage in interstate commerce for any nonnative wildlife taxon described in paragraph (1), or to knowingly possess such an animal, or the descendant of an animal, that was transported in interstate commerce in violation of this subsection;

(3) to violate any term or condition of a permit issued to a qualified institution under section 12 for a taxon designated as Injurious I under clause (i) of section 5(a)(1)(A) or under section 6;

(4) to release into the wild any nonnative wildlife taxon described in paragraph (1);

(5) to violate any additional regulation promulgated by the Secretary as necessary to prevent the importation of, and interstate commerce in, wildlife pathogens and harmful parasites under this Act; or

(6) to attempt any of the prohibited actions described in paragraphs (1) through (5).

(b) Exemption for Interstate Transportation of Animals of Later-Regulated Taxa-

(1) IN GENERAL- Except as provided in paragraph (2), an individual animal that was lawfully owned prior to the taxa to which the animal belongs being regulated by the Director under this Act as Injurious II may be transported interstate without a permit by any person for noncommercial purposes only.

(2) EXCEPTION- The exemption under paragraph (1) does not apply to an animal of any taxa designated by the Director as Injurious I.

(c) Limitation on Application-

(1) IN GENERAL- The prohibitions in this section shall not apply to--

(A) any action by Federal, State, tribal, or local law enforcement personnel to enforce this section; and

(B) any action by Federal, State, tribal, or local officials to prevent the introduction or establishment of nonnative wildlife, or wildlife pathogens or parasites, including actions to transport, hold, and shelter animals of taxa regulated under this Act.

(2) IMPORTATION AND TRANSPORTATION BY FEDERAL AGENCIES- Nothing in this Act shall restrict the importation or transportation between any States of nonnative wildlife by a Federal agency for the use of the Federal agency if the nonnative wildlife remains in the possession of a Federal agency.

(d) Effective Date- This section takes effect on the date that is 30 days after the date of promulgation of the final regulations under section 5(a).

## **SEC. 12. PERMITS AND EXEMPTIONS FOR QUALIFIED INSTITUTIONS AND LIVE ANIMAL TRANSPORTERS.**

(a) Permits- The Director may issue to a qualified institution a permit authorizing any of the actions otherwise prohibited under section 11 for any wildlife taxon designated under clause (i) or (ii) of section 5(a)(1)(A) or under section 6.

(b) Terms and Conditions- The Director may include in a permit under subsection (a) terms and conditions to minimize the risk of introduction or establishment of nonnative wildlife, pathogens, and parasites in the United States.

(c) Exemption and Reporting-

(1) IN GENERAL- No permit shall be required for any qualified institution or any live animal transportation company or other live animal transporter that is in temporary possession of an animal delivering it to, or transporting it from, a qualified institution, to import or transport (on an interstate or intrastate basis), or possess or breed, any taxon that the Director has designated as an Injurious II taxon under section 5(a)(1)(A)(ii).

(2) DISPLAY EXEMPTION- No permit shall be required for the import, interstate or intrastate transportation, possession, or breeding of an Injurious I taxon by a qualified zoo or aquarium institution.

(3) EXCLUSIONS- The exemptions described in paragraphs (1) and (2) do not include the transfer of ownership of an Injurious I taxon or the transfer of ownership of an Injurious II taxon to any person or entity other than to another qualified institution.

(4) RECORD- Each qualified institution or live animal transporter that imports, transports (on an interstate or intrastate basis), possesses, or breeds any taxa designated as Injurious I or II shall maintain records, subject to annual inspection by the Director, at the discretion of the Director, that summarize the transactions of the qualified institution or live animal transporter for the covered taxa.

(d) Regulations; List of Qualified Institutions- The Secretary shall-

(1) promulgate regulations to implement this section; and

(2) maintain a current roster of designated qualified institutions on a publicly available Federal Internet site and through other appropriate means.

(e) Report- Not later than March 1 of each year, a qualified zoo or aquarium shall submit to the Director a report on the imports, interstate or intrastate transportation, possession, or breeding of any Injurious I taxon by the qualified zoo or aquarium for the preceding calendar year.

