

115TH CONGRESS
1ST SESSION

H. R. 3894

To protect grizzly bear populations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2017

Mr. GRJALVA introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, 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 protect grizzly bear populations, 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 “Tribal Heritage and
5 Grizzly Bear Protection Act”.

6 **SEC. 2. PROTECTION OF GRIZZLY BEARS.**

7 (a) PROHIBITED ACTS.—Except as provided in sec-
8 tion 3, it is unlawful for any person—

9 (1) to take, possess, or transport a grizzly bear,
10 or any part thereof;

1 (2) to violate any condition of a permit issued
2 under section 3; or

3 (3) to violate any regulation issued by the Sec-
4 retary pursuant to this Act.

5 (b) NONAPPLICATION.—This Act shall not apply to—

6 (1) a grizzly bear, or any part thereof, in a pop-
7 ulation that is listed as a threatened species or an
8 endangered species under section 4 of the Endan-
9 gered Species Act of 1973 (16 U.S.C. 1533);

10 (2) a grizzly bear, or any part thereof, taken,
11 possessed, or transported in the State of Alaska; or

12 (3) a taking that is imminently necessary for
13 self-defense or to save the life of a person in imme-
14 diate danger.

15 (c) CIVIL PENALTY.—

16 (1) KNOWING VIOLATION.—Any person who
17 knowingly violates subsection (a) may be assessed a
18 civil penalty by the Secretary under the first sen-
19 tence of section 11(a) of the Endangered Species
20 Act of 1973 (16 U.S.C. 1540(a)) as if such person
21 has knowingly violated a provision of such Act.

22 (2) UNKNOWNING VIOLATION.—Any person who,
23 other than knowingly, violates subsection (a) may be
24 assessed a civil penalty by the Secretary under the
25 third sentence of section 11(a) of the Endangered

1 Species Act of 1973 (16 U.S.C. 1540(a)) as if such
2 person has otherwise violated a provision of such
3 Act.

4 (d) CRIMINAL PENALTY.—Any person who knowingly
5 violates subsection (a) shall, upon conviction, be punished
6 in the same manner as a person who commits a violation
7 punishable under the first sentence of section 11(b) of the
8 Endangered Species Act of 1973 (16 U.S.C. 1540(b)).

9 (e) CANCELLATION OF GRAZING AUTHORIZA-
10 TIONS.—Any lease, license, permit, or agreement issued
11 by the head of any Federal agency to a person authorizing
12 the grazing of domestic livestock on Federal lands shall
13 have no force or effect upon the conviction of such person
14 of a violation of subsection (a). The United States shall
15 not be liable for the payment of any compensation, reim-
16 bursement, or damages in connection with the cancellation
17 of any lease, license, permit, or agreement pursuant to this
18 subsection.

19 **SEC. 3. PERMITTED TAKING OF GRIZZLY BEARS.**

20 (a) IN GENERAL.—The Secretary may issue a permit
21 in accordance with this section authorizing the taking,
22 possession, or transport of a grizzly bear, or any part
23 thereof, that is otherwise prohibited by section 2.

24 (b) CONDITIONS.—The Secretary may issue a permit
25 under this section only if the Secretary has—

1 (1) investigated the circumstances that gave
2 rise to the permit application;

3 (2) determined that such taking, possession, or
4 transport is compatible with the protection of the
5 grizzly bear species or a population of grizzly bears
6 occupying a geographically distinct area; and

7 (3) determined that such taking, possession, or
8 transport is an allowable taking, possession, or
9 transport under subsection (c).

10 (c) ALLOWABLE TAKINGS, POSSESSIONS, OR TRANS-
11 PORTS.—For the purpose of subsection (b)(3), an allow-
12 able taking, possession, or transport is any of the fol-
13 lowing:

14 (1) SCIENTIFIC OR EXHIBITION PURPOSES.—
15 Taking, possessing, or transporting a grizzly bear,
16 or any part thereof, for the scientific or exhibition
17 purposes of a—

18 (A) public museum;

19 (B) scientific society; or

20 (C) zoological park that is accredited by
21 the Association of Zoos and Aquariums.

22 (2) RELIGIOUS PURPOSES OF FEDERALLY REC-
23 OGNIZED INDIAN TRIBE.—Taking, possessing, or
24 transporting a grizzly bear, or any part thereof, for

1 the religious purposes of a federally recognized In-
2 dian Tribe.

3 (3) PROTECTION OF AGRICULTURAL INTERESTS
4 OR PUBLIC SAFETY.—

5 (A) IN GENERAL.—Subject to subpara-
6 graph (B), taking, possessing, or transporting a
7 grizzly bear, or any part thereof, during such
8 time period and in such location as the Sec-
9 retary determines to be necessary to protect ag-
10 ricultural interests or public safety in such loca-
11 tion.

