

116TH CONGRESS
1ST SESSION

H. R. 2532

To protect grizzly bear populations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2019

Mr. GRIJALVA (for himself, Ms. HAALAND, Mr. HUFFMAN, Mr. NEGUSE, and Mr. KHANNA) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect grizzly bear populations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Heritage and
5 Grizzly Bear Protection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) GRIZZLY BEAR.—The term “grizzly bear”
9 means a member of the subspecies *Ursus arctos*
10 *horribilis*.

1 (2) HISTORICAL RANGE OF THE GRIZZLY
2 BEAR.—The term “historical range of the grizzly
3 bear” means the range determined by the Com-
4 mittee using the best available scientific and histor-
5 ical information.

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (4) TAKE.—The term “take” means to harass,
9 harm, pursue, hunt, shoot, wound, kill, trap, cap-
10 ture, or collect, or to attempt to engage in any such
11 conduct.

12 (5) TRIBAL LAND.—The term “Tribal land”
13 means—

14 (A) land located within the boundaries of
15 an Indian reservation, pueblo, or rancharia;

16 (B) land not located within the boundaries
17 of an Indian reservation, pueblo, or rancharia,
18 title to which is held—

19 (i) in trust by the United States for
20 benefit of an Indian Tribe or an individual
21 Indian;

22 (ii) by an Indian Tribe or an indi-
23 vidual Indian, subject to restriction against
24 alienation under laws of the United States;
25 or

1 (iii) by a dependent Indian commu-
2 nity;

3 (C) land that is owned by an Indian Tribe
4 and was conveyed by the United States to a
5 Native Corporation pursuant to the Alaska Na-
6 tive Claims Settlement Act (43 U.S.C. 1601 et
7 seq.) or that was conveyed by the United States
8 to a Native Corporation in exchange for such
9 land; and

10 (D) areas where Indian Tribes have re-
11 served treaty rights lands.

12 (6) COMMITTEE.—The term “Committee”
13 means the Grizzly Bear Scientific Committee.

14 **SEC. 3. PROTECTION OF GRIZZLY BEARS.**

15 (a) PROHIBITED ACTS.—Except as provided in sec-
16 tion 5, it is unlawful for any person—

17 (1) to take, possess, or transport a grizzly bear,
18 or any part thereof;

19 (2) to violate any condition of a permit issued
20 under section 5; or

21 (3) to violate any regulation issued by the Sec-
22 retary pursuant to this Act.

23 (b) NONAPPLICATION.—This Act shall not apply to—

24 (1) a grizzly bear, or any part thereof, in a pop-
25 ulation that is listed as a threatened species or an

1 endangered species under section 4 of the Endan-
2 gered Species Act of 1973 (16 U.S.C. 1533);

3 (2) a grizzly bear, or any part thereof, taken,
4 possessed, or transported in the State of Alaska; or

5 (3) a taking that is imminently necessary for
6 self-defense or to save the life of a person in imme-
7 diate danger.

8 (c) CIVIL PENALTY.—

9 (1) KNOWING VIOLATION.—Any person who
10 knowingly violates subsection (a) may be assessed a
11 civil penalty by the Secretary described in the first
12 sentence of section 11(a)(1) of the Endangered Spe-
13 cies Act of 1973 (16 U.S.C. 1540(a)(1)) as if such
14 person knowingly violated a provision of such Act.

15 (2) UNKNOWNING VIOLATION.—Any person who,
16 other than knowingly, violates subsection (a) may be
17 assessed a civil penalty by the Secretary described in
18 the third sentence of section 11(a)(1) of the Endan-
19 gered Species Act of 1973 (16 U.S.C. 1540(a)(1))
20 as if such person otherwise violated a provision of
21 such Act.

22 (d) CRIMINAL PENALTY.—Any person who knowingly
23 violates subsection (a) shall, upon conviction, be punished
24 in the same manner as a person who commits a violation
25 punishable under the first sentence of section 11(b)(1) of

1 the Endangered Species Act of 1973 (16 U.S.C.
2 1540(b)(1)).

3 (e) CANCELLATION OF GRAZING AUTHORIZA-
4 TIONS.—Any lease, license, permit, or agreement issued
5 by the head of any Federal agency to a person authorizing
6 the grazing of domestic livestock on Federal lands shall
7 have no force or effect upon the conviction of such person
8 of a violation of subsection (a). The United States shall
9 not be liable for the payment of any compensation, reim-
10 bursement, or damages in connection with the cancellation
11 of any lease, license, permit, or agreement pursuant to this
12 subsection.

