As what can only be described as dirty politics, the America COMPETES Act of 2022 (HR4521) emerged in the House on January 28. The America COMPETES Act mutated into a 3,000-page mockery of the U.S. political process that sailed through the House in a week (passing on 2/4/22 with a 222-210 vote). This monstrosity replaced the original bill that was titled the Bioeconomy Research and Development Act of 2021.

USARK exposed the news on the same day the bill was reported in the House that deceptively hidden within a bill advertised as an economic and national defense initiative were Lacey Act amendments that will have shattering impacts on the pet community and trade, as well as other industries. Our alert has been circulating and awareness is spreading.

This issue is not just about reptiles, or birds, or fish, or amphibians, or mammals. It is about all of them! If you own an animal other than a dog, cat, or traditional farm animal, your species could be treated as injurious. If you have an animal interest business, this will likely affect you. Even business in domesticated agriculture species could be afflicted as shipments with any animal description may see increased inspection. This escalated scrutiny may also decrease the number of ports allowed for shipments.

Potentially thousands of species could fall victim to this overreach. Is it not worth a minute of your time to contact your lawmakers to protect your freedoms?

This is a massive federal power grab that is alarming. It conflicts with the original intent and Congressional direction of the Lacey Act. We will suffer from new federal authority without any additional protection. It is both fine and preferable to complete alerts from more than one group! Not only do the various alerts have different messaging, but they also utilize different forms of contact. Some alerts are quick and easy but taking an extra minute to contact your legislators directly through their websites is generally more effective. Do not only send emails! Be sure to call offices, send faxes (yes, those still exist), and even mail letters. Also, alerts will be changing to focus on Senators as the titanic bill passes in the House. Twitter @USARK.

Why does this matter?

The list of ramifications is long but we will summarize. If a species could possibly (not definitely) survive at any location in the U.S. it could be listed as injurious for the entire country. This means an issue for only southern Florida (even if already addressed by the State) will be amplified to impact California, Texas, Illinois, and all other states. A species could be potentially injurious/invasive in 1% of the U.S. and still be listed. This removes authority from state agencies to decide what species should be regulated.

The Lacey Act amendments concealed in the America COMPETES Act would:

Ban the interstate transport of species listed as injurious. This means you could not take a pet with you if you moved to another state or seek specialized veterinary medical care across state lines. All interstate commerce and even educational programs across state lines would be banned. Create a “white list” (this means only those species listed are allowed) of species that can be imported. This means that any animal (reptile, amphibian, fish, bird, mammal) that is not on the white list is by default treated as potentially injurious and is banned from importation. A “white list” creates a much larger de facto banned list (AKA black list). It is assured that the banned list will be much larger than the white list. Essentially, all species will be guilty until proven innocent (and FWS agrees to that innocence). Establish a new authority allowing FWS to use an “emergency designation” that becomes effective immediately after being published in the Federal Register. That means no due process, public input, hearings, advanced notice, etc. for injurious listings. This means that interstate transport could be shut down overnight, without warning, for any species. Since we have previously beheld unreasonable and prejudiced injurious listings, this new emergency designation is beyond disturbing. Permit FWS to not allow importation if a species has not been imported in “minimal quantities” (to be defined) in the year prior to the enactment of this Act. Create immense potential for trickle-down legislation in which individual states ban even the possession of listed species, as we have already witnessed even if an injurious species cannot possibly survive in that state. Taint injurious listings with “look-alike” carryover, as we have seen with Endangered Species Act listings. Species may be listed as injurious simply because they look like other species. Even if they cannot survive in the U.S. climate, they would be labeled as injurious solely due to appearance. Can we really expect an FWS agent to differentiate the hundreds of gecko and cichlid species? More on this bill

COMPETES is an acronym for Creating Opportunities for Manufacturing, Pre-Eminence in Technology and Economic Strength. The purpose being peddled in D.C. for the Act is to strengthen America’s economic and national security. However, hundreds of provisions were added to what began as collaborative policymaking. The completed American COMPETES Act is now a travesty of the legislative process (or lack thereof, in this
The COMPETES Act passed the House on February 4. Once it reaches the Senate, it will be reconciled with the Senate’s U.S. Innovation and Competition Act, or USICA which does not include Lacey Act language. Our voices will need to transition to the Senate at the appropriate time.

