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Bill Would Retool Lacey Act

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WASHINGTON, Feb. 21 (LID) – A group of Senate Republicans say they are taking aim at the “broad overcriminalization” of a federal law that makes it a crime to import into the United States illegally obtained plants or wildlife.

U.S. Sen. Rand Paul (R-KY) is seeking to make violations of the Lacey Act (16 U.S.C. §§ 3371–3378) civil offenses punishable by fines rather than criminal prosecution.

His proposed Freedom from Over-Criminalization and Unjust Seizures (FOCUS) Act of 2012 — outlined in S. 2062 — would also jettison references to foreign law in the 112-year-old statute thereby blocking the government from prosecuting companies based on alleged overseas violations.

Paul, who sits on the Senate Energy and Natural Resources Committee, said “victims” of the Lacey Act include Henry Juskiewicz, chairman and CEO of Gibson Guitar Corp.

In August, federal agents raided Gibson Guitar factories in Memphis and Nashville to determine whether Gibson was using illegally harvested ebony wood from protected forests in India.

Hailing the Republican proposal, the National Association of Criminal Defense Lawyers (NACDL) said the FOCUS Act would “bring sanity to the criminal law,” the group’s president, Lisa Wayne, said in a statement.

“The law in its current form is overly broad and vague, subject to abuse by prosecutors, and, importantly, can trigger extremely harsh criminal penalties without regard to whether someone accused under the law acted intentionally or knew they were violating a law,” Wayne said.

The U.S. Chamber Institute for Legal Reform (ILR) is also among the bill’s supporters.

“The underlying goals of the Lacey Act, including protecting endangered species and promoting stewardship of environmental resources, can and should be upheld, and federal laws ought to give prosecutors the necessary criminal enforcement tools to pursue bad actors” ILR President Lisa Rickard said in a statement.

S. 2062, introduced Feb. 2, is pending before the Senate Committee on Environment and Public Works, chaired by Sen. Barbara Boxer (D-Calif.).

The FOCUS Act is cosponsored by Sens. Tom Coburn (R-Okla.), Mike Enzi (R-Wyo.), Jim DeMint (R-S.C.), Mike Lee (R-Utah) and James Risch (R-Idaho). The text of S. 2062 is available at <http://www.gpo.gov/fdsys/pkg/BILLS-112s2062is/pdf/BILLS-112s2062is.pdf>.

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Paul