

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

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Invasive Fish and
3 Wildlife Prevention Act”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to establish an improved
6 regulatory process for injurious wildlife to prevent the in-
7 troduction and establishment in the United States of non-
8 native wildlife and wild animal pathogens and parasites
9 that are likely to cause—

10 (1) economic or environmental harm; or

11 (2) harm to humans or animal health.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **APPROVED WILDLIFE SANCTUARY.**—The
15 term “approved wildlife sanctuary” means a sanc-
16 tuary that cares for wildlife species that—

17 (A)(i) is a corporation that is exempt from
18 taxation under section 501(a) of the Internal
19 Revenue Code 1986 and is described in sections
20 501(c)(3) and 170(b)(1)(A)(vi) of that Code; or

21 (ii) is an educational entity;

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

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

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

4 (2) AQUATIC NUISANCE SPECIES TASK
5 FORCE.—The term “Aquatic Nuisance Species Task
6 Force” means the Aquatic Nuisance Species Task
7 Force established under section 1201 of the Non-
8 indigenous Aquatic Nuisance Prevention and Control
9 Act of 1990 (16 U.S.C. 4702).

10 (3) DIRECTOR.—The term “Director” means
11 the Director of the United States Fish and Wildlife
12 Service.

13 (4) FUND.—The term “Fund” means the Inju-
14 rious Wildlife Prevention Fund established by sec-
15 tion 16(a).

16 (5) IMPORT.—The term “import” means to
17 bring into, or introduce into, or attempt to bring
18 into, or introduce into, any place subject to the ju-
19 risdiction of the United States, regardless of whether
20 the bringing into or introduction constitutes an im-
21 portation within the meaning of the customs laws of
22 the United States.

23 (6) INDIAN TRIBE.—The term “Indian tribe”
24 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450b).

3 (7) NATIONAL INVASIVE SPECIES COUNCIL.—
4 The term “National Invasive Species Council”
5 means the National Invasive Species Council estab-
6 lished by Executive Order 13112 on February 8,
7 1999 (64 Fed. Reg. 6183).

8 (8) NATIVE.—The term “native”, with respect
9 to a wildlife taxon, means a wildlife taxon that his-
10 torically occurred or currently occurs in the United
11 States, other than as a result of an intentional or
12 unintentional introduction by humans.

13 (9) NONNATIVE WILDLIFE TAXON.—

14 (A) IN GENERAL.—The term “nonnative
15 wildlife taxon” means any family, genus, spe-
16 cies, or subspecies of live animal that is not na-
17 tive to the United States, regardless of whether
18 the animal was born or raised in captivity.

19 (B) INCLUSIONS.—The term “nonnative
20 wildlife taxon” includes any viable egg, sperm,
21 gamete, or other reproductive material or off-
22 spring of an animal of a family, genus, species,
23 or subspecies described in subparagraph (A).

24 (C) EXCLUSIONS.—The term “nonnative
25 wildlife taxon” does not include—

1 (i) any taxon that is—

2 (I) specifically defined or regu-
3 lated as a plant pest or approved for
4 biological control purposes under the
5 Plant Protection Act (7 U.S.C. 7701
6 et seq.); or

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

11 (ii) any common and clearly domes-
12 ticated species or subspecies, including—

13 (I) cat (*Felis catus*);

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

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

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

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

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

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

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

- 1 (IX) domesticated ferret
2 (Mustela furo);
- 3 (X) gerbil (Meriones
4 unguiculatus);
- 5 (XI) goat (Capra aegagrus
6 hircus);
- 7 (XII) guinea pig or Cavy (Cavia
8 porcellus);
- 9 (XIII) goldfish (Carassius
10 auratus auratus);
- 11 (XIV) domesticated hamsters
12 (Cricetulus griseus, Mesocricetus
13 auratus, Phodopus campbelli,
14 Phodopus sungorus, and Phodopus
15 roborovskii);
- 16 (XV) horse (Equus caballus);
- 17 (XVI) llama (Lama glama);
- 18 (XVII) mule or hinny (Equus
19 caballus x E. asinus);
- 20 (XVIII) pig or hog (Sus scrofa
21 domestica);
- 22 (XIX) domesticated varieties of
23 rabbit (Oryctolagus cuniculus);
- 24 (XX) sheep (Ovis aries); or

1 (XXI) any other species or sub-
2 species that the Director determines
3 to be common and clearly domes-
4 ticated.