13 **SEC. 4. ESTABLISHMENT OF GRIZZLY BEAR SCIENTIFIC**
14 **COMMITTEE.**

15 (a) ESTABLISHMENT.—Not later than 90 days after
16 the date of the enactment of the Tribal Heritage and Griz-
17 zly Bear Protection Act, the Secretary shall establish the
18 Grizzly Bear Scientific Committee (“the Committee”), in
19 accordance with subsection (b) below, to carry out the ex-
20 pert consultations and scientific studies specified by this
21 Act. The Secretary shall establish 6 regions within the
22 Grizzly Bear Scientific Committee as follows:

23 (1) The North Cascades Ecosystem Region
24 shall consist of Washington.

1 (2) The Selkirk Mountains Ecosystem Region
2 shall consist of Idaho and Washington.

3 (3) The Cabinet Yaak Ecosystem Region shall
4 consist of Montana and Idaho.

5 (4) The Northern Continental Divide Eco-
6 system Region shall consist of Montana.

7 (5) The Bitterroot Recovery Ecosystem Region
8 shall consist of Idaho and Montana.

9 (6) The Greater Yellowstone Ecosystem Region
10 shall consist of Wyoming, Idaho, and Montana.

11 (b) MEMBERSHIP.—The Committee shall be com-
12 posed of the following members:

13 (1) REGIONAL REPRESENTATION.—Each of the
14 regions listed in paragraphs (1) through (6) of sub-
15 section (a) shall be represented on the Committee by
16 2 members—

17 (A) who are appointed by the Secretary;

18 (B) who reside in a State or territory in
19 the region that the member will represent; and

20 (C) of whom—

21 (i) one shall be a Tribal representa-
22 tive; and

23 (ii) one shall be an individual who
24 represents the scientific community.

1 (2) AT-LARGE MEMBERS.—The Secretary shall
2 appoint as at-large members of the Committee at
3 least one scientific expert representative from each
4 of the following designated by the expert’s own agen-
5 cy:

6 (A) The Fish and Wildlife Service.

7 (B) The National Park Service.

8 (C) The Forest Service.

9 (D) The Bureau of Land Management.

10 (E) The Bureau of Indian Affairs.

11 (F) The United States Geological Survey.

12 (c) DETERMINATIONS TO BE MADE ON BASIS OF
13 BEST AVAILABLE SCIENCE.—Determinations by the Com-
14 mittee pursuant to this Act shall be made solely on the
15 basis of the best available science.

16 (d) NO REPLACEMENT OF EXISTING ENTITIES.—

17 (1) The establishment of the Committee shall
18 not replace any existing Federal or interagency com-
19 mittee, task force, or study team.

20 (2) The functions of the Committee shall be
21 limited to those mandated by this Act and shall not
22 replace, repeal, or subsume any authority or func-
23 tion delegated to any other Federal or interagency
24 entity.

1 **SEC. 5. PERMITTED TAKING OF GRIZZLY BEARS.**

2 (a) IN GENERAL.—The Secretary may issue a permit
3 in accordance with this section authorizing the taking,
4 possession, or transportation of a grizzly bear, or any part
5 thereof, that is otherwise prohibited by section 3.

6 (b) CONDITIONS.—The Secretary may issue a permit
7 under this section only if the Secretary has—

8 (1) investigated the circumstances that gave
9 rise to the permit application;

10 (2) determined that such taking, possession, or
11 transportation is compatible with the protection of
12 the grizzly bear species or a population of grizzly
13 bears occupying a geographically distinct area; and

14 (3) determined that such taking, possession, or
15 transportation is an allowable taking, possession, or
16 transportation under subsection (c).

17 (c) ALLOWABLE TAKINGS, POSSESSIONS, OR TRANS-
18 PORTS.—For the purpose of subsection (b)(3), an allow-
19 able taking, possession, or transportation is any of the fol-
20 lowing:

21 (1) SCIENTIFIC OR EXHIBITION PURPOSES.—
22 Taking, possessing, or transporting a grizzly bear,
23 or any part thereof, for the scientific or exhibition
24 purposes of a—

25 (A) public museum;

26 (B) scientific society; or

1 (C) zoological park that is accredited by
2 the Association of Zoos and Aquariums.

3 (2) RELIGIOUS PURPOSES OF FEDERALLY REC-
4 OGNIZED INDIAN TRIBE.—Taking, possessing, or
5 transporting a grizzly bear, or any part thereof, for
6 the religious purposes of a federally recognized In-
7 dian Tribe.