12 (B) REQUIREMENTS FOR TAKING.—Before
13 making a determination under subparagraph
14 (A) with respect to a taking—

15 (i) the Governor of the State in which
16 the taking will occur must request, in writ-
17 ing, that the Secretary make such deter-
18 mination;

19 (ii) the Secretary must conclude that
20 nonlethal deterrents have been used in
21 such location and proven ineffective to
22 mitigate the threat of the grizzly bear to
23 agricultural interests or public safety; and

24 (iii) the Secretary must determine, in
25 consultation with the Interagency Grizzly

1 Bear Study Team and each federally rec-
2 ognized Indian Tribe identified in the re-
3 port required under section 6(a)(2), that
4 the grizzly bear cannot be relocated to sup-
5 port—

6 (I) efforts under section 6 to re-
7 introduce grizzly bears on Tribal land;
8 or

9 (II) recovery efforts for a grizzly
10 bear population listed as a threatened
11 species or an endangered species
12 under section 4 of the Endangered
13 Species Act of 1973 (16 U.S.C.
14 1533).

15 (d) NO PERMITS FOR TAKINGS THAT WOULD EX-
16 CEED MORTALITY LIMIT.—The Secretary may not issue
17 a permit under this section for the taking of a grizzly bear
18 if such taking would cause the total mortality for any pop-
19 ulation or subpopulation of grizzly bears to exceed the sci-
20 entifically recommended limit determined by the Inter-
21 agency Grizzly Bear Study Team.

22 (e) SPORT HUNTING.—Nothing in this section may
23 be construed to allow sport hunting of grizzly bears.

24 (f) NONALIENABILITY.—A person who has been
25 issued a permit under this section may not sell, transfer,

1 assign, or otherwise alienate the authority granted to such
2 person by such permit.

3 (g) CONDUCT REQUIREMENTS.—Taking, possessing,
4 or transporting a grizzly bear, or any part thereof, under
5 this Act shall be conducted in a manner consistent with—

6 (1) the conditions of the permit authorizing
7 such taking, possession, or transport; and

8 (2) the provisions of this Act.

9 **SEC. 4. LIVESTOCK LOSS PREVENTION.**

10 Public Law 111–11 is amended—

11 (1) in section 6202 (7 U.S.C. 426 note)—

12 (A) in the heading of such section, by in-
13 serting “**AND GRIZZLY BEAR**” after “**WOLF**”;

14 (B) in the matter preceding subsection
15 (a)(1), by striking “5-year”;

16 (C) in subsection (a)(1), by inserting “and
17 grizzly bears” after “wolves”; and

18 (D) in subsection (b)(2)(A), by inserting
19 “and grizzly bears” after “wolves”; and

20 (2) in section 6203 (7 U.S.C. 426 note), by
21 striking “\$1,000,000 for fiscal year 2009” and in-
22 serting “\$5,000,000 for fiscal year 2018”.

23 **SEC. 5. CONSULTATION WITH INDIAN TRIBES.**

24 (a) CONSULTATION REQUIRED BEFORE ISSUING
25 PERMIT.—Before issuing a permit under this Act that au-

1 thorizes an activity to be carried out on the Tribal land
2 of a federally recognized Indian Tribe, the Secretary shall
3 consult with such federally recognized Indian Tribe.

4 (b) CONSULTATION REQUIRED BEFORE TAKING
5 MAJOR FEDERAL ACTION.—Before taking any Federal
6 action that may negatively impact grizzly bear habitat or
7 increase grizzly bear mortality the Secretary or the Sec-
8 retary of Agriculture, respectively, shall consult with—

9 (1) the Interagency Grizzly Bear Study Team;
10 and

11 (2) the relevant federally recognized Indian
12 Tribe.

13 (c) REQUIREMENT.—Any consultation conducted
14 with a federally recognized Indian Tribe under this sec-
15 tion—

16 (1) shall be meaningful and be conducted within
17 a framework developed with the free, prior, and in-
18 formed consent of that Indian Tribe;

19 (2) shall be carried out through cooperative
20 management agreements between the Secretary, the
21 Secretary of Agriculture, and that Indian Tribe; and

22 (3) may, at the option of the Indian Tribe, be
23 entered into under the Indian Self-Determination
24 and Education Assistance Act (25 U.S.C. 5301 et
25 seq.).

1 **SEC. 6. REINTRODUCTION OF GRIZZLY BEARS ON TRIBAL**
2 **LAND.**

3 (a) PUBLIC REPORT REQUIRED.—

4 (1) STUDY.—The Interagency Grizzly Bear
5 Study Team, in consultation with each federally rec-
6 ognized Indian Tribe whose Tribal land is located
7 within the historical range of the grizzly bear, shall
8 conduct a study to identify Tribal land that is lo-
9 cated within the historical range of the grizzly bear
10 and is suitable to support grizzly bear populations.