5 (10) PERSON.—The term “person” means—

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

8 (B) any officer, employee, agent, depart-
9 ment, or instrumentality of the Federal Govern-
10 ment, or of any tribal government, or of any
11 State, municipality, or political subdivision of a
12 State, or of any foreign government; and

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

15 (11) QUALIFIED INSTITUTION.—The term
16 “qualified institution” means an institution that is
17 determined by the Director to be—

18 (A) for scientific, veterinary, or medical re-
19 search or education, or a zoo or aquarium ac-
20 credited by the Association of Zoos and Aquar-
21 iums; or

22 (B) an approved wildlife sanctuary.

23 (12) SECRETARY.—The term “Secretary”
24 means the Secretary of the Interior.

25 (13) STATE.—The term “State” means—

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

3 (B) the District of Columbia;

4 (C) the Commonwealth of Puerto Rico;

5 (D) Guam;

6 (E) American Samoa;

7 (F) the Commonwealth of the Northern
8 Mariana Islands;

9 (G) the Federated States of Micronesia;

10 (H) the Republic of the Marshall Islands;

11 (I) the Republic of Palau; and

12 (J) the United States Virgin Islands.

13 (14) UNITED STATES.—The term “United
14 States” means—

15 (A) the States; and

16 (B) any land and water, including the ter-
17 ritorial sea and the Exclusive Economic Zone,
18 within the jurisdiction or sovereignty of the
19 Federal Government.

20 **SEC. 4. PROPOSALS FOR REGULATION OF NONNATIVE**
21 **WILDLIFE TAXA.**

22 (a) PROPOSALS.—Any person or entity, or the Direc-
23 tor, at the discretion of the Director, may propose the reg-
24 ulation of, or revised regulation of, 1 or more taxa.

1 (b) INFORMATION.—A proposal by a person or agen-
2 cy should include adequate information to allow the Direc-
3 tor to determine whether the taxon meets the criteria for
4 designation as Injurious I or Injurious II under section
5 5(a)(1)(A).

6 (c) PUBLIC AND AGENCY COMMENT.—

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

13 (2) REGULATIONS FOR COMPLETE PRO-
14 POSALS.—Not later than 180 days after the date of
15 enactment of this Act, the Secretary, acting through
16 the Director, shall promulgate regulations on the cri-
17 teria for complete proposals.

18 (d) DETERMINATION.—Not later than 180 days after
19 the date of publication of a proposal under subsection (c),
20 or as soon thereafter as is feasible, the Director shall make
21 a determination as to whether the proposal should be ap-
22 proved or disapproved.

23 (e) NOTICE OF DETERMINATION.—The Director
24 shall—

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

3 (2) make the basis for the determination avail-
4 able on a publicly available Federal Internet site.

5 **SEC. 5. SCIENTIFIC RISK ASSESSMENT AND RISK DETER-**
6 **MINATION REGULATIONS.**

7 (a) ASSESSMENT AND DETERMINATION.—

8 (1) IN GENERAL.—The Secretary, acting
9 through the Director, shall promulgate regulations—

10 (A) to further specify the criteria for regu-
11 lating a nonnative wildlife taxon as—

12 (i) an Injurious I taxon, which shall
13 be a taxon—

14 (I) that the Director deter-
15 mines—

16 (aa) to be injurious to
17 human beings, the interests of
18 agriculture, horticulture, or for-
19 estry, or wildlife or wildlife re-
20 sources of the United States; and

21 (bb) to have a high degree
22 of potential harm and is a taxon
23 with which qualified institutions
24 have not previously had signifi-
25 cant experience in maintaining

1 successfully in captivity and pre-
2 venting escapes or releases; and

3 (II) except as provided in section
4 12, the importation and transpor-
5 tation of which in interstate commerce
6 shall be conducted only pursuant to a
7 permit issued under section 12 to a
8 qualified institution; or

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

11 (I) that the Director deter-
12 mines—

13 (aa) to be injurious to
14 human beings, the interests of
15 agriculture, horticulture, or for-
16 estry, or wildlife or wildlife re-
17 sources of the United States; but

