

Union Calendar No. 286

105TH CONGRESS
2^D SESSION

H. R. 2807

[Report No. 105-495]

To amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products labeled as containing substances derived from rhinoceros or tiger.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 1997

Mr. SAXTON (for himself and Mr. MILLER of California) introduced the following bill; which was referred to the Committee on Resources

APRIL 28, 1998

Additional sponsors: Mr. KENNEDY of Rhode Island, Mr. GALLEGLY, Mrs. MORELLA, Mr. PRICE of North Carolina, Mr. FRANK of Massachusetts, Mr. CALVERT, Ms. PELOSI, Ms. DEGETTE, Mr. FARR of California, Mr. SHAYS, Mr. MORAN of Virginia, Mr. TOWNS, Mr. SCHIFF, Mrs. LOWEY, Mr. GOODLATTE, Ms. HOOLEY of Oregon, Mr. BOEHLERT, Mr. MCGOVERN, Mr. CAMPBELL, Mr. PAPPAS, Mr. DELAHUNT, Mr. LAMPSON, Mr. MANTON, Mr. SKAGGS, Mrs. JOHNSON of Connecticut, Ms. RIVERS, Ms. FURSE, Mr. GREEN, Mr. PORTMAN, Mr. GUTIERREZ, Mr. FILNER, Mr. COOK, Ms. WOOLSEY, Mr. MARKEY, Mr. OLVER, Ms. NORTON, Mr. SAWYER, Mr. LANTOS, Mr. NEAL of Massachusetts, Ms. LOFGREN, Mr. DUNCAN, Mr. SANDERS, and Mr. TRAFICANT

APRIL 28, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products labeled as containing substances derived from rhinoceros or tiger.

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 “Rhino and Tiger Prod-
5 uct Labeling Act”.

6 **SEC. 2. PROHIBITION ON SALE, IMPORTATION, AND EXPOR-**
7 **TATION OF PRODUCTS LABELED AS CON-**
8 **TAINING A SUBSTANCE DERIVED FROM RHI-**
9 **NOCEROS OR TIGER.**

10 (a) FINDINGS.—The Congress finds the following:

11 (1) The populations of several magnificent and
12 unique endangered species of rhinoceros and tigers,
13 such as the Indian rhinoceros, the Javan rhinoceros,
14 the African black rhinoceros, and all of the tiger
15 subspecies, continue to decline.

16 (2) Growing demand throughout the world for
17 wildlife and wildlife parts and products has created

1 a market in which commercial exploitation has
2 threatened certain rhinoceros and tiger populations.

3 ~~(3)~~ There are insufficient legal mechanisms en-
4 abling the United States Fish and Wildlife Service
5 to forcefully interdict products that are labeled as
6 containing substances derived from rhinoceros or
7 tiger species and prosecute the merchandisers for
8 sale or display of those products.

9 ~~(4)~~ Although approximately 77,000 import and
10 export shipments occur annually in the United
11 States, the United States Fish and Wildlife Service
12 is able to maintain only 92 wildlife inspectors at 30
13 ports of entry, including 13 designated ports, to
14 monitor the shipments.

15 ~~(5)~~ Wildlife inspectors are able to physically in-
16 spect only an estimated 5 to 10 percent of all import
17 and export shipments, making the rate of detection
18 of contraband wildlife products extremely low.

19 ~~(b) PROHIBITION.—~~The Rhinoceros and Tiger Con-
20 servation Act of 1994 (16 U.S.C. 5301 et seq.) is amended
21 by redesignating section 7 as section 8, and by inserting
22 after section 6 the following new section:

1 **“SEC. 7. PROHIBITION RELATING TO LABELING.**

2 “(a) **PROHIBITION.**—No person shall sell, import, or
3 export any product labeled as containing any substance
4 derived from any species of rhinoceros or tiger.

5 “(b) **PENALTY.**—Any person who knowingly violates
6 subsection (a) shall be fined under title 18, United States
7 Code, imprisoned for not more than 1 year, or both.”.

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Rhino and Tiger Prod-*
10 *uct Labeling Act”.*

11 **SEC. 2. PROHIBITION ON SALE, IMPORTATION, AND EXPOR-**
12 **TATION OF PRODUCTS LABELED AS CONTAIN-**
13 **ING A SUBSTANCE DERIVED FROM RHINOC-**
14 **EROS OR TIGER.**

15 (a) *FINDINGS.*—*The Congress finds the following:*

16 (1) *The populations of several magnificent and*
17 *unique endangered species of rhinoceros and tigers,*
18 *such as the Indian rhinoceros, the Javan rhinoceros,*
19 *the African black rhinoceros, and all of the tiger sub-*
20 *species, continue to decline.*

21 (2) *Growing demand throughout the world for*
22 *wildlife and wildlife parts and products has created*
23 *a market in which commercial exploitation has*
24 *threatened certain rhinoceros and tiger populations.*

25 (3) *There are insufficient legal mechanisms ena-*
26 *bling the United States Fish and Wildlife Service to*

1 *forcefully interdict products that are labeled as con-*
2 *taining substances derived from rhinoceros or tiger*
3 *species and prosecute the merchandisers for sale or*
4 *display of those products.*

5 *(4) Although approximately 77,000 import and*
6 *export shipments occur annually in the United*
7 *States, the United States Fish and Wildlife Service is*
8 *able to maintain only 92 wildlife inspectors at 30*
9 *ports of entry, including 13 designated ports, to mon-*
10 *itor the shipments.*