## **SEC. 13. USER FEES.**

(a) Definition of Live Wildlife Shipments- In this section, the term 'live wildlife shipment' does not include shipments made by qualified institutions for scientific, veterinary, or medical research, medical research, education, conservation outreach, or display purposes.

(b) Reasonable Fee- Not later than 2 years after the date of enactment of this Act, the Secretary shall propose, and subsequently adopt, by regulation, a reasonable fee to be charged on imported live wildlife shipments for use in recovering a portion of the costs of-

(1) improving the information available on the importation and interstate commerce trade of wildlife;

(2) monitoring that information under section 7;

(3) conducting risk assessments and risk analyses for nonnative wildlife taxa in that trade under sections 4 and 5;

(4) making emergency designations under section 6; and

(5) preventing wildlife pathogens and parasites under section 10.

(c) Cost Recovery Purpose- The purpose of the user fees in this section shall be to recover approximately 75 percent of the costs to the Director for the services listed in subsection (b), after such date as the user fee regulation under subsection (b) is fully implemented and the amounts of the fees received have been appropriated to the Injurious Wildlife Prevention Fund pursuant to section 16(b)(2)(A) for at least one full fiscal year.

(d) Fee Limit-

(1) IN GENERAL- The amount of the additional fee to be charged on any live wildlife shipment under this section shall be set by the Secretary only after fully considering public comments on the proposed fee regulation and it shall be charged broadly and fairly across the live wildlife import industry and at the lowest level feasible to achieve the cost recovery purpose in subsection (c).

(2) ANNUAL TOTAL FEE REVENUE- The fees shall be set so that the annual total fee revenue shall not exceed the amount of the annual total fee revenue of the fee charged by the Director under the inspection program of the Director to oversee the importation of live wildlife carried out pursuant to-

(A) section 11(f) of the Endangered Species Act of 1973 (16 U.S.C. 1540(f));

(B) subpart I of part 14 of title 50, Code of Federal Regulations (or successor regulations); and

(C) other applicable authority.

## **SEC. 14. RELATIONSHIP TO STATE LAW.**

(a) Possession of Lawfully Obtained Injurious Wildlife Taxa- Possession of lawfully obtained injurious wildlife taxa within a State shall–

(1) be a matter of State law; and

(2)(A) not be federally regulated; or

(B) not require a Federal permit under this Act.

(b) Regulations and Determinations- Except as provided in subsection (c), nothing in this Act, or in the regulations and determinations to be promulgated or issued by the Secretary or the Director under this Act, preempts or otherwise affects the application of any State law that establishes more stringent requirements for–

(1) the importation, transportation, possession, sale, purchase, release, breeding of, or bartering for, or any other transaction involving, any nonnative wildlife taxon; or

(2) the prevention of wildlife pathogens and harmful parasites.

(c) Limitation on Application of Prohibitions To Prevent Release- The Director may limit the application of this Act to facilitate implementation of any State, local, or tribal program that results in voluntary surrender of regulated nonnative wildlife, if the Director determines that the limitation will prevent the release of that wildlife.

## **SEC. 15. PENALTIES AND SANCTIONS.**

(a) Civil Penalties-

(1) CIVIL ADMINISTRATIVE PENALTIES-

(A) IN GENERAL- Any person who is found by the Secretary, after notice and opportunity for a hearing conducted in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 11 shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation.

(B) SUBPOENA POWER- For the purposes of conducting any investigation or hearing under this Act, the Secretary may–

(i) issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents; and

(ii) administer oaths.



(2) CIVIL JUDICIAL PENALTIES- Any person who violates any provision of this Act, or any regulation promulgated or permit issued under this Act, shall be subject to a civil penalty in an amount not to exceed \$500 for each such violation.

(b) Criminal Offenses- Any person who knowingly violates any provision of this Act, or any regulation promulgated or permit issued under this Act, shall, upon conviction, be guilty of a class A misdemeanor.

(c) Natural Resource Damages- All costs relating to the mitigation of injury caused by a violation of this Act shall be borne by the person that violated this Act.

(d) Enforcement-

(1) OTHER POWERS AND AUTHORITIES- Any person authorized by the Secretary to enforce this Act shall have the same authorities as are described in section 6 of the Lacey Act Amendments of 1981 (16 U.S.C. 3375).