18 (bb) to have a degree of po-
19 tential for harm that is less than
20 the degree of potential harm of
21 an Injurious I taxon or is a taxon
22 with which qualified institutions
23 have previously had significant
24 experience in maintaining suc-

1 cessfully in captivity and pre-
2 venting escapes or releases; and

3 (II) for which no permit is re-
4 quired if the taxon is—

5 (aa) imported to a qualified
6 institution;

7 (bb) transported in inter-
8 state commerce and intrastate
9 commerce to and among qualified
10 institutions; or

11 (cc) held by a qualified insti-
12 tution;

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

18 (C) that may also provide for cases in
19 which exceptions or additions to the Injurious I
20 taxon or Injurious II taxon criteria may be nec-
21 essary to address extraordinary risks.

22 (2) BASIS, AVAILABILITY, AND REVIEW.—The
23 Director shall—

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

4 (B) make the results of each such assess-
5 ment and determination available to the public.

6 (3) PREVIOUSLY LISTED TAXA.—Each wildlife
7 taxon previously designated by statute or by the Sec-
8 retary as injurious under section 42(a) of title 18,
9 United States Code (including under any regulation
10 promulgated under that authority), shall, after the
11 effective date of the final regulations promulgated
12 under this subsection, be promptly designated by the
13 Director as an Injurious I taxon or Injurious II
14 taxon under this subsection, based on a determina-
15 tion by the Director of whether the taxon meets the
16 criteria described in clause (i) or (ii), respectively, of
17 paragraph (1)(A).

18 (4) DEADLINES.—

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

24 (B) FINAL REGULATIONS.—Not later than
25 18 months after the date of enactment of this

1 Act, the Secretary shall promulgate final regu-
2 lations required under this subsection, including
3 a public notification of the process for submis-
4 sion of a proposal under section 4(a).

5 (C) ADDITIONAL REQUIREMENT OF PRE-
6 IMPORT RISK SCREENING FOR ALL TAXA NOVEL
7 TO THE UNITED STATES.—

8 (i) IN GENERAL.—Not later than 3
9 years after the date of enactment of this
10 Act, the Secretary shall by regulation—

11 (I) define the phrase “non-native
12 wildlife taxa novel to the United
13 States” for the purpose of this sec-
14 tion; and

15 (II) set forth a process to ensure
16 that all unregulated non-native wild-
17 life taxa novel to the United States
18 are thereafter reviewed by the Direc-
19 tor prior to allowance of their impor-
20 tation to the United States to deter-
21 mine whether they should be regu-
22 lated under any of clause (i) or (ii) of
23 paragraph (1)(A).

24 (ii) AVOIDANCE OF NEW INCEN-
25 TIVES.—In promulgating the regulation

1 under clause (i), the Secretary shall seek
2 to avoid creating a new incentive for ani-
3 mal importers to import novel taxa prior to
4 the effective date of the regulation.

5 (iii) NEW REGULATION FOR IMPORTS
6 OF TAXA NOVEL TO THE UNITED
7 STATES.—Not later than 1 year after the
8 date of promulgation of the regulation
9 under clause (i), the Secretary shall imple-
10 ment the regulation.

11 (b) SCIENTIFIC RISK ASSESSMENT.—The regulations
12 promulgated under subsection (a) shall require consider-
13 ation, in an initial scientific risk assessment of a taxon,
14 of at least—

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

17 (2) whether the taxon has established or
18 spread, or caused harm to the economy, the environ-
19 ment, or the health of other animal species in the
20 United States or in an ecosystem similar to an eco-
21 system in the United States;

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

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

3 (5) whether the taxon will cause harm to
4 human beings, to the interests of agriculture, horti-
5 culture, forestry, or to wildlife or the wildlife re-
6 sources of the United States;

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

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

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

16 (c) RISK DETERMINATION.—Prior to designating any
17 nonnative wildlife taxon as an Injurious I taxon or Inju-
18 rious II taxon under subsection (a), after conducting a
19 risk assessment, the Director shall prepare a risk deter-
20 mination that takes into consideration—

21 (1) the results of the risk assessment; and

22 (2) at a minimum—

23 (A) the capabilities and any efforts of
24 States, local governments, and Indian tribes to
25 address the risks, if any, identified by the Di-

1 rector with respect to the taxon, including the
2 results of any risk assessments conducted for
3 the taxon that are available to the Director;

4 (B) the potential for reduction, mitigation,
5 control, and management of any risks identi-
6 fied; and

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

10 (d) DISCRETIONARY ANALYSIS.—

11 (1) IN GENERAL.—In preparing the risk deter-
12 mination for a taxon, the Director may consider the
13 economic, social, and cultural impacts of a decision
14 on whether to regulate the taxon.