Quotes from Rule Committee and House floor hearings on this bill

“I want to just say for the record, this is the most egregious violation of process I have ever seen…”

“This legislation makes several amendments to the Lacey Act. Amendments that were snuck in without so much as a hearing in the Natural Resources Committee… The provisions give blanket authority to the U.S. Fish and Wildlife Services to determine what is an injurious species without any requirement for public input, advanced notice, or comment, dramatically expands Fish and Wildlife Services authority to regulate movement of injurious wildlife within the United States, and makes wildlife importers guilty until proven innocent by requiring imported species to appear on a Fish and Wildlife Service white list or have it treated as injurious by default. These provisions will be detrimental to American industries such as aquaculture which are already highly regulated businesses.”

“This bill gives supreme unilateral authority to the U.S. Fish and Wildlife Service to determine what species can be imported into the U.S. This so-called white list mandated in the bill, it’s virtually impossible to implement and will effectively shut down aquaculture and similar industries who need trade to conduct business. The weaponization of the Lacey Act will only empower bureaucrats and ignores the current state-based approach on species imports. It’s legislative laziness since there have no hearings or even an introduced bill on this topic.”

“What a sneak attack on people that create jobs and create goods for America. These people are good stewards. Good stewards of the land and they are also terrific at animal husbandry. And this is a sneak attack on them trying to drive them out of business.”

These amendments will be devastating to thousands of businesses of all sizes (which is absolutely contrary to the purpose of the COMPETES Act). Millions of pet owners will be harmed by this misuse of the Lacey Act. As seen previously when listing species as injurious under the Lacey Act, a heavy-handed brush is used to paint species as injurious that may only be an issue for one or two states, and hardly any large percentage of the U.S. If one state has a threat, that state can address it. All other states should not suffer the unjust implications and restrictions. The lack of forethought involved makes these amendments rife with unintended consequences and government overreach. Peer-reviewed science has been previously ignored in favor of garbage pseudo-science to artificially validate biased injurious species listings. If these amendments pass, the Lacey Act will leave pet owners everywhere unable to move across state lines with their family pets. This restriction would include prohibitions on interstate travel for veterinary care, for educational programs, and for relocation of family. The impact will be disproportionately felt by military service members, who are often relocated multiple times during a pet’s lifetime. The federal and appellate courts have already decided that a ban on interstate transportation with injurious species is not based on the original intent of Congress, but a gradual overreach by the federal agency. The Court ruling upheld that banning interstate transportation is overreaching and that only the localities, or states, with legitimate range matches should consider regulations regarding these species. Incorporating interstate movements into the Lacey Act will turn law-abiding pet owners into potential criminals. State agencies should decide which species should be regulated on matters including invasive or injurious risks. State borders are already secure from injurious and invasive species as those states have the authority to regulate them. The states should decide which species need to be addressed, not the federal government which must consider all climates zones across the entirety of the U.S. The opportunity for injustice and oppressiveness from this power grab is disturbing. Rather than this knee-jerk reaction, any interstate movement ban or ‘white list/black list’ scenario should include reforms to the injurious listing process, including proof of widespread impact based on sound, peer-reviewed science. The role of the state wildlife agencies should be preserved in matters related to the regulation of wildlife within their borders or through regional agreements. Individual states are best positioned to assess local threats and balance the relative costs and benefits of prohibiting species. These Lacey Act amendments are far-reaching and, frankly, un-American. Please realize that the Lacey Act amendments found within the America COMPETES Act are illogical and unjust. The aquaculture industry alone anticipates losses of nearly half a billion dollars.