

Testimony of Rep. Jim Cooper
House Natural Resources Committee
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
May 8, 2012

Chairman Fleming and Ranking Member Sablan, thank you for allowing me to testify to you today regarding H.R. 3210, the RELIEF Act.

The bipartisan legislation that my Republican colleagues, Mary Bono Mack and Marsha Blackburn, and I have introduced is really very simple, although the details of Lacey Act issues can be extremely complex. Our legislation tries to correct several mistakes that we think Congress made in 2008 when it passed the latest amendments to the century-old Lacey Act. We are not trying to undermine the Lacey Act or other environmental protections, only to reduce the unintended consequences of the 2008 amendments. Many members did not notice the 2008 drafting errors because the Lacey amendments were a minor part of the farm bill that year.

The following are our three legislative goals, which have broad bipartisan support:

1. Rare wood products such as guitars that were purchased prior to May 22, 2008 should be grandfathered so that musicians do not have to fear owning them. They were purchased innocently, and their owners should not be punished retroactively. This is particularly important because, due to interaction with a 2000 law involving drug dealers, musicians cannot claim the innocent owner defense, and do not even have the right to file a complaint if the government confiscates their instruments. A government taking is combined with a gag order.
2. Keep in place the Lacey Act ban on the importation of endangered wood and plant products after May 22, 2008. We support the *prospective* nature of the Lacey Act because we are against illegal logging. We want to preserve rare trees and plants so that future generations have the chance to enjoy and benefit from them. Our bill is not a broad overhaul of the Lacey Act, but a small surgical fix. It is based on the belief that the Lacey Act is working, but requires a clarification to ensure musicians can keep their guitars. Some have argued that this can be accomplished through regulation, not legislation. For years, we have waited for agency regulators to clarify the 2008 amendments. They haven't. We should not delay any longer when Congress can pursue a legislative course of action to help musicians and small business owners.
3. Streamline the importation of legal goods. There are countless wood and plant products that can be harvested abroad in an environmentally sustainable fashion. U.S. firms that depend on such supplies should not face needless hassles in importing those products. Likewise, a store owner who *unknowingly* imports a guitar made from illegal wood shouldn't be penalized the first time. But those

firms and individuals that knowingly violate U.S. laws on importing endangered species should be severely punished.

There has been a lot of unnecessary confusion involving our attempts to improve the Lacey Act. For example, there is a pending investigation of a company located in my congressional district, Gibson, which has received a great deal of publicity. Our legislation does not affect that case, or any other pending investigation. Months before the latest Gibson investigation, a very prominent Nashville musician, Vince Gill, had been quoted in *Newsweek* magazine pointing out the risks he took in traveling with his old guitar to perform in concerts. Helping musicians like Vince Gill and Ricky Skaggs is the primary impetus of our legislation because all Americans have the constitutional right to travel. Musicians are denied that right if they cannot travel with their old instruments.

Another bit of confusion comes from American distaste for foreign law. H.R. 4171, the FOCUS Act, makes a strong ideological statement but does nothing to protect musicians or other owners of pre-2008 products. It eliminates criminal penalties for violation of any foreign law with regard to the Lacey Act, which harms efforts to curb illegal logging. Our bill does not require that we obey foreign law but treats it as data to be included in an accessible database to streamline the importation process and help ensure compliance. U.S. agencies retain the discretion to state the requirements that U.S. importers and owners must follow.

Mr. Chairman, I ask you to help us change the unintended consequences of the 2008 Lacey Act amendments. Without your help not only are musicians and music stores in jeopardy, but other legitimate businesses such as antique dealers and lumber importers. We can help these innocent people without harming the worthy environmental goals of the Lacey Act. We can have healthy forests *and* legal guitars.

Mr. Chairman, there are many technical details in our legislation but all you need to know is that we did not draft our bill in haste or without input from interested groups. We were guided by the three Consensus Statements that were issued from 2009 to 2011 by all interested stakeholders, from retailers, to musicians, to domestic hardwood groups, to environmental organizations. You see, Mr. Chairman, almost immediately after the 2008 Lacey Act amendments were passed, most people realized that the amendments were deeply flawed. They immediately set to work on a collegial basis to identify and solve those problems by issuing Consensus Statements signed by all the parties. There is no more helpful legislative guide than the commendable volunteer efforts behind these Consensus Statements, which we did our best to embody in our bill, H.R. 3210, the RELIEF Act.

Thank you again, Mr. Chairman and Ranking Member Sablan, and I look forward to any questions you may have.