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

20 (e) NOTICE AND CONSULTATION.—In promulgating
21 regulations under subsection (a), the Director shall notify
22 and consult with, at a minimum—

23 (1) affected States, Indian tribes, qualified in-
24 stitutions, and other stakeholders;

25 (2) the Aquatic Nuisance Species Task Force;

- 1 (3) the National Invasive Species Council;
- 2 (4) the Department of Agriculture;
- 3 (5) the Centers for Disease Control and Preven-
- 4 tion; and
- 5 (6) the National Oceanic and Atmospheric Ad-
- 6 ministration.

7 **SEC. 6. EMERGENCY TEMPORARY DESIGNATION.**

8 (a) **IN GENERAL.**—If the Director determines an

9 emergency exists because an unregulated nonnative wild-

10 life taxon poses an imminent threat of harm to individuals

11 in or wildlife of the United States, or the economy or envi-

12 ronment of the United States, the Director may imme-

13 diately temporarily designate the nonnative wildlife taxon

14 as Injurious I in accordance with section 5(a)(1)(A)(i).

15 (b) **NOTICE OF TEMPORARY DESIGNATION.**—The Di-

16 rector shall promptly—

17 (1) publish in the Federal Register notice of

18 each temporary designation under this subsection;

19 and

20 (2) make the basis for the designation available

21 on a publicly available Federal Internet site and

22 through other appropriate means.

23 (c) **DETERMINATION.**—Not later than 1 year after

24 temporarily designating a nonnative wildlife taxon using

1 the emergency authority under this section, the Director
2 shall—

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

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

8 (3) make the basis for the determination avail-
9 able on a publicly available Federal Internet site.

10 (d) **LIMITATION ON PROCEDURES.**—The procedures
11 under sections 4 and 5 of this Act and section 553 of title
12 5, United States Code, shall not apply to temporary des-
13 ignations under this section.

14 (e) **STATE REQUESTS.**—If the Governor of a State
15 requests a temporary emergency designation under this
16 section, the Director shall respond promptly with a written
17 determination on the request.

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

19 (a) **IMPROVED INFORMATION.**—The Director shall—

20 (1) not later than 18 months after the date of
21 enactment of this Act, establish an electronic data-
22 base that describes, using scientific names to the
23 species level (or subspecies level, if applicable), all
24 quantities of imports of all live wildlife, and the reg-

1 ulatory status of the wildlife, in a form that permits
2 that information to be rapidly accessed; and

3 (2) not later than 30 days after the date of im-
4 portation of wildlife described in paragraph (1),
5 make the information described in that paragraph
6 (other than confidential business information associ-
7 ated with those imports that is protected under
8 other Federal law) available on a publicly available
9 Federal Internet site.

10 (b) ANNUAL REPORT OF INFORMATION.—Not later
11 than 3 years after the date of enactment of this Act, and
12 not later than each April 1 thereafter, the Director shall
13 issue, including on a publicly available Federal Internet
14 site, a report that includes, at a minimum, a description
15 of—

16 (1) all nonnative wildlife imported, using sci-
17 entific names of the wildlife to the species or sub-
18 species level, to the extent known; and

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

21 (c) MONITORING IMPORT INFORMATION.—In con-
22 sultation with inspection, customs, and border officials in
23 the Departments of Agriculture and Homeland Security,
24 the Director shall regularly—

1 (1) monitor the identities and quantities of non-
2 native wildlife taxa being imported, with particular
3 emphasis on wildlife newly in the import trade to the
4 United States; and

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

9 **SEC. 8. INJURIOUS WILDLIFE DETERMINATIONS.**

10 (a) IN GENERAL.—Immediately upon the date of en-
11 actment of this Act, the Secretary shall make more rapid
12 determinations on proposals for regulation of wildlife
13 under section 42 of title 18, United States Code.

