

Substitute Amendment

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.**S. 3211**

To continue the whole-of-government approach to ending global wildlife poaching and trafficking by permanently reauthorizing the activities of the Presidential Task Force on Wildlife Trafficking, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. COONS (for himself and Mr. PORTMAN)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eliminate, Neutralize,
5 and Disrupt Wildlife Trafficking Reauthorization and Im-
6 provements Act of 2022”.

7 **SEC. 2. SENSE OF CONGRESS.**

8 It is the sense of Congress that—

9 (1) the United States Government should con-
10 tinue to work with international partners, including

1 nations, nongovernmental organizations, and the pri-
2 vate sector, to identify long-standing and emerging
3 areas of concern in wildlife poaching and trafficking
4 related to global supply and demand; and

5 (2) the activities and required reporting of the
6 Presidential Task Force on Wildlife Trafficking, es-
7 tablished by Executive Order 13648 (78 Fed. Reg.
8 40621), and modified by sections 201 and 301 of
9 the Eliminate, Neutralize, and Disrupt Wildlife
10 Trafficking Act of 2016 (16 U.S.C. 7621 and 7631)
11 should be reauthorized to minimize the disruption of
12 the work of such Task Force.

13 **SEC. 3. DEFINITIONS.**

14 Section 2 of the Eliminate, Neutralize, and Disrupt
15 Wildlife Trafficking Act of 2016 (16 U.S.C. 7601) is
16 amended—

17 (1) in paragraph (3), by inserting “involving
18 local communities” after “approach to conserva-
19 tion”;

20 (2) by amending paragraph to read as follows:

21 “(4) COUNTRY OF CONCERN.—The term ‘coun-
22 try of concern’ means a foreign country specially
23 designated by the Secretary of State pursuant to
24 section 201(b) as a major source of wildlife traf-
25 ficking products or their derivatives, a major transit

1 point of wildlife trafficking products or their deriva-
2 tives, or a major consumer of wildlife trafficking
3 products, in which—

4 “(A) the government has actively engaged
5 in, or knowingly profited from, the trafficking
6 of protected species; or

7 “(B) the government facilitates such traf-
8 ficking through conduct that may include a per-
9 sistent failure to make serious and sustained ef-
10 forts to prevent and prosecute such traf-
11 ficking.”; and

12 (3) in paragraph (11), by striking “section
13 201” and inserting “section 301”.

14 **SEC. 4. FRAMEWORK FOR INTERAGENCY RESPONSE AND**
15 **REPORTING.**

16 (a) REAUTHORIZATION OF REPORT ON MAJOR WILD-
17 LIFE TRAFFICKING COUNTRIES.—Section 201 of the
18 Eliminate, Neutralize, and Disrupt Wildlife Trafficking
19 Act of 2016 (16 U.S.C. 7621) is amended—

20 (1) in subsection (a), by striking “annually
21 thereafter” and inserting “biennially thereafter by
22 June 1 of each year in which a report is required”;
23 and

24 (2) by amending subsection (c) to read as fol-
25 lows:

1 “(c) DESIGNATION.—A country may be designated as
2 a country of concern under subsection (b) regardless of
3 such country’s status as a focus country.”.

4 (b) PRESIDENTIAL TASK FORCE ON WILDLIFE
5 TRAFFICKING RESPONSIBILITIES.—Section 301(a) of the
6 Eliminate, Neutralize, and Disrupt Wildlife Trafficking
7 Act of 2016 (16 U.S.C. 7631(a)) is amended—

8 (1) in paragraph (4), by striking “and” at the
9 end;

10 (2) by redesignating paragraph (5) as para-
11 graph (10); and

12 (3) by inserting after paragraph (4) the fol-
13 lowing:

14 “(5) pursue programs and develop a strategy—

15 “(A) to expand the role of technology for
16 anti-poaching and anti-trafficking efforts, in
17 partnership with the private sector, foreign gov-
18 ernments, academia, and nongovernmental or-
19 ganizations (including technology companies
20 and the transportation and logistics sectors);
21 and

22 “(B) to enable local governments to de-
23 velop and use such technologies;

24 “(6) consider programs and initiatives that ad-
25 dress the expansion of the illegal wildlife trade to

1 digital platforms, including the use of digital cur-
2 rency and payment platforms for transactions by
3 collaborating with the private sector, academia, and
4 nongovernmental organizations, including social
5 media, e-commerce, and search engine companies, as
6 appropriate;

7 “(7)(A) establish and publish a procedure for
8 removing from the list in the biennial report any
9 country of concern that no longer meets the defini-
10 tion of country of concern under section 2(4);

11 “(B) include details about such procedure in
12 the next report required under section 201;

13 “(8)(A) implement interventions to address the
14 drivers of poaching, trafficking, and demand for ille-
15 gal wildlife and wildlife products in focus countries
16 and countries of concern;

17 “(B) set benchmarks for measuring the effec-
18 tiveness of such interventions; and

19 “(C) consider alignment and coordination with
20 indicators developed by the Task Force;

21 “(9) consider additional opportunities to in-
22 crease coordination between law enforcement and fi-
23 nancial institutions to identify trafficking activity;
24 and”.

