

A Hard Look at COMPETES Act, Section 71102, Lacey Act Amendments

The goals of [COMPETES Act, Section 71102, Lacey Act Amendments](#). are currently achieved through existing authorities provided by the Act:

- Tribes and states regulate or restrict nonnative species. Under the Lacey Act it is unlawful to import, export, sell, acquire, or purchase fish, wildlife or plants that are taken, possessed, transported, or sold: 1) in violation of federal, state or tribal law, or 2) in interstate or foreign commerce involving any fish, wildlife, or plants taken possessed or sold in violation of State or foreign law.
- For [120 years the Lacey Act](#) has provided the Secretary of Agriculture, and now the Secretary of Interior, with the power to ban importation of animals “injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States.” [Recent analysis](#) points to this successful use of import prohibitions.
- The provisions within Section 71102 were not presented to House Natural Resources nor did the Committee hold a hearing.

Section 71102 contains three provisions.

Section 71102(a) Regulating Interstate Trade

We oppose the Section 71102 for empowering the Secretary of Interior (Secretary) to prohibit the interstate movement of nonnative or native animals within the continental United States. This provision does not provide any flexibility to the Secretary to allow interstate trade of species in regions of the country where these animals pose little to no risk. The proposed federal prohibition in Section 71102 is a blanket prohibition nationwide.

Section 71102(a) Emergency Rule

We oppose Section 71102 for empowering the Secretary to list a species under emergency rule for a three-year period *without due process* involving advance notice, opportunity to comment, public hearings, etc.

Section 71102(d) Presumptive Prohibition on Importation

We oppose Section 71102 for empowering the Secretary to create, with public comment, an approved list of species for importation. Approved lists, commonly known as “White Lists,” are unusual for the federal government as a regulatory body or signatory or participant to international agreements and organizations predicated on prohibiting or restricting species trade for at-risk animals.

- A White List may be challenged by World Trade Organization members.
- A White List will increase the numbers of individual animal identifications by 28 times the current responsibility of inadequately staffed ports of entry inspection personnel.
- The responsibility placed upon the Secretary’s port and border crossing inspectors to rapidly and accurately distinguish the currently required [785 Lacey Act Injurious Wildlife species](#), [693 Endangered Species Act listed species](#), [6,006 CITES listed species](#) and the 204,614 species potentially required by Section 71102 threatens animal care and welfare.

Visit an in-depth analysis supporting our recommendations: [NAA-COMPETES-Act-Section-71102-Analysis-and-Recommendations.pdf \(thenaa.net\)](#)

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