

115TH CONGRESS  
1ST SESSION

# S. 1863

To clarify that noncommercial species found entirely within the borders of a single State are not in interstate commerce or subject to regulation under the Endangered Species Act of 1973 or any other provision of law enacted as an exercise of the power of Congress to regulate interstate commerce.

---

## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2017

Mr. LEE (for himself, Mr. HATCH, and Mr. PAUL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To clarify that noncommercial species found entirely within the borders of a single State are not in interstate commerce or subject to regulation under the Endangered Species Act of 1973 or any other provision of law enacted as an exercise of the power of Congress to regulate interstate commerce.

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 “Native Species Protec-  
5 tion Act”.

1 **SEC. 2. TREATMENT OF INTRASTATE SPECIES.**

2 (a) DEFINITION OF INTRASTATE SPECIES.—In this  
3 Act, the term “intrastate species” means any species of  
4 plant or fish or wildlife (as those terms are defined in sec-  
5 tion 3 of the Endangered Species Act of 1973 (16 U.S.C.  
6 1532)) that is—

7 (1) found entirely within the borders of a single  
8 State; and

9 (2) not part of a national market for any com-  
10 modity.

11 (b) TREATMENT.—An intrastate species shall not  
12 be—

13 (1) considered to be in interstate commerce;  
14 and

15 (2) subject to regulation under—

16 (A) the Endangered Species Act of 1973  
17 (16 U.S.C. 1531 et seq.); or

18 (B) any other provision of law under which  
19 regulatory authority is based on the power of  
20 Congress to regulate interstate commerce as  
21 enumerated in article I, section 8, clause 3 of  
22 the Constitution of the United States.

○