

Subcommittee on Federal Lands

Tom McClintock, Chairman
Hearing Memorandum

June 13, 2017

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff – Brandon Miller
Subcommittee Federal Lands (x 6-7736)

Hearing: Legislative hearing on a **Discussion Draft of H.R. ___ (Rep. Jeff Duncan)**, To provide for the preservation of sportsmen’s heritage and enhance recreation opportunities on Federal land, and for other purposes.
June 14, 2017 at 10:00 A.M.; 1324 Longworth HOB

Discussion Draft of HR. _____ (Rep. Jeff Duncan), “*Sportsmen's Heritage and Recreational Enhancement Act*” or the “*SHARE Act*”

Bill Summary

The Discussion Draft of H.R._____, introduced by Rep. Jeff Duncan (R-SC-03), “*Sportsmen's Heritage and Recreational Enhancement Act*” (*SHARE Act*), includes eighteen provisions that increase opportunities for hunters, anglers, and recreational shooters; eliminate regulatory impediments and safeguard against new regulations that impede outdoor sporting activities; and protect Second Amendment rights.

Similar packages passed with bipartisan support in the 112th, 113th, and 114th Congresses. H.R. 2406, introduced in the 114th Congress by Rep. Wittman (R-VA-01), included many of the same or similar provisions as the *SHARE Act* and passed the House on February 26, 2016 by a bipartisan vote of 242-161, but did not receive Senate action.

Invited Witnesses (in alphabetical order):

Mr. David Chipman
Senior Policy Advisor
Americans for Responsible Solutions

Mr. Jeff Crane
President
Congressional Sportsmen’s Foundation
Washington, D.C

Mr. Rob Keck
Director of Conservation
Bass Pro Shops
Edgerfield, South Carolina

Mr. Jason Ouimet
Director of Federal Affairs
National Rifle Association Institute for Legislative Action (NRA-ILA)
Washington, D.C

Background

The *SHARE Act* aims to guarantee future generations ample access to federal lands to hunt, fish, and shoot. Reliable access not only sustains our nation's rich outdoor sporting tradition heritage, it significantly benefits the men and women that make up the industries that support it. The bill also protects Second Amendment rights, the use of traditional ammunition and fishing tackle, and eliminates red tape associated with the importation of hunting trophies.

Outdoor sporting activities, including hunting, fishing, and recreational shooting, are deeply engrained in the fabric of America's culture and heritage. Values instilled by partaking in these activities are passed down from generation to generation and continue to grow in popularity every year. In 2011, over 37 million people over the age of 16 hunted or fished in the U.S.¹ Outdoor sporting activities are also a major economic driver, contributing over \$90 billion to the U.S. economy in 2011.²

Much of this activity occurs on America's federal lands. Unfortunately, federal agencies like the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) often prevent or impede access to federal lands for hunting, fishing, and recreational shooting that should otherwise be available for those activities. Reliable public access to our nation's federal lands must remain a priority to ensure the steady and continuous participation of sportsmen and women in traditional outdoor sporting activities.

Section by Section

TITLE I—FISHING PROTECTION ACT

- Makes permanent the existing exemption from Environmental Protection Agency regulation under the Toxic Substances Control Act for lead shot and adds lead tackle to the list of exempted products.
- Prevents the Departments of the Interior and Agriculture from regulating the use of ammunition and fishing tackle based on lead content if such use is in compliance with State law, except for the existing prohibition of lead used in waterfowl hunting.

TITLE II—TARGET PRACTICE AND MARKSMANSHIP TRAINING SUPPORT ACT

- Extends and increases states' authority to allocate Pittman-Robertson Act funding for shooting ranges on public lands and encourages federal land management agencies to cooperate with state and local governments to maintain recreational shooting ranges.

¹ [America's Sporting Heritage: Fueling the American Economy](#). Congressional Sportsmen's Foundation. 2013.