11 (2) REPORT.—Not later than 2 years after the
12 date of the enactment of this Act, the Interagency
13 Grizzly Bear Study Team shall make publically
14 available on the website of the Interagency Grizzly
15 Bear Study Team a report containing the results of
16 the study conducted under paragraph (1).

17 (b) NOTIFICATION.—Not later than 30 days after the
18 report is made available under subsection (a)(2), the Sec-
19 retary shall notify each federally recognized Indian Tribe
20 whose Tribal land was identified in the report required
21 under subsection (a)(1) that grizzly bears may be reintro-
22 duced on the identified Tribal land in accordance with this
23 Act.

24 (c) REINTRODUCTION.—If a federally recognized In-
25 dian Tribe notified under subsection (b) notifies the Sec-
26 retary that it agrees to have grizzly bears reintroduced on

1 its Tribal land, the Secretary shall coordinate with that
2 federally recognized Indian Tribe to reintroduce grizzly
3 bears to such Tribal land.

4 (d) MANNER OF RELOCATION.—The relocation of
5 grizzly bears under subsection (c) shall be carried out by
6 the Secretary in a manner that is consistent with—

7 (1) the scientific advice of the Interagency Griz-
8 zly Bear Study Team;

9 (2) the traditional ecological knowledge of the
10 respective federally recognized Indian Tribe; and

11 (3) Secretarial Order 3342, dated October 21,
12 2016.

13 (e) PROTECTION OF PUBLIC SAFETY.—A grizzly bear
14 that has been identified by the Secretary as a threat to
15 public safety shall not be eligible for reintroduction under
16 this section.

17 (f) OTHER REINTRODUCTION EFFORTS.—Nothing in
18 this Act shall affect any effort by the Secretary to reintro-
19 duce a grizzly bear on lands other than the lands specified
20 in this Act.

21 **SEC. 7. MISCELLANEOUS.**

22 (a) LIMITATION ON USE OF PREDATOR CONTROL
23 MEASURES.—The Secretary or the Secretary of Agri-
24 culture, respectively, shall prohibit on lands under such
25 Secretary's jurisdiction the use of predator control meas-

1 ures that the Interagency Grizzly Bear Study Team has
2 determined may result in the inadvertent taking of grizzly
3 bears.

4 (b) MEETING AND ADVISEMENT.—The Interagency
5 Grizzly Bear Committee and the Interagency Grizzly Bear
6 Study Team shall meet with and advise State and Federal
7 wildlife managers and affected federally recognized Indian
8 Tribes.

9 (c) INCLUSION OF MEMBERS OF FEDERALLY RECOG-
10 NIZED INDIAN TRIBES ON INTERAGENCY GRIZZLY BEAR
11 COMMITTEE.—The Interagency Grizzly Bear Committee
12 shall include not less than 1 member of each federally rec-
13 ognized Indian Tribe whose Tribal land is—

14 (1) inhabited by grizzly bears; or

15 (2) identified in the report required under sec-
16 tion 6(a)(2) as suitable to support grizzly bear popu-
17 lations.

18 (d) PARTNERSHIP.—The Secretary, the Secretary of
19 Agriculture, and relevant federally recognized Indian
20 Tribes shall manage grizzly bears reintroduced on Tribal
21 land under this Act using the best available science and
22 consistent with the cultural imperatives of those federally
23 recognized Indian Tribes, as defined in The Grizzly: A
24 Treaty of Cooperation, Cultural Revitalization and Res-
25 toration.

1 **SEC. 8. DEFINITIONS.**

2 In this Act:

3 (1) GRIZZLY BEAR.—The term “grizzly bear”
4 means a member of the subspecies *Ursus arctos*
5 *horribilis*.

6 (2) HISTORICAL RANGE OF THE GRIZZLY
7 BEAR.—The term “historical range of the grizzly
8 bear” means the range determined by the Inter-
9 agency Grizzly Bear Study Team using the best
10 available scientific and historical information.

11 (3) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (4) TAKE.—The term “take” means to harass,
14 harm, pursue, hunt, shoot, wound, kill, trap, cap-
15 ture, or collect, or to attempt to engage in any such
16 conduct.

17 (5) TRIBAL LAND.—The term “Tribal land”
18 means—

19 (A) land located within the boundaries of
20 an Indian reservation, pueblo, or Rancheria;

21 (B) land not located within the boundaries
22 of an Indian reservation, pueblo, or Rancheria,
23 title to which is held—

24 (i) in trust by the United States for
25 benefit of an Indian tribe or an individual
26 Indian;

1 (ii) by an Indian tribe or an individual
2 Indian, subject to restriction against alien-
3 ation under laws of the United States; or

4 (iii) by a dependent Indian commu-
5 nity; and

6 (C) land that is owned by an Indian tribe
7 and was conveyed by the United States to a
8 Native Corporation pursuant to the Alaska Na-
9 tive Claims Settlement Act (43 U.S.C. 1601 et
10 seq.) or that was conveyed by the United States
11 to a Native Corporation in exchange for such
12 land.

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