8 (3) PROTECTION OF AGRICULTURAL INTERESTS
9 OR PUBLIC SAFETY.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (B), taking, possessing, or transporting a
12 grizzly bear, or any part thereof, during such
13 time period and in such location as the Sec-
14 retary determines to be necessary to protect ag-
15 ricultural interests or public safety in such loca-
16 tion.

17 (B) REQUIREMENTS FOR TAKING.—Before
18 making a determination under subparagraph
19 (A) with respect to a taking—

20 (i) the Governor of the State in which
21 the taking will occur must request, in writ-
22 ing, that the Secretary make such deter-
23 mination;

24 (ii) the Secretary must conclude that
25 nonlethal deterrents have been used in

1 such location and proven ineffective to
2 mitigate the threat of the grizzly bear to
3 agricultural interests or public safety; and

4 (iii) the Secretary must determine, in
5 consultation with the Committee and each
6 federally recognized Indian Tribe identified
7 in the report required under section
8 8(a)(2), that the grizzly bear cannot be re-
9 located to support—

10 (I) efforts under section 8 to re-
11 introduce grizzly bears on Tribal land;
12 or

13 (II) recovery efforts for a grizzly
14 bear population listed as a threatened
15 species or an endangered species
16 under section 4 of the Endangered
17 Species Act of 1973 (16 U.S.C.
18 1533).

19 (d) NO PERMITS FOR TAKINGS THAT WOULD EX-
20 CEED MORTALITY LIMIT.—The Secretary may not issue
21 a permit under this section for the taking of a grizzly bear
22 if such taking would cause the total mortality for any pop-
23 ulation or subpopulation of grizzly bears to exceed the sci-
24 entifically recommended limit determined by the Inter-

1 agency Grizzly Bear Study Team, the Interagency Grizzly
2 Bear Committee, or any relevant subcommittee thereof.

3 (e) SPORT HUNTING.—Nothing in this section may
4 be construed to allow sport hunting of grizzly bears.

5 (f) NONALIENABILITY.—A person who has been
6 issued a permit under this section may not sell, transfer,
7 assign, or otherwise alienate the authority granted to such
8 person by such permit.

9 (g) CONDUCT REQUIREMENTS.—Taking, possessing,
10 or transporting a grizzly bear, or any part thereof, under
11 this Act shall be conducted in a manner consistent with—

12 (1) the conditions of the permit authorizing
13 such taking, possession, or transportation; and

14 (2) the provisions of this Act.

15 **SEC. 6. LIVESTOCK LOSS PREVENTION.**

16 The Omnibus Public Land Management Act of 2009
17 (Public Law 111–11; 7 U.S.C. 8351 note) is amended—

18 (1) in section 6202 (7 U.S.C. 8351 note)—

19 (A) in the heading of such section, by in-
20 serting “**AND GRIZZLY BEAR**” after “**WOLF**”;

21 (B) in subsection (a)—

22 (i) by striking “5-year”; and

23 (ii) in paragraph (1), by inserting
24 “and grizzly bears” after “wolves”; and

1 (C) in subsection (b)(2)(A), by inserting
2 “and grizzly bears” after “wolves”; and
3 (2) in section 6203 (7 U.S.C. 8351 note), by
4 striking “\$1,000,000 for fiscal year 2009” and in-
5 serting “\$5,000,000 for fiscal year 2020”.

6 **SEC. 7. CONSULTATION WITH INDIAN TRIBES.**

7 (a) CONSULTATION REQUIRED BEFORE ISSUING
8 PERMIT.—Before issuing a permit under this Act that au-
9 thorizes an activity to be carried out on the Tribal land
10 of a federally recognized Indian Tribe, the Secretary shall
11 consult with such federally recognized Indian Tribe.

12 (b) CONSULTATION REQUIRED BEFORE TAKING
13 MAJOR FEDERAL ACTION.—Before taking any Federal
14 action that may negatively impact grizzly bear habitat or
15 increase grizzly bear mortality the Secretary or the Sec-
16 retary of Agriculture, respectively, shall consult with—

17 (1) the Committee; and

18 (2) any relevant federally recognized Indian
19 Tribe.