14 (b) STREAMLINING OF DETERMINATIONS.—In car-
15 rying out subsection (a) and other provisions of this Act,
16 the Secretary—

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

20 (2) shall forego time-consuming optional admin-
21 istrative steps, unless the Secretary determines the
22 steps to be essential; and

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

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

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

6 **SEC. 10. PREVENTION OF WILDLIFE PATHOGENS AND**
7 **PARASITES.**

8 (a) IN GENERAL.—The Secretary shall have the pri-
9 mary authority to prevent, and the primary responsibility
10 for preventing, the importation of, and interstate com-
11 merce in, wildlife pathogens and harmful parasites.

12 (b) REGULATIONS.—

13 (1) IN GENERAL.—In addition to regulations
14 required under section 5(a), the Secretary shall pro-
15 mulgate such regulations as are necessary—

16 (A) to minimize the likelihood of introduc-
17 tion or dissemination of any disease or harmful
18 parasite of native or nonnative wildlife; and

19 (B) to impose any additional necessary im-
20 port restrictions, including management meas-
21 ures, health certifications, quarantine require-
22 ments, specifications for conveyances, holding
23 water, and associated materials, shipment and
24 handling requirements, and other measures that
25 the Secretary determines to be necessary—

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

4 (ii) to address—

5 (I) a particular taxon;

6 (II) the place of origin of a par-
7 ticular taxon; and

8 (III) the conveyance and mate-
9 rials associated with wildlife trans-
10 port.

11 (c) RELATIONSHIP TO OTHER AUTHORITIES.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the Secretary shall exclude from regula-
14 tion under this section any pathogen, parasite, or
15 host taxon that is—

16 (A) defined or regulated by the Depart-
17 ment of Health and Human Services as a
18 threat to humans under section 361 of the Pub-
19 lic Health Service Act (42 U.S.C. 264);

20 (B) defined or regulated by the Depart-
21 ment of Agriculture as a threat to livestock or
22 poultry under the Animal Health Protection Act
23 (7 U.S.C. 8301 et seq.); or

24 (C) specifically defined or regulated by the
25 Department of Agriculture as a plant pest or

1 approved for biological control purposes under
2 the Plant Protection Act (7 U.S.C. 7701 et
3 seq.).

4 (2) EXCEPTION.—The Secretary may regulate a
5 pathogen, parasite, or host taxon described in any of
6 subparagraphs (A) through (C) of paragraph (1) to
7 the extent that the taxon also poses a wildlife dis-
8 ease risk.

9 (d) COORDINATION.—

10 (1) IN GENERAL.—In promulgating regulations
11 under and otherwise carrying out this section and
12 section 7, the Secretary shall consult and coordinate
13 with—

14 (A) other Federal agencies and depart-
15 ments with authority to regulate taxa;

16 (B) State wildlife agencies;

17 (C) State veterinarians; and

18 (D) other officials with related authorities.

19 (2) CONSULTATION BY SECRETARY OF AGRICULTURE.—In any case in which the Secretary of
20 Agriculture participates in the World Organization
21 for Animal Health, the Secretary of Agriculture
22 shall confer and consult with the Secretary on any
23 matters relating to prevention of wildlife diseases
24 that may threaten the United States.
25

1 **SEC. 11. PROHIBITIONS.**

2 (a) PROHIBITIONS.—Except as provided in this sec-
3 tion or section 12, it shall be unlawful for any person sub-
4 ject to the jurisdiction of the United States—

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

11 (2) to engage in interstate commerce for any
12 nonnative wildlife taxon described in paragraph (1),
13 or to knowingly possess such an animal, or the de-
14 scendant of an animal, that was transported in
15 interstate commerce in violation of this subsection;

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

20 (4) to release into the wild any nonnative wild-
21 life taxon described in paragraph (1);

22 (5) to violate any additional regulation promul-
23 gated by the Secretary as necessary to prevent the
24 importation of, and interstate commerce in, wildlife
25 pathogens and harmful parasites under this Act; or

1 (6) to attempt any of the prohibited actions de-
2 scribed in paragraphs (1) through (5).