1 (c) PRESIDENTIAL TASK FORCE ON WILDLIFE
2 TRAFFICKING STRATEGIC REVIEW.—Section 301 of the
3 Eliminate, Neutralize, and Disrupt Wildlife Trafficking
4 Act of 2016 (16 U.S.C. 7631), as amended by subsection
5 (b), is further amended—

6 (1) in subsection (d)—

7 (A) in the matter preceding paragraph (1),
8 by striking “annually” and inserting “bienni-
9 ally”;

10 (B) in paragraph (4), by striking “and” at
11 the end;

12 (C) in paragraph (5), by striking the pe-
13 riod at the end and inserting “; and”; and

14 (D) by adding at the end the following:

15 “(6) an analysis of the indicators developed by
16 the Task Force, and recommended by the Govern-
17 ment Accountability Office, to track and measure in-
18 puts, outputs, law enforcement outcomes, and the
19 market for wildlife products for each focus country
20 listed in the report, including baseline measures, as
21 appropriate, for each indicator in each focus country
22 to determine the effectiveness and appropriateness
23 of such indicators to assess progress and whether
24 additional or separate indicators, or adjustments to

1 indicators, may be necessary for focus countries.”;

2 and

3 (2) by striking subsection (e).

4 **SEC. 5. FUNDING SAFEGUARDS.**

5 (a) PROCEDURES FOR OBTAINING CREDIBLE INFOR-
6 MATION.—Section 620M(d) of the Foreign Assistance Act
7 of 1961 (22 U.S.C. 2378d(d)) is amended—

8 (1) by redesignating paragraphs (4), (5), (6),
9 and (7) as paragraphs (5), (6), (7), and (8), respec-
10 tively; and

11 (2) by inserting after paragraph (3) the fol-
12 lowing:

13 “(4) routinely request and obtain such informa-
14 tion from the United States Agency for Inter-
15 national Development, the United States Fish and
16 Wildlife Service, and other relevant Federal agencies
17 that partner with international nongovernmental
18 conservation groups;”.

19 (b) REQUIRED IMPLEMENTATION.—The Secretary of
20 State shall implement the procedures established pursuant
21 to section 620M(d) of the Foreign Assistance Act of 1961,
22 as amended by subsection (a), including vetting individ-
23 uals and units, whenever the United States Agency for
24 International Development, the United States Fish and
25 Wildlife Service, or any other relevant Federal agency that

1 partners with international nongovernmental conservation
2 groups provides assistance to any unit of the security
3 forces of a foreign country.

4 **SEC. 6. ISSUANCE OF SUBPOENAS IN WILDLIFE TRAF-**
5 **FICKING CIVIL PENALTY ENFORCEMENT AC-**
6 **TIONS.**

7 Section 3 of the Fish and Wildlife Improvement Act
8 of 1978 (16 U.S.C. 742*l*) is amended by adding at the
9 end the following:

10 “(1) ADMINISTRATIVE SUBPOENA AUTHORITY.—

11 “(1) ENDANGERED SPECIES ACT OF 1973.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graphs (B) through (D), the Secretary of the
14 Interior, working through the U.S. Fish and
15 Wildlife Service, is authorized to issue sub-
16 poenas when enforcing the Endangered Species
17 Act of 1973 (16 U.S.C. 1540).

18 “(B) MATTERS COVERED.—In carrying out
19 any inspection or investigation relating to the
20 import into, or the export from, the United
21 States of any fish or wildlife or plants covered
22 under the Endangered Species Act of 1973 or
23 relating to the delivery, receipt, carrying, trans-
24 port, shipment, sale, or offer for sale in inter-
25 state or foreign commerce of any such fish or

1 wildlife or plants imported into or exported
2 from the United States, the Secretary of the In-
3 terior may issue subpoenas for the attendance
4 and testimony of witnesses and the production
5 of any papers, books, or other records relevant
6 to the subject matter under investigation.

7 “(C) FEES AND MILEAGE REIMBURSE-
8 MENT FOR WITNESSES.—A witness summoned
9 under subparagraph (B) shall be paid the same
10 fees and mileage reimbursement rate that are
11 paid to witnesses in the courts of the United
12 States.