11 *(5) Wildlife inspectors are able to physically in-*
12 *spect only an estimated 5 to 10 percent of all import*
13 *and export shipments, making the rate of detection of*
14 *contraband wildlife products extremely low.*

15 *(6) Alternatives are available to the traditional*
16 *medicinal products that contain substances derived*
17 *from rhinoceros and tiger species.*

18 *(7) Public education initiatives directed toward*
19 *traditional user groups on the endangered status of*
20 *rhinoceros and tiger species and on the availability of*
21 *alternative products in traditional medicine have*
22 *proven useful in reducing the demand for products la-*
23 *beled as containing substances derived from rhinoc-*
24 *eros and tiger species, and should be encouraged.*

1 (b) *PROHIBITION, PENALTIES, AND ENFORCEMENT.*—
2 *The Rhinoceros and Tiger Conservation Act of 1994 (16*
3 *U.S.C. 5301 et seq.) is amended by redesignating section*
4 *7 as section 8, and by inserting after section 6 the following:*

5 **“SEC. 7. PROHIBITION RELATING TO PRODUCTS CONTAIN-**
6 **ING OR PURPORTING TO CONTAIN ANY SUB-**
7 **STANCE DERIVED FROM A RHINOCEROS OR**
8 **TIGER SPECIES.**

9 “(a) *PROHIBITION.*—*No person shall sell, import, or*
10 *export, or attempt to sell, import, or export any product,*
11 *item, or substance intended for human consumption con-*
12 *taining or purporting to contain any substance derived*
13 *from any species of rhinoceros or tiger.*

14 “(b) *PENALTIES.*—

15 “(1) *CRIMINAL PENALTY.*—*Any person who*
16 *knowingly violates subsection (a) shall be fined under*
17 *title 18, United States Code, imprisoned for not more*
18 *than 1 year, or both.*

19 “(2) *CIVIL PENALTIES.*—*Any person who know-*
20 *ingly violates, and any person engaged in business as*
21 *an importer, distributor, or retailer of products,*
22 *items, or substances purporting to contain substances*
23 *derived from any species of rhinoceros or tiger who*
24 *violates subsection (a) may be assessed a civil penalty*
25 *by the Secretary of not more than \$25,000 for each*

1 *violation. A civil penalty under this paragraph shall*
2 *be assessed, and may be collected, in the manner in*
3 *which a civil penalty under the Endangered Species*
4 *Act of 1973 may be assessed and collected under sec-*
5 *tion 11(a) of that Act (16 U.S.C. 1540(a)).*

6 *“(c) FORFEITURES.—Any product, item, or substance*
7 *sold, imported, or exported, or attempted to be sold, im-*
8 *ported, or exported, contrary to the provisions of this Act*
9 *or any regulation made pursuant thereto shall be subject*
10 *to forfeiture to the United States. All equipment, vessels,*
11 *vehicles, aircraft, and other means of transportation used*
12 *to aid the selling, exporting, or importing, or an attempt*
13 *to sell, export, or import, of any product, item, or substance*
14 *in violation of this Act or any regulation issued pursuant*
15 *to this Act, shall be subject to forfeiture to the United States*
16 *upon conviction of a criminal violation pursuant to sub-*
17 *section (b). All laws relating to the seizure, forfeiture, and*
18 *condemnation of a vessel for violation of the customs laws,*
19 *the disposition of such vessel or the proceeds from the sale*
20 *thereof, and the remission or mitigation of such forfeiture,*
21 *shall apply to the seizures and forfeitures incurred, or al-*
22 *leged to have been incurred, under this Act, insofar as those*
23 *laws are applicable and not inconsistent with this Act; ex-*
24 *cept that all powers, rights, and duties conferred or imposed*
25 *by the customs laws upon any officer or employee of the*

1 *Treasury Department shall, for the purposes of this Act, be*
2 *exercised or performed by the Secretary or by such persons*
3 *as the Secretary may designate.*

4 “(d) *REGULATIONS.*—*The Secretary, after consultation*
5 *with the Secretary of the Treasury, the Secretary of Health*
6 *and Human Services, and the United States Trade Rep-*
7 *resentative, shall prescribe regulations that are necessary*
8 *and appropriate to carry out the purposes of this Act.*

9 “(e) *ENFORCEMENT.*—*The Secretary, the Secretary of*
10 *the Treasury, and the Secretary of the department in which*
11 *the Coast Guard is operating shall enforce this Act in the*
12 *same manner such Secretaries carry out enforcement activi-*
13 *ties under section 11(e) of the Endangered Species Act of*
14 *1973 (16 U.S.C. 1540(e)).”.*

15 (c) *DEFINITION OF PERSON.*—*Section 4 of the Rhinoc-*
16 *eros and Tiger Conservation Act of 1994 (16 U.S.C. 5301*
17 *et seq.) is amended by—*

18 (1) *striking “and” at the end of paragraph (4);*

19 (2) *striking the period at the end of paragraph*

20 (5) *and inserting “; and”; and*

21 (3) *adding at the end the following:*

22 “(6) ‘person’ means—

23 “(A) *an individual, corporation, partner-*
24 *ship, trust, association, or other private entity;*

1 “(B) an officer, employee, agent, depart-
2 ment, or instrumentality of the Federal Govern-
3 ment, of any State, municipality, or political
4 subdivision of a State, or of any foreign govern-
5 ment;

6 “(C) a State, municipality, or political sub-
7 division of a State; or

8 “(D) any other entity subject to the juris-
9 diction of the United States.”.

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