² *Id.*

- Shields the United States from any civil action or claim for monetary damages for injury to or loss of property, personal injury, or death caused by an activity occurring at a public target range funded by the federal government pursuant to such Act or located on federal land, except to the extent provided under the Federal Tort Claims Act.
- Urges the Chief of USFS and the Director of BLM to cooperate with state and local authorities and other entities to implement waste removal and other practices on federal land used as a public target range to encourage its continued use for target practice or marksmanship training.

TITLE III—RECREATIONAL LANDS SELF-DEFENSE ACT

- Authorizes the lawful possession of firearms pursuant to state law on lands managed by the U.S. Army Corps of Engineers (Corps) as part of a water resource development project, in order to provide law-abiding gun owners more access to carry firearms on land managed by the Corps.

TITLE IV—WILDLIFE AND HUNTING HERITAGE CONSERVATION COUNCIL ADVISORY COMMITTEE

- Amends the Fish and Wildlife Coordination Act to establish the Wildlife and Hunting Heritage Conservation Council Advisory Committee to advise the Secretaries of the Interior and Agriculture on wildlife and habitat conservation, hunting, and recreational shooting.
- Stipulates the membership of the council, including discretionary and ex officio members, terms of members and Chairperson, pay for services and reimbursement for travel and lodging, frequency and nature of meetings, and the establishment of subgroups.
- Eliminates the existing Wildlife and Hunting Heritage Conservation Council.

TITLE V—RECREATIONAL FISHING AND HUNTING HERITAGE OPPORTUNITIES ACT

- Requires BLM and USFS lands to be open for recreational hunting, fishing, and shooting unless specifically closed. National Park Service (NPS) units and Fish and Wildlife Service (FWS) Refuges remain exempt from this provision and the BLM or Forest Service retain authority to implement restrictions when needed.
- Revises the FWS ‘Strategic Growth Policy’ to require the consideration of priority public uses such as hunting and fishing when adding new lands to National Wildlife Refuge System.
- Provides for the use of volunteers from the hunting community to cull excess animals on BLM, USFS, FWS, and NPS lands.

TITLE VI—FARMER AND HUNTER PROTECTION ACT

- Authorizes U.S. Department of Agriculture (USDA) state extension offices to determine “normal agricultural practices” in order to help remedy situations in which the FWS interpreted the Migratory Bird Treaty Act to include hunting of migratory birds on rolled rice fields as illegal baiting.

- Aims to set criteria of what constitutes “normal agricultural practices” by having the FWS refer to local USDA extension offices for the determination.

TITLE VII—TRANSPORTING BOWS ACROSS NATIONAL PARK SERVICE LANDS

- Authorizes the lawful transportation of bows and crossbows through NPS units as long as they are not ready for immediate use and remain inside the vehicle during the time they are transported.
- Allows NPS to establish hunter access corridors within National Park System units, in consultation with states, and close corridors for reasons of public safety, administration, or compliance with applicable law.

TITLE VIII—RESPECT FOR TREATIES AND RIGHTS

- Prevents the bill from modifying treaties and rights of federally recognized Indian tribes.

TITLE IX—STATE APPROVAL OF FISHING RESTRICTION

- Requires the Department of the Interior and the National Oceanic and Atmospheric Administration to obtain approval from the relevant fish and wildlife management agency of a state or territory before restricting fishing access to state or territorial marine waters (including coastal waters and estuaries) or Great Lakes waters within the jurisdiction of NPS or the Office of National Marine Sanctuaries.

TITLE X—OPEN BOOK ON EQUAL ACCESS TO JUSTICE

- Amends the Equal Access to Justice Act and the federal judicial code to require the Administrative Conference of the United States to make an initial report on the amount of fees and other expenses awarded to non-federal entities when they prevail against the United States in certain administrative proceedings and civil action cases.
- Requires the Conference to report on those fees and expenses for the next six years after the initial report submission.
- Directs that the database must be maintained until a year after the final report submission.

TITLE XI—GOOD SAMARITAN SEARCH AND RECOVERY

- Requires the Secretary of the Interior and the Secretary of Agriculture to develop and implement a process to expedite access to Federal lands for eligible organizations and individuals to conduct good Samaritan search and recovery missions.

