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COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS

H.R. 3029

Representatives Raul Grijalva (D-AZ) and
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A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

THIS BILL IS APPROVED

This bill seeks to halt the increasing practice of bear poaching, which is caused by the high prices paid for bear viscera, such as gall bladders and bile, due to their use in Asian traditional medicines and cosmetics. Bear gall bladders have been known to fetch prices of up to \$10,000 each on the South Korean black market. As a result of this popularity, wild Asian bear populations have been decimated, causing poachers to turn to American bears to meet increasing demand. U.S. law enforcement agents have found bear carcasses in the woods with only the gallbladders and paws removed.

This bill would address the problem by prohibiting the trade, both domestic and international, in bear viscera. This approach is necessary because, in spite of substantial effort by the United States Fish and Wildlife Service and certain state agencies, the differences among the states regarding regulating and prohibiting this trade have made adequate enforcement of the current laws against poaching difficult to impossible. Organized poaching gangs use sophisticated technologies such as radio tracking and night-vision goggles to corner the bears, and are easily able to transport bear parts illegally taken from bears in one state to another state where bear parts are sold legally. The bill would eliminate the defense that the poachers have that certain states allow the import or export of bear parts.

Although many states have prohibited the traffic in bear viscera, federal legislation is nevertheless needed because of loopholes created by inconsistencies among state laws that allow poaching to flourish. Five states, including New York, currently allow the free trade in bear gallbladders and bile; thirty-four states prohibit trade in bear parts, and the other states have a mix of regulations. Poachers are able to “launder” these products through states that allow their sale.

In 2006 and 2007, the World Society for the Protection of Animals (the “WSPA”) conducted an extensive undercover investigation of the ongoing trade in bear bile products. Twenty percent of the stores carrying traditional Asian medicine the WSPA surveyed in New York City sold bear bile. The WSPA findings, however, likely reflect much smaller numbers of sales than

those that occur in reality, since the stores selling these products have refined methods of concealing them from unfamiliar customers who are surveying the stores.

Passage of this bill would be in accord with the Convention on International Trade in Endangered Species (“CITES”), to which the United States is a signatory. The treaty permits signatories to adopt stricter domestic measures regarding the conditions for trade, taking, possession or transport of species identified in Appendix I or II, which includes all eight extant species of bear.¹ The parties to CITES have resolved that the “continued illegal trade in bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties. . . do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.” Passage of this legislation would constitute such action.

The bill exempts from its coverage any bear viscera that is imported, exported, or transported solely for the purpose of enforcing wildlife protection laws or as is authorized by a valid permit issued under CITES. Further, the bill specifically provides that nothing in it shall be construed to affect any state’s regulation of its bear population or to affect the lawful hunting of bears.

Violations of the provisions of this legislation would include a possible criminal penalty of imprisonment not more than one year or a fine. In addition, civil penalties up to \$25,000 per violation may be assessed.

Opposition to this bill has centered on the fact that, currently, American black bear populations are not yet threatened with extinction in spite of the evidence of increased poaching. However, this Committee believes that this is precisely the time to take effective action against poaching, i.e., before its deleterious effects have gone so far that recovering bear populations will involve substantial expense and the imposition of draconian regulations, as is the case with Asian wild bear populations. Furthermore, the ban on importation and interstate trade in bear viscera will prevent the United State from participating in the further depletion of foreign bear species that are already endangered. In any case, the threat of extinction is not the only rationale for vigorously protecting American wildlife from illegal exploitation, and wildlife laws should be enforced regardless of whether a species is threatened. Inasmuch as there is evidence that the current market in bear viscera is significantly undermining the enforcement of laws pertaining to wildlife, this legislation is clearly necessary.

¹ Bear species listed include the Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear.