

HR 4075 EAS

In the Senate of the United States,

December 6, 2006.

Resolved, That the bill from the House of Representatives (H.R. 4075) entitled ‘An Act to amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes.’, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘United States-Russia Polar Bear Conservation and Management Act of 2006’.

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) IN GENERAL- The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end thereof the following:

‘TITLE V--POLAR BEARS

‘SEC. 501. DEFINITIONS.

‘In this title:

‘(1) AGREEMENT- The term ‘Agreement’ means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

‘(2) ALASKA NANUUQ COMMISSION- The term ‘Alaska Nanuuq Commission’ means the Alaska Native entity, in existence on the date of enactment of the United States-Russia Polar Bear Conservation and Management Act of 2006, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

‘(3) IMPORT- The term ‘import’ means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

‘(4) POLAR BEAR PART OR PRODUCT- The term ‘part or product of a polar bear’ means any polar bear part or product, including the gall bile and gall bladder.

‘(5) SECRETARY- The term ‘Secretary’ means the Secretary of the Interior.

‘(6) TAKING- The term ‘taking’ has the meaning given the term in the Agreement.

‘(7) COMMISSION- The term ‘Commission’ means the commission established under article 8 of the Agreement.

‘SEC. 502. PROHIBITIONS.

‘(a) In General- It is unlawful for any person who is subject to the jurisdiction of the United States or any person in waters or on lands under the jurisdiction of the United States--

‘(1) to take any polar bear in violation of the Agreement;

‘(2) to take any polar bear in violation of the Agreement or any annual taking limit or other restriction on the taking of polar bears that is adopted by the Commission pursuant to the Agreement;

‘(3) to import, export, possess, transport, sell, receive, acquire, or purchase, exchange, barter, or offer to sell, purchase, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of paragraph (2);

‘(4) to import, export, sell, purchase, exchange, barter, or offer to sell, purchase, exchange, or barter, any polar bear gall bile or polar bear gall bladder;

‘(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

‘(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

‘(b) EXCEPTIONS- For the purpose of forensic testing or any other law enforcement purpose, the Secretary, and Federal law enforcement officials, and any State or local law enforcement official authorized by the Secretary, may import a polar bear or any part or product of a polar bear.

‘SEC. 503. ADMINISTRATION.

‘(a) IN GENERAL- The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement.

‘(b) Utilization of Other Government Resources and Authorities-

‘(1) OTHER GOVERNMENT RESOURCES- The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this title or the Agreement.

‘(2) OTHER POWERS AND AUTHORITIES- Any person authorized by the Secretary under this subsection to enforce this title or the Agreement shall have the authorities that are enumerated in section 6(b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)).

‘(c) Ensuring Compliance-

‘(1) TITLE I AUTHORITIES- The Secretary may use authorities granted under title I for enforcement, imposition of penalties, and the seizure of cargo for violations under this title, provided that any polar bear or any part or product of a polar bear taken, imported, exported, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered, or offered for sale, purchase, exchange, or barter in violation of this title, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution under this Act.

‘(2) ADDITIONAL AUTHORITIES- Any gun, trap, net, or other equipment used, and any vessel, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this title shall be subject to seizure and forfeiture under section 106.

‘(d) Regulations-

‘(1) IN GENERAL- The Secretary shall promulgate such regulations as are necessary to carry out this title and the Agreement.

‘(2) ORDINANCES AND REGULATIONS- If necessary to carry out this title and the Agreement, and to improve compliance with any annual taking limit or other restriction on taking adopted by the Commission and implemented by the Secretary in accordance with this title, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuuq Commission.

‘SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AUTHORITY TO DELEGATE ENFORCEMENT AUTHORITY.

‘(a) IN GENERAL- The Secretary, acting through the Director of the United States Fish and Wildlife Service, may share authority under this title for the management of the taking of polar bears for subsistence purposes with the Alaska Nanuuq Commission if such commission is eligible under subsection (b).

‘(b) DELEGATION- To be eligible for the management authority described in subsection (a), the Alaska Nanuuq Commission shall--

‘(1) enter into a cooperative agreement with the Secretary under section 119 for the conservation of polar bears;

‘(2) meaningfully monitor compliance with this title and the Agreement by Alaska Natives; and

‘(3) administer its co-management program for polar bears in accordance with--

‘(A) this title; and

‘(B) the Agreement.

‘SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION, TRAVEL EXPENSES, AND CLAIMS.