TITLE XII—INTERSTATE TRANSPORTATION OF FIREARMS OR AMMUNITION

- Clarifies that the transportation of both firearms and ammunition is federally protected.
- Expands the protections afforded to travelers to include staying in temporary lodging overnight, stopping for food, fuel, vehicle maintenance, an emergency, medical treatment, and any other activity incidental to the trip.

- Places the burden of proof clearly on the state to show that the traveler failed to comply with the provisions of this title.

TITLE XIII—MISCELLANEOUS PROVISIONS

- Withdraws the existing “Alaska; Hunting and Trapping in National Preserves” rule issued by the National Park Service.
- Under the Obama administration, a National Park Service regulation was finalized taking wildlife management authority away from the State of Alaska on National Preserves.
- Under the Alaska Statehood Act and the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), the State of Alaska is granted sole authority and responsibility for all wildlife management on all private, state, and federal lands in Alaska, including on National Preserves.
- The regulation from the NPS directly violates the Statehood Act and ANILCA by transferring management authority from the State of Alaska to the Federal government. Thus the repeal of these regulations is based on jurisdictional grounds. The NPS broke the law by issuing the rule.
- There are 20 million acres of national preserves in Alaska impacted by the National Park Service rule. If this rule goes unchallenged, it could have implications for all states.

TITLE XIV—POLAR BEAR CONSERVATION AND FAIRNESS ACT

- Amends the Marine Mammal Protection Act of 1972 to enable the Secretary of the Interior to authorize import permits of 41 Polar Bears legally harvested from approved populations in Canada before the listing of the polar bear as threatened under the Endangered Species Act (ESA) in 2008.
- Specifies that the provision applies to any person who submits proof that the polar bear was legally harvested before February 18, 1997 or submitted, before May 15, 2008, proof the polar bear was legally harvested before May 15, 2008, from a polar bear population from which a sport-hunted trophy could be imported before that date in accordance with federal regulations.

TITLE XV—NORTH AMERICAN WETLANDS CONSERVATION EXTENSION

Authorizes the North American Wetlands Conservation Act grant program for 7 years at \$38.1 million. NAWCA is a voluntary-based competitive matching grant program that leverages non-federal to federal funds in excess of a 2:1 ratio to protect, restore, and manage wetlands and associated habitats for migratory birds and other wildlife.

- Prohibits the funds appropriated under this reauthorization from being used by the Secretary to acquire land on behalf of the United States.

TITLE XVI—GRAY WOLF

- Requires the Department of the Interior reissue the final rules delisting the gray wolf in both Wyoming and the Greater Lakes region from the Endangered and Threatened Species list.

TITLE XVII—HEARING PROTECTION

- Includes several provisions to reduce hearing damage for sportsmen and hunters and reduce noise at shooting ranges located near residential areas.
- Removes suppressors from the scope of the National Firearms Act (NFA), replacing the outdated federal transfer process with an instantaneous National Instant Criminal Background Check (NICS).
- Reduces the cost of purchasing a suppressor by removing a \$200 transfer tax.
- Provides a \$200 tax credit for any suppressor purchased after October 22, 2015, the original date of introduction of the Hearing Protection Act.

TITLE XVIII—LAWFUL PURPOSE AND SELF DEFENSE

- Removes Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) authority to use the "sporting purposes" clauses in federal law in ways that could undermine the core purpose of the Second Amendment.
- Eliminates ATF's authority to reclassify popular rifle ammunition as "armor piercing ammunition."
- Provides for the lawful importation of any non-NFA firearm or ammunition that may otherwise be lawfully possessed and sold within the United States.
- Protects shotguns, shotgun shells, and certain rifles from arbitrary classification as "destructive devices."

Cost:

The Congressional Budget Office has not completed a cost estimate of this bill at this time.

Administration Position:

The Administration's position is unknown at this time.

[Effect on Current Law \(Ramseyer\)](#)