

112TH CONGRESS  
2D SESSION

# S. 3547

To amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act, to further the conservation of certain wildlife species, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

Mr. KERRY (for himself, Mr. LIEBERMAN, Mr. SANDERS, and Mr. BLUMENTHAL) 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 certain wildlife species, 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 “Big Cats and Public  
5 Safety Protection Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1           (1) The global illicit trade in wildlife may be  
2 worth up to \$20,000,000,000 annually and the value  
3 of United States legal wildlife trade was recently es-  
4 timated at \$2,800,000,000 annually.

5           (2) The illegal trade in prohibited wildlife spe-  
6 cies (as that term is defined in the Lacey Act  
7 Amendments of 1981) stimulates demand and ex-  
8 pands markets in which those species can be illegally  
9 sold.

10          (3) The private ownership of and commerce in  
11 prohibited wildlife species has a substantial and det-  
12 rimental effect on the health and general welfare of  
13 the American people and on the species themselves.

14          (4) Activities related to prohibited wildlife spe-  
15 cies that are not an integral part of the interstate  
16 or foreign commerce in such species, such as private  
17 ownership and possession, nonetheless have a sub-  
18 stantial and direct effect upon interstate commerce  
19 because—

20                 (A) after breeding, many prohibited wild-  
21 life species are transported in interstate com-  
22 merce; and

23                 (B) privately owned prohibited wildlife spe-  
24 cies have been transported in interstate com-  
25 merce before transfer of ownership.

1           (5) Private ownership of prohibited wildlife spe-  
2           cies contributes to swelling the interstate traffic in  
3           those species.

4           (6) Prohibited wildlife species in private owner-  
5           ship or possession, or distributed intrastate, are fun-  
6           gible commodities that cannot be differentiated from  
7           prohibited wildlife species possessed or distributed  
8           interstate. Thus, it is not feasible to distinguish, in  
9           terms of control, between prohibited wildlife species  
10          in private ownership or possession or distributed  
11          intrastate and prohibited wildlife species possessed  
12          and distributed interstate.

13          (7) Federal control of the intrastate private  
14          ownership and breeding of prohibited wildlife species  
15          is essential to the effective control of the interstate  
16          incidents of traffic in such species.

17          (8) The United States is a party to the Conven-  
18          tion on International Trade in Endangered Species  
19          of Wild Fauna and Flora, which was designed to  
20          protect species of wild fauna and flora against over-  
21          exploitation through international trade.

22 **SEC. 3. DEFINITIONS.**

23          Section 2 of the Lacey Act Amendments of 1981 (16  
24          U.S.C. 3371) is amended by adding at the end the fol-  
25          lowing:

1       “(1) BREED.—The term ‘breed’ means to facilitate  
2 the reproduction of a prohibited wildlife species for com-  
3 mercial use.”.

4 **SEC. 4. PROHIBITIONS.**

5       Section 3(a) of such Act (16 U.S.C. 3372(a)) is  
6 amended—

7           (1) in paragraph (2)—

8               (A) by adding “or” after the semicolon at  
9 the end of subparagraph (A); and

10              (B) by striking subparagraph (C);

11           (2) by striking “or” after the semicolon at the  
12 end of paragraph (3), by redesignating paragraph  
13 (4) as paragraph (5), and by inserting after para-  
14 graph (3) the following:

15               “(4) subject to subsection (e), to import, export,  
16 transport, sell, receive, acquire, purchase, breed, pos-  
17 sess, or own any prohibited wildlife species; or”;

18           (3) in paragraph (5), as so redesignated, by  
19 striking “(1) through (3)” and inserting “(1)  
20 through (4)”.

21 **SEC. 5. NONAPPLICABILITY OF OFFENSES.**

22       (a) IN GENERAL.—Section 3(e) of such Act (16  
23 U.S.C. 3372(e)) is amended—

24           (1) by amending paragraph (1) to read as fol-  
25 lows:

1           “(1) IN GENERAL.—Subsection (a)(4) does not  
2     apply to—

3           “(A) importation, exportation, transpor-  
4     tation, sale, receipt, acquisition, breeding, pos-  
5     session, ownership, or purchase of an animal of  
6     a prohibited wildlife species, by a person that,  
7     under regulations prescribed under paragraph  
8     (3), is described in subparagraph (A), (B), (C),  
9     or (D) paragraph (2) with respect to that spe-  
10    cies; and

11           “(B) transportation, possession, or owner-  
12    ship of an animal of a prohibited wildlife spe-  
13    cies, by a person that, under regulations pre-  
14    scribed under paragraph (3), is described in  
15    subparagraph (E) of paragraph (2) with respect  
16    to that animal.”; and

17    (2) in paragraph (2)—

18           (A) by amending subparagraph (A) to read  
19    as follows:

20           “(A) is a zoo accredited by the Association  
21    of Zoos and Aquariums;”; and

22           (B) in subparagraph (C)—

23           (i) by striking “is an accredited”;

24           (ii) in clause (iii), by striking “and”;

1 (iii) in clause (iv), by striking “or”  
2 and inserting “and”; and

3 (iv) by adding at the end the fol-  
4 lowing:

5 “(v) does not allow the transport and  
6 display of animals off-site;”;

7 (C) in subparagraph (D), by striking the  
8 period at the end and inserting “; or”; and

9 (D) by adding at the end the following:

10 “(E) is in possession of one or more ani-  
11 mals of the prohibited wildlife species, that—

12 “(i) were born before the date of en-  
13 actment of this subparagraph; and

14 “(ii) are registered with the Animal  
15 and Plant Health Inspection Service within  
16 6 months after the date of promulgation of  
17 regulations implementing this subpara-  
18 graph by the Secretary of the Interior and  
19 the Secretary of Agriculture.”.

20 (b) REGULATIONS.—Not later than 6 months after  
21 the date of enactment of this Act the Secretary of the In-  
22 terior, acting through the United States Fish and Wildlife  
23 Service, and the Secretary of Agriculture, acting through  
24 the Animal and Plant Health Inspection Service, shall pro-

1 mulgate regulations implementing the amendments made  
2 by this section.

3 **SEC. 6. PENALTIES.**

4 (a) CIVIL PENALTIES.—Section 4(a)(1) of such Act  
5 (16 U.S.C. 3373(a)(1)) is amended—

6 (1) by inserting “(a)(4),” after “subsections”;

7 and

8 (2) by striking “subsection (d)” and inserting  
9 “subsection (a)(4), (d),”.

10 (b) CRIMINAL PENALTIES.—Section 4(d) of such Act  
11 (16 U.S.C. 3373(d)) is amended—

12 (1) in paragraph (1)—

13 (A) in subparagraph (A), by striking “or”  
14 after the comma at the end;

15 (B) in subparagraph (B), by adding “or”  
16 after the comma at the end; and

17 (C) by inserting after subparagraph (B)  
18 the following:

19 “(C) knowingly violates paragraph (4) of  
20 section 3(a),”; and

21 (2) in paragraph (2), by inserting “, or in the  
22 exercise of due care should know that the conduct  
23 violates paragraph (4) of section 3(a),” after “treaty  
24 or regulation”.

1 **SEC. 7. FORFEITURE.**

2 Section 5(a) of such Act (16 U.S.C. 3374(a)) is  
3 amended—

4 (1) in paragraph (1), by inserting “bred, pos-  
5 sessed, owned,” after “acquired,”; and

6 (2) in paragraph (2)—

7 (A) by inserting “breeding, possessing,  
8 owning,” after “acquiring,”; and

9 (B) by inserting “or involved the breeding,  
10 possession, or ownership of a prohibited wildlife  
11 species”.

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