20 (c) REQUIREMENT.—Any consultation conducted
21 with a federally recognized Indian Tribe under this sec-
22 tion—

23 (1) shall be meaningful and be conducted within
24 a framework developed with the free, prior, and in-
25 formed consent of such Indian Tribe;

1 (2) shall be carried out through cooperative
2 management agreements between the Secretary, the
3 Secretary of Agriculture, and such Indian Tribe; and

4 (3) may, at the option of such Indian Tribe, be
5 entered into under the Indian Self-Determination
6 and Education Assistance Act (25 U.S.C. 5301 et
7 seq.).

8 **SEC. 8. REINTRODUCTION OF GRIZZLY BEARS ON TRIBAL**
9 **LAND.**

10 (a) PUBLIC REPORT REQUIRED.—

11 (1) STUDY.—The Committee, in consultation
12 with each federally recognized Indian Tribe whose
13 Tribal land is located within the historical range of
14 the grizzly bear, shall conduct a study to identify
15 Tribal land that is located within the historical
16 range of the grizzly bear and is suitable to support
17 grizzly bear populations.

18 (2) REPORT.—Not later than 2 years after the
19 date of the enactment of this Act, the Committee
20 shall make publicly available on the Department's
21 website a report containing the results of the study
22 conducted under paragraph (1).

23 (b) NOTIFICATION.—Not later than 30 days after the
24 report is made available under subsection (a)(2), the Sec-
25 retary shall notify each federally recognized Indian Tribe

1 whose Tribal land was identified in the report required
2 under subsection (a)(1) that grizzly bears may be reintro-
3 duced on the identified Tribal land in accordance with this
4 Act. The Secretary shall notify the Governor of any State
5 that is conterminous with any such Tribal land at the time
6 such notice is provided to such Indian Tribe.

7 (c) REINTRODUCTION.—If a federally recognized In-
8 dian Tribe notified under subsection (b) notifies the Sec-
9 retary that it agrees to have grizzly bears reintroduced on
10 its Tribal land, the Secretary shall coordinate with such
11 federally recognized Indian Tribe to reintroduce grizzly
12 bears to such Tribal land.

13 (d) MANNER OF RELOCATION.—The relocation of
14 grizzly bears under subsection (c) shall be carried out by
15 the Secretary in a manner that is consistent with—

- 16 (1) the scientific advice of the Committee;
17 (2) the traditional ecological knowledge of the
18 respective federally recognized Indian Tribe; and
19 (3) Secretarial Order 3342, issued by the Sec-
20 retary on the Interior on October 21, 2016.

21 (e) PROTECTION OF PUBLIC SAFETY.—A grizzly bear
22 that has been identified by the Secretary as a threat to
23 public safety shall not be eligible for reintroduction under
24 this section.

1 (f) OTHER REINTRODUCTION EFFORTS.—Nothing in
2 this Act shall affect any effort by the Secretary to reintro-
3 duce a grizzly bear on lands other than the lands specified
4 in this Act.

5 **SEC. 9. MISCELLANEOUS.**

6 (a) LIMITATION ON USE OF PREDATOR CONTROL
7 MEASURES.—The Secretary or the Secretary of Agri-
8 culture, respectively, shall prohibit on lands under such
9 Secretary’s jurisdiction the use of predator control meas-
10 ures that the Interagency Grizzly Bear Study Team or the
11 Committee has determined may result in the inadvertent
12 taking of grizzly bears.

13 (b) MEETING AND ADVISEMENT.—The Interagency
14 Grizzly Bear Committee and the Interagency Grizzly Bear
15 Study Team shall meet with and advise State and Federal
16 wildlife managers and affected federally recognized Indian
17 Tribes.

18 (c) INCLUSION OF MEMBERS OF FEDERALLY RECOG-
19 NIZED INDIAN TRIBES ON INTERAGENCY GRIZZLY BEAR
20 COMMITTEE.—The Interagency Grizzly Bear Committee
21 shall include not less than 1 member of each federally rec-
22 ognized Indian Tribe whose Tribal land is—

- 23 (1) inhabited by grizzly bears;
- 24 (2) located within the historical range of the
- 25 grizzly bear pre-Lewis and Clark Expedition; and

1 (3) identified in the report required under sec-
2 tion 8(a)(2) as suitable to support grizzly bear popu-
3 lations.

4 (d) PARTNERSHIP.—The Secretary, the Secretary of
5 Agriculture, and relevant federally recognized Indian
6 Tribes shall manage grizzly bears reintroduced on Tribal
7 land under this Act using the best available science and
8 consistent with the cultural imperatives of those federally
9 recognized Indian Tribes, as defined in “The Grizzly: A
10 Treaty of Cooperation, Cultural Revitalization and Res-
11 toration”.

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