H.R. 7157

To amend the Lacey Act Amendments of 1981 to ensure fair enforcement of such Act.

IN THE HOUSE OF REPRESENTATIVES

Mr. Duarte introduced the following bill; which was referred to the Committee on

A BILL

To amend the Lacey Act Amendments of 1981 to ensure fair enforcement of such Act.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Strengthen Wood Product Supply Chains Act”.

4 SEC. 2. FAIR ENFORCEMENT OF LACEY ACT AMENDMENTS

5 OF 1981.

6 Section 6 of the Lacey Act Amendments of 1981 (16 U.S.C. 3375) is amended—
(1) by redesignating subsections (c) and (d) as
subsections (d) and (e), respectively; and
(2) by inserting after subsection (b) the fol-
lowing:
"(c) MERCHANDISE DETAINED FOR INSPECTION.—
"(1) IN GENERAL.—If a person authorized
under subsection (a) to enforce this Act detains mer-
chandise under this section, the Secretary shall, not
later than 5 days after the date on which such de-
tention is initiated—
"(A) issue to the importer of such detained
merchandise a notice of detention; or
"(B) release to such importer the detained
merchandise.
"(2) NOTICE OF DETENTION.—A notice of de-
tention described in paragraph (1)(A) shall include
the following:
"(A) A statement of the initiation of the
detention, including the date on which the de-
tained merchandise was detained for inspection.
"(B) A specific reason for the detention.
"(C) The anticipated length of the deten-
tion.
“(D) A description of the tests or inquiries the Secretary will conduct with regard to the detained merchandise.

“(E) A description of information, if any, that, if supplied to the Secretary, may accelerate the disposition of the detention.

“(3) TRANSPORTATION OF DETAINED MERCHANDISE TO OTHER LOCATION.—Not later than 10 days after the date on which the Secretary issues a notice of detention under paragraph (1) for detained merchandise, the Secretary shall allow the importer of such detained merchandise to transport such detained merchandise to a location that is not under the control of the United States if—

“(A) the importer—

“(i) requests the transfer;

“(ii) pays all demurrage and storage fees associated with the detained merchandise; and

“(iii) provides a bond for removal from the custody of the United States; and

“(B) the Secretary determines that such transportation will not frustrate the intent of this Act.
"(4) REPLICATION OF TESTS.—If the Secretary conducts tests on detained merchandise, the Secretary shall provide the importer of such detained merchandise with—

"(A) the results of such tests; and

"(B) information sufficient for the importer to replicate such tests.

"(5) RELEASE OR SEIZURE.—

"(A) IN GENERAL.—Not later than 30 days after the date on which merchandise is detained for inspection under this section, the Secretary shall—

"(i) release such detained merchandise to the importer of such detained merchandise; or

"(ii) seize such detained merchandise and issue a notification to the importer of such detained merchandise that such detained merchandise has been seized.

"(B) FAILURE TO RELEASE OR SEIZE.—If the Secretary fails to release or seize detained merchandise under subparagraph (A) within the time period described in that subparagraph, such failure shall be deemed a seizure under subparagraph (A)(ii).
"(6) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—An importer of detained merchandise may submit to the Secretary a request for administrative review of a seizure or deemed seizure of such detained merchandise under subparagraph (A)(ii) or (B) of paragraph (5), respectively.

"(B) DISPOSITION OF REQUEST.—Not later than 30 days after the date on which a request for administrative review is submitted by an importer under subparagraph (A), the Secretary shall—

"(i) release to such importer the detained merchandise that is the subject of such request; or

"(ii) affirm the seizure or deemed seizure under subparagraph (A)(ii) or (B) of paragraph (5), respectively, that is the subject of such request.

"(C) ELIGIBILITY TO FILE CLAIM.—If the Secretary, pursuant to a request for administrative review submitted by an importer of detained merchandise under subparagraph (A)—
“(i) affirms the seizure or deemed seizure of such detained merchandise under subparagraph (B)(ii); or

“(ii) fails to release or affirm the seizure or deemed seizure of such detained merchandise under clause (i) or (ii) of subparagraph (B), respectively, within the time period described in subparagraph (B); the importer that submitted such request may file a claim for relief in the appropriate district court of the United States.

“(7) COURT PROCEEDINGS.—In a claim filed under paragraph (6)(C)(ii), the court shall grant appropriate relief to the importer of detained merchandise that filed such claim, which may include an order to release such detained merchandise to such importer, unless the Secretary establishes by a preponderance of the evidence that an admissibility decision with respect to such detained merchandise has not been reached for good cause.

“(8) DEFINITIONS.—In this subsection:

“(A) DETAINED MERCHANDISE.—The term ‘detained merchandise’ means merchandise that is detained for inspection under this section.
"(B) MERCHANDISE.—The term 'merchandise' means any fish or wildlife or plant imported for sale."