‘(a) Appointment of U.S. Commissioners-

‘(1) APPOINTMENT- The United States commissioners on the Commission shall be appointed by the President, in accordance with paragraph 2 of article 8 of the Agreement, after taking into consideration the recommendations of--

‘(A) the Secretary;

‘(B) the Secretary of State; and

‘(C) the Alaska Nanuuq Commission.

‘(2) QUALIFICATIONS- With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement--

‘(A) 1 United States commissioner shall be an official of the Federal Government;

‘(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and

‘(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

‘(3) SERVICE AND TERM- Each United States commissioner shall serve--

‘(A) at the pleasure of the President; and

‘(B) for an initial 4-year term and such additional terms as the President shall

determine.

‘(4) VACANCIES-

‘(A) IN GENERAL- Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

‘(B) MANNER- Any vacancy on the Commission shall be filled in the same manner as the original appointment.

‘(b) Alternate Commissioners-

‘(1) IN GENERAL- The Secretary, in consultation with the Secretary of State and the Alaska Nanuuq Commission, shall designate an alternate commissioner for each member of the United States section.

‘(2) DUTIES- In the absence of a United States commissioner, an alternate commissioner may exercise all functions of the United States commissioner at any meetings of the Commission or of the United States section.

‘(3) REAPPOINTMENT- An alternate commissioner--

‘(A) shall be eligible for reappointment by the President; and

‘(B) may attend all meetings of the United States section.

‘(c) DUTIES- The members of the United States section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this title and the Agreement.

‘(d) Compensation and Expenses-

‘(1) COMPENSATION- A member of the United States section shall serve without compensation.

‘(2) TRAVEL EXPENSES- A member of the United States section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

‘(e) AGENCY DESIGNATION- The United States section shall, for the purpose of title 28, United States Code, relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

‘SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION ON MATTERS BEFORE THE COMMISSION.

‘In accordance with paragraph 3 of article 8 of the Agreement, the United States section, made up of commissioners appointed by the President, shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the United States commissioners regarding the vote.

‘SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE COMMISSION.

‘(a) IN GENERAL- The Secretary shall take all necessary actions to implement the decisions and determinations of the Commission under paragraph 7 of article 8 of the Agreement.

‘(b) TAKING LIMITATION- Not later than 60 days after the date on which the Secretary receives notice of the determination of the Commission of an annual taking limit, or of the adoption by the Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

‘SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.

‘(a) IN GENERAL- The authority of the Secretary under this title is in addition to, and shall not affect--

‘(1) the authority of the Secretary under the other titles of this Act or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 101(b) of this Act as applied to other marine mammal populations; or

‘(2) the authorities provided under title II of this Act.

‘(b) CERTAIN PROVISIONS INAPPLICABLE- The provisions of titles I through IV of this Act do not apply with respect to the implementation or administration of this title, except as specified in section 503.

‘SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

‘(a) IN GENERAL- There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this title and the Agreement \$1,000,000 for each of fiscal years 2006 through 2010.

‘(b) COMMISSION- There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section \$150,000 for each of fiscal years 2006 through 2010.

‘(c) ALASKAN COOPERATIVE MANAGEMENT PROGRAM- There are authorized to be appropriated to the Secretary to carry out this title and the Agreement in Alaska \$150,000 for

each of fiscal years 2006 through 2010.’.

(b) CLERICAL AMENDMENT- The table of contents in the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

‘TITLE V--POLAR BEARS

‘Sec. 501. Definitions.

‘Sec. 502. Prohibitions.

‘Sec. 503. Administration.

‘Sec. 504. Cooperative management agreement; authority to delegate enforcement authority.

‘Sec. 505. Commission appointments; compensation, travel expenses, and claims.

‘Sec. 506. Votes taken by the United States Section on matters before the Commission.

‘Sec. 507. Implementation of actions taken by the Commission.

‘Sec. 508. Application with other titles of Act.

‘Sec. 509. Authorization of appropriations.’.

(c) TREATMENT OF CONTAINERS- Section 107(d)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1377(d)(2)) is amended by striking ‘vessel or other conveyance’ each place it appears and inserting ‘vessel, other conveyance, or container’.

Amend the title so as to read ‘An Act to amend the Marine Mammal Protection Act of 1972 in order to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population.’.

Attest:

Secretary.

109th CONGRESS

2d Session

H. R. 4075

AMENDMENTS