13 “(D) REFUSAL TO OBEY SUBPOENAS.—

14 “(i) IN GENERAL.—In the case of a
15 contumacy or refusal to obey a subpoena
16 served on any person pursuant to this
17 paragraph, the district court of the United
18 States for any judicial district in which the
19 person is found, resides, or transacts busi-
20 ness, on application by the United States
21 and after notice to that person, shall have
22 jurisdiction to issue an order requiring
23 that person to appear and give testimony
24 before the Secretary of the Interior, to ap-

1 pear and produce documents before the
2 Secretary of the Interior, or both.

3 “(ii) FAILURE TO OBEY.—Any failure
4 to obey an order issued by a court under
5 this paragraph may be punished by that
6 court as a contempt of that court.

7 “(2) LACEY ACT OF 1900.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graphs (B) through (D), the Secretary of the
10 Interior, working through the U.S. Fish and
11 Wildlife Service, is authorized to issue sub-
12 poenas when enforcing the Lacey Act of 1900
13 (16 U.S.C. 3371 et seq.).

14 “(B) MATTERS COVERED.—In carrying out
15 any inspection or investigation relating to the
16 import into, or the export from, the United
17 States of any fish or wildlife or plants covered
18 under the Lacey Act of 1900 or relating to the
19 transport, sale, receipt, acquisition, or purchase
20 in interstate or foreign commerce of any such
21 fish or wildlife or plants imported into or ex-
22 ported from the United States, the Secretary of
23 the Interior may issue subpoenas for the at-
24 tendance and testimony of witnesses and the
25 production of any papers, books, or other

1 records relevant to the subject matter under in-
2 vestigation.

3 “(C) FEES AND MILEAGE REIMBURSE-
4 MENT FOR WITNESSES.—A witness summoned
5 under subparagraph (B) shall be paid the same
6 fees and mileage reimbursement that are paid
7 to witnesses in the courts of the United States.

8 “(D) REFUSAL TO OBEY SUBPOENAS.—

9 “(i) IN GENERAL.—In the case of a
10 contumacy or refusal to obey a subpoena
11 served on any person pursuant to this
12 paragraph, the district court of the United
13 States for any judicial district in which the
14 person is found, resides, or transacts busi-
15 ness, on application by the United States
16 and after notice to that person, shall have
17 jurisdiction to issue an order requiring
18 that person to appear and give testimony
19 before the Secretary of the Interior, to ap-
20 pear and produce documents before the
21 Secretary of the Interior, or both.

22 “(ii) FAILURE TO OBEY.—Any failure
23 to obey an order issued by a court pursu-
24 ant to this paragraph may be punished by
25 that court as a contempt of that court.

1 “(3) BALD AND GOLDEN EAGLE PROTECTION
2 ACT.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graphs (B) through (D), the Secretary of the
5 Interior, working through the U.S. Fish and
6 Wildlife Service, is authorized to issue sub-
7 poenas when enforcing the Act of June 8, 1940
8 (16 U.S.C. 668 et seq.) (commonly known as
9 the ‘Bald and Golden Eagle Protection Act’).

10 “(B) MATTERS COVERED.—In carrying out
11 any inspection or investigation relating to the
12 import into or the export from the United
13 States of any bald or golden eagles covered
14 under the Act of June 8, 1940 (16 U.S.C. 668
15 et seq.), or any parts, nests, or eggs of any
16 such bald or golden eagles, and for purposes of
17 any hearing held during proceedings for the as-
18 sessment of civil penalties under subsection (b)
19 of the first section of such Act (16 U.S.C.
20 668(b)), the Secretary of the Interior may issue
21 subpoenas for the attendance and testimony of
22 witnesses and the production of papers, books,
23 and or other records relevant to the subject
24 matter under investigation, and may administer
25 oaths.

1 “(C) FEES AND MILEAGE REIMBURSE-
2 MENT FOR WITNESSES.—A witness summoned
3 pursuant to subparagraph (B) shall be paid the
4 same fees and mileage reimbursement that are
5 paid to witnesses in the courts of the United
6 States.

7 “(D) REFUSAL TO OBEY SUBPOENAS.—

8 “(i) IN GENERAL.—In the case of a
9 contumacy or refusal to obey a subpoena
10 served on any person pursuant to this
11 paragraph, the district court of the United
12 States for any judicial district in which the
13 person is found, resides, or transacts busi-
14 ness, on application by the United States
15 and after notice to that person, shall have
16 jurisdiction to issue an order requiring
17 that person to appear and give testimony
18 before the Secretary of the Interior, to ap-
19 pear and produce documents before the
20 Secretary of the Interior, or both.

21 “(ii) FAILURE TO OBEY.—Any failure
22 to obey an order issued by a court under
23 this paragraph may be punished by that
24 court as a contempt of that court.”.