3 (b) EXEMPTION FOR INTERSTATE TRANSPORTATION
4 OF ANIMALS OF LATER-REGULATED TAXA.—

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

12 (2) EXCEPTION.—The exemption under para-
13 graph (1) does not apply to an animal of any taxa
14 designated by the Director as Injurious I.

15 (c) LIMITATION ON APPLICATION.—

16 (1) IN GENERAL.—The prohibitions in this sec-
17 tion shall not apply to—

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

21 (B) any action by Federal, State, tribal, or
22 local officials to prevent the introduction or es-
23 tablishment of nonnative wildlife, or wildlife
24 pathogens or parasites, including actions to

1 transport, hold, and shelter animals of taxa reg-
2 ulated under this Act.

3 (2) IMPORTATION AND TRANSPORTATION BY
4 FEDERAL AGENCIES.—Nothing in this Act shall re-
5 strict the importation or transportation between any
6 States of nonnative wildlife by a Federal agency for
7 the use of the Federal agency if the nonnative wild-
8 life remains in the possession of a Federal agency.

9 (d) EFFECTIVE DATE.—This section takes effect on
10 the date that is 30 days after the date of promulgation
11 of the final regulations under section 5(a).

12 **SEC. 12. PERMITS AND EXEMPTIONS FOR QUALIFIED INSTI-
13 TUTIONS AND LIVE ANIMAL TRANSPORTERS.**

14 (a) PERMITS.—The Director may issue to a qualified
15 institution a permit authorizing any of the actions other-
16 wise prohibited under section 11 for any wildlife taxon
17 designated under clause (i) or (ii) of section 5(a)(1)(A)
18 or under section 6.

19 (b) TERMS AND CONDITIONS.—The Director may in-
20 clude in a permit under subsection (a) terms and condi-
21 tions to minimize the risk of introduction or establishment
22 of nonnative wildlife, pathogens, and parasites in the
23 United States.

24 (c) EXEMPTION AND REPORTING.—

1 (1) IN GENERAL.—No permit shall be required
2 for any qualified institution or any live animal trans-
3 portation company or other live animal transporter
4 that is in temporary possession of an animal deliv-
5 ering it to, or transporting it from, a qualified insti-
6 tution, to import or transport (on an interstate or
7 intrastate basis), or possess or breed, any taxon that
8 the Director has designated as an Injurious II taxon
9 under section 5(a)(1)(A)(ii).

10 (2) DISPLAY EXEMPTION.—No permit shall be
11 required for the import, interstate or intrastate
12 transportation, possession, or breeding of an Inju-
13 rious I taxon by a qualified zoo or aquarium institu-
14 tion.

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

20 (4) RECORD.—Each qualified institution or live
21 animal transporter that imports, transports (on an
22 interstate or intrastate basis), possesses, or breeds
23 any taxa designated as Injurious I or II shall main-
24 tain records, subject to annual inspection by the Di-
25 rector, at the discretion of the Director, that sum-

1 marize the transactions of the qualified institution
2 or live animal transporter for the covered taxa.

3 (d) **REGULATIONS; LIST OF QUALIFIED INSTITU-**
4 **TIONS.**—The Secretary shall—

5 (1) promulgate regulations to implement this
6 section; and

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

10 (e) **REPORT.**—Not later than March 1 of each year,
11 a qualified zoo or aquarium shall submit to the Director
12 a report on the imports, interstate or intrastate transpor-
13 tation, possession, or breeding of any Injurious I taxon
14 by the qualified zoo or aquarium for the preceding cal-
15 endar year.

16 **SEC. 13. USER FEES.**

17 (a) **DEFINITION OF LIVE WILDLIFE SHIPMENTS.**—
18 In this section, the term “live wildlife shipment” does not
19 include shipments made by qualified institutions for sci-
20 entific, veterinary, or medical research, medical research,
21 education, conservation outreach, or display purposes.