(2) FORFEITURE-

(A) IN GENERAL- A person who is determined to have violated any provision of this Act shall forfeit to the United States—

(i) any property, real or personal, taken or retained in connection with or as a result of the offense; and

(ii) any property, real or personal, used or intended to be used to commit or to facilitate the commission of the offense.

(B) DISPOSAL OF PROPERTY- Upon the forfeiture to the United States of any property or item described in clause (i) or (ii) of subparagraph (A), or upon the abandonment or waiver of any claim to any such property or item, the property or item shall be disposed of by the Secretary in a manner consistent with the purpose of this Act.

(e) Application of Customs Laws- All powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purpose of this Act, be exercised or performed by the Secretary, or by such officers or employees of the United States as the Secretary may designate.

## **SEC. 16. INJURIOUS WILDLIFE PREVENTION FUND.**

(a) Establishment- There is established in the Treasury of the United States a Fund, to be known as the 'Injurious Wildlife Prevention Fund', to be administered by the Secretary, and to be available without fiscal year limitation and subject to appropriation, for use in accordance with subsection (c).

(b) Transfers to Fund-

(1) IN GENERAL- The Fund shall consist of such amounts as are appropriated to the Fund under paragraph (2).

(2) FEES AND PENALTIES- There are appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, amounts equivalent to amounts collected—

(A) as user fees and received in the Treasury under section 13(a);

(B) as civil administrative or judicial penalties under section 15; and

(C) as a civil penalty for any violation of section 42 of title 18, United States Code (including a regulation promulgated under that section).

(c) Use of Funds-

(1) IN GENERAL- Of the amounts deposited in the Fund for a fiscal year-

(A) 75 percent shall be available to the Secretary for use in carrying out this Act (other than paragraph (2)); and

(B) 25 percent shall be used by the Secretary to carry out paragraph (2).

(2) AID FOR STATE WILDLIFE RISK ASSESSMENTS-

(A) IN GENERAL- The Secretary shall establish a program to provide natural resource assistance grants to States for use in supporting best practices and capacity-building by States, consistent with the purpose of this Act, for-

(i) inspecting and monitoring wildlife imports and interstate commerce; and

(ii) conducting assessments of risk associated with the intentional importation of nonnative wildlife taxa.

(B) ADMINISTRATION- The program under this paragraph shall be administered by the Director under the Federal Aid to States program of the Director.

(d) Prohibition- Amounts in the Fund may not be made available for any purpose other than a purpose described in subsection (c).

(e) Annual Reports-

(1) IN GENERAL- Not later than 60 days after the end of each fiscal year beginning with fiscal year 2014, the Secretary shall submit to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

(2) CONTENTS- Each report shall include, for the fiscal year covered by the report, the following:

(A) A statement of the amounts deposited in the Fund.

(B) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

(C) Recommendations for additional authorities to fulfill the purpose of the Fund.

(D) A statement of the balance remaining in the Fund at the end of the fiscal year.

(f) Separate Appropriations Account- Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (35) and (36) as paragraphs (36) and (37), respectively;

(2) by redesignating the second paragraph (33) (relating to obligational authority and outlays requested for homeland security) as paragraph (35); and

(3) by adding at the end the following:

*‘(38) a separate statement for the Injurious Wildlife Prevention Fund established by section 16(a) of the Invasive Wildlife Prevention Act of 2012, which shall include the estimated amount of deposits in the Fund, obligations, and outlays from the Fund.’.*

## **SEC. 17. RELATIONSHIP TO OTHER FEDERAL LAWS.**

Nothing in this Act—

(1) repeals, supersedes, or modifies any provision of—

(A) the Public Health Service Act (42 U.S.C. 201 et seq.);

(B) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(C) the Plant Protection Act (7 U.S.C. 7701 et seq.); or

(D) the Animal Health Protection Act (7 U.S.C. 8301 et seq.); or

(2) authorizes any action with respect to the importation of any plant pest, including a biological control agent, under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.), to the extent that the importation is subject to regulation under that Act.

## **SEC. 18. REQUIREMENT TO PROMULGATE REGULATIONS.**

In addition to regulations required under section 5 and other provisions of this Act, the Secretary shall promulgate such regulations as are necessary to carry out this Act.

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