22 (b) **REASONABLE FEE.**—Not later than 2 years after
23 the date of enactment of this Act, the Secretary shall pro-
24 pose, and subsequently adopt, by regulation, a reasonable

1 fee to be charged on imported live wildlife shipments for
2 use in recovering a portion of the costs of—

3 (1) improving the information available on the
4 importation and interstate commerce trade of wild-
5 life;

6 (2) monitoring that information under section
7 7;

8 (3) conducting risk assessments and risk anal-
9 yses for nonnative wildlife taxa in that trade under
10 sections 4 and 5;

11 (4) making emergency designations under sec-
12 tion 6; and

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

15 (c) COST RECOVERY PURPOSE.—The purpose of the
16 user fees in this section shall be to recover approximately
17 75 percent of the costs to the Director for the services
18 listed in subsection (b), after such date as the user fee
19 regulation under subsection (b) is fully implemented and
20 the amounts of the fees received have been appropriated
21 to the Injurious Wildlife Prevention Fund pursuant to sec-
22 tion 16(b)(2)(A) for at least one full fiscal year.

23 (d) FEE LIMIT.—

24 (1) IN GENERAL.—The amount of the addi-
25 tional fee to be charged on any live wildlife shipment

1 under this section shall be set by the Secretary only
2 after fully considering public comments on the pro-
3 posed fee regulation and it shall be charged broadly
4 and fairly across the live wildlife import industry
5 and at the lowest level feasible to achieve the cost
6 recovery purpose in subsection (c).

7 (2) ANNUAL TOTAL FEE REVENUE.—The fees
8 shall be set so that the annual total fee revenue shall
9 not exceed the amount of the annual total fee rev-
10 enue of the fee charged by the Director under the
11 inspection program of the Director to oversee the
12 importation of live wildlife carried out pursuant to—

13 (A) section 11(f) of the Endangered Spe-
14 cies Act of 1973 (16 U.S.C. 1540(f));

15 (B) subpart I of part 14 of title 50, Code
16 of Federal Regulations (or successor regula-
17 tions); and

18 (C) other applicable authority.

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

20 (a) POSSESSION OF LAWFULLY OBTAINED INJU-
21 RIOUS WILDLIFE TAXA.—Possession of lawfully obtained
22 injurious wildlife taxa within a State shall—

23 (1) be a matter of State law; and

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

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

3 (b) REGULATIONS AND DETERMINATIONS.—Except
4 as provided in subsection (c), nothing in this Act, or in
5 the regulations and determinations to be promulgated or
6 issued by the Secretary or the Director under this Act,
7 preempts or otherwise affects the application of any State
8 law that establishes more stringent requirements for—

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

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

15 (c) LIMITATION ON APPLICATION OF PROHIBITIONS
16 TO PREVENT RELEASE.—The Director may limit the ap-
17 plication of this Act to facilitate implementation of any
18 State, local, or tribal program that results in voluntary
19 surrender of regulated nonnative wildlife, if the Director
20 determines that the limitation will prevent the release of
21 that wildlife.

22 **SEC. 15. PENALTIES AND SANCTIONS.**

23 (a) CIVIL PENALTIES.—

24 (1) CIVIL ADMINISTRATIVE PENALTIES.—

1 (A) IN GENERAL.—Any person who is
2 found by the Secretary, after notice and oppor-
3 tunity for a hearing conducted in accordance
4 with section 554 of title 5, United States Code,
5 to have committed any act prohibited by section
6 11 shall be liable to the United States for a
7 civil penalty in an amount not to exceed
8 \$10,000 for each violation.

9 (B) SUBPOENA POWER.—For the purposes
10 of conducting any investigation or hearing
11 under this Act, the Secretary may—

12 (i) issue subpoenas for the attendance
13 and testimony of witnesses and the produc-
14 tion of relevant papers, books, and docu-
15 ments; and

16 (ii) administer oaths.

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

22 (b) CRIMINAL OFFENSES.—Any person who know-
23 ingly violates any provision of this Act, or any regulation
24 promulgated or permit issued under this Act, shall, upon
25 conviction, be guilty of a class A misdemeanor.

1 (c) NATURAL RESOURCE DAMAGES.—All costs relat-
2 ing to the mitigation of injury caused by a violation of
3 this Act shall be borne by the person that violated this
4 Act.

5 (d) ENFORCEMENT.—

6 (1) OTHER POWERS AND AUTHORITIES.—Any
7 person authorized by the Secretary to enforce this
8 Act shall have the same authorities as are described
9 in section 6 of the Lacey Act Amendments of 1981
10 (16 U.S.C. 3375).

11 (2) FORFEITURE.—

12 (A) IN GENERAL.—A person who is deter-
13 mined to have violated any provision of this Act
14 shall forfeit to the United States—

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

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

21 (B) DISPOSAL OF PROPERTY.—Upon the
22 forfeiture to the United States of any property
23 or item described in clause (i) or (ii) of sub-
24 paragraph (A), or upon the abandonment or
25 waiver of any claim to any such property or

1 item, the property or item shall be disposed of
2 by the Secretary in a manner consistent with
3 the purpose of this Act.

4 (e) APPLICATION OF CUSTOMS LAWS.—All powers,
5 rights, and duties conferred or imposed by the customs
6 laws upon any officer or employee of the Customs Service
7 may, for the purpose of this Act, be exercised or performed
8 by the Secretary, or by such officers or employees of the
9 United States as the Secretary may designate.

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

11 (a) ESTABLISHMENT.—There is established in the
12 Treasury of the United States a Fund, to be known as
13 the “Injurious Wildlife Prevention Fund”, to be adminis-
14 tered by the Secretary, and to be available without fiscal
15 year limitation and subject to appropriation, for use in ac-
16 cordance with subsection (c).

17 (b) TRANSFERS TO FUND.—

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

21 (2) FEES AND PENALTIES.—There are appro-
22 priated to the Fund, out of funds of the Treasury
23 not otherwise appropriated, amounts equivalent to
24 amounts collected—

1 (A) as user fees and received in the Treas-
2 ury under section 13(a);

3 (B) as civil administrative or judicial pen-
4 alties under section 15; and

5 (C) as a civil penalty for any violation of
6 section 42 of title 18, United States Code (in-
7 cluding a regulation promulgated under that
8 section).

9 (c) USE OF FUNDS.—

10 (1) IN GENERAL.—Of the amounts deposited in
11 the Fund for a fiscal year—

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

15 (B) 25 percent shall be used by the Sec-
16 retary to carry out paragraph (2).

17 (2) AID FOR STATE WILDLIFE RISK ASSESS-
18 MENTS.—

19 (A) IN GENERAL.—The Secretary shall es-
20 tablish a program to provide natural resource
21 assistance grants to States for use in sup-
22 porting best practices and capacity-building by
23 States, consistent with the purpose of this Act,
24 for—

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

3 (ii) conducting assessments of risk as-
4 sociated with the intentional importation of
5 nonnative wildlife taxa.

6 (B) ADMINISTRATION.—The program
7 under this paragraph shall be administered by
8 the Director under the Federal Aid to States
9 program of the Director.

10 (d) PROHIBITION.—Amounts in the Fund may not
11 be made available for any purpose other than a purpose
12 described in subsection (c).

13 (e) ANNUAL REPORTS.—

14 (1) IN GENERAL.—Not later than 60 days after
15 the end of each fiscal year beginning with fiscal year
16 2014, the Secretary shall submit to the Committee
17 on Appropriations of the House of Representatives,
18 the Committee on Appropriations of the Senate, the
19 Committee on Environment and Public Works of the
20 Senate, and the Committee on Natural Resources of
21 the House of Representatives a report on the oper-
22 ation of the Fund during the fiscal year.

23 (2) CONTENTS.—Each report shall include, for
24 the fiscal year covered by the report, the following:

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

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

6 (C) Recommendations for additional au-
7 thorities to fulfill the purpose of the Fund.

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

10 (f) SEPARATE APPROPRIATIONS ACCOUNT.—Section
11 1105(a) of title 31, United States Code, is amended—

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

14 (2) by redesignating the second paragraph (33)
15 (relating to obligational authority and outlays re-
16 quested for homeland security) as paragraph (35);
17 and

18 (3) by adding at the end the following:

19 “(38) a separate statement for the Injurious
20 Wildlife Prevention Fund established by section
21 16(a) of the Invasive Wildlife Prevention Act of
22 2012, which shall include the estimated amount of
23 deposits in the Fund, obligations, and outlays from
24 the Fund.”.

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

2 Nothing in this Act—

3 (1) repeals, supersedes, or modifies any provi-
4 sion of—

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

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

9 (C) the Plant Protection Act (7 U.S.C.
10 7701 et seq.); or

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

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

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

19 In addition to regulations required under section 5
20 and other provisions of this Act, the Secretary shall pro-
21 mulgate such regulations as are necessary to carry out this
22 Act.

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