

# REVIEWS

## 2017 FEDERAL LEGISLATIVE REVIEW

By  
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### I. INTRODUCTION

January 3, 2017 marked the beginning of the 115th session of Congress,<sup>1</sup> and the beginning of a year of Republican control of the Senate, House, and the Presidency.<sup>2</sup> Soon after taking office, President

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<sup>1</sup> Richard A. Hertling & Kaitlyn McClure, *This Week in Congress—January 3, 2017*, GLOBAL POL'Y WATCH (Jan. 3, 2017), <https://www.globalpolicywatch.com/2017/01/this-week-in-congress-january-3-2017/> [https://perma.cc/85D3-28PZ] (accessed Aug. 3, 2018).

<sup>2</sup> *Id.*

Donald Trump restricted immigration from seven majority-Muslim countries with an executive order<sup>3</sup> and quickly made repealing and replacing the Affordable Care Act a primary legislative goal.<sup>4</sup> 2017 was a year riddled with religious and racial tensions,<sup>5</sup> the “Russia investigation,”<sup>6</sup> numerous White House firings and resignations,<sup>7</sup> national anthem protests,<sup>8</sup> a congressional shooting,<sup>9</sup> and, perhaps most memorable of all, President Trump’s constant stream of tweets.<sup>10</sup> Other than measures included in the yearly spending bill, the Republican-dominated administration only signed one piece of animal welfare legislation into law in 2017<sup>11</sup>: Public Law 115-20 (House Joint Resolution 69), which weakened federal animal welfare protections by nullifying portions of the United States Code.<sup>12</sup>

This review will provide an overview of Public Law 115-20 and ten bills introduced by the 115th Congress. Two of these bills—the Streamlining Environmental Approvals Act of 2017 and the Safeguard Aquaculture Farmers Act—aim to weaken federal protections for animals, while the other eight aim to strengthen federal protections for animals.<sup>13</sup>

## II. ANIMAL TESTING

### A. *Humane Cosmetics Act*

On June 23, 2015, during the 114th session of congress, Republican Representative Martha McSally introduced the Humane Cosmet-

<sup>3</sup> Lena Felton, *Donald Trump’s First Year as President: A Recap*, ATLANTIC (Dec. 30, 2017), <https://www.theatlantic.com/politics/archive/2017/12/donald-trump-first-year/549020/> [https://perma.cc/HG8Q-NX4S] (accessed Aug. 3, 2018).

<sup>4</sup> Van Newkirk II, *Is the Republican Health-Care Plan ‘Obamacare Lite’?*, ATLANTIC (Mar. 6, 2017), <https://www.theatlantic.com/politics/archive/2017/03/obamacare-lite-yes-and-no/518772/> [https://perma.cc/6QN9-7ZSA] (accessed Aug. 3, 2018).

<sup>5</sup> Felton, *supra* note 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Matt Pearce & Joseph Tanfani, *Virginia Gunman Hated Republicans, and ‘Was Always in His Own Little World’*, L.A. TIMES (June 14, 2017), <http://beta.latimes.com/nation/la-na-pol-virginia-shooter-profile-20170614-story.html> [https://perma.cc/TM8F-QEA7] (accessed Aug. 3, 2018).

<sup>10</sup> Amanda Wills & Alysha Love, *All the President’s Tweets* (updated Jan. 12, 2018), <http://www.cnn.com/interactive/2017/politics/trump-tweets/> [https://perma.cc/HL3K-PHTS] (accessed Aug. 3, 2018).

<sup>11</sup> *115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/public-laws/115th-congress> [https://perma.cc/WJ7L-JP78] (accessed Aug. 3, 2018).

<sup>12</sup> Tim Devaney, *Trump Repeals Alaskan Bear Hunting Regs*, HILL (Apr. 3, 2017) <http://thehill.com/regulation/327113-trump-repeals-alaskan-bear-hunting-regs> [https://perma.cc/72XR-9FDG] (accessed Aug. 3, 2018).

<sup>13</sup> See discussion *infra* Sections II–VII (discussing how the Streamlining Environmental Approvals Act of 2017 and the Safeguard Aquaculture Farmers Act aim to worsen federal protections for animals by weakening protections for marine mammals and allowing fish farmers to shoot cormorants, respectively, while the other eight bills generally aim to strengthen federal protections for animals).

ics Act intending to “phase out cosmetic animal testing and the sale of cosmetics tested on animals.”<sup>14</sup> The bill was not signed into law, but was reintroduced as House Bill 2790 during the 115th session of Congress on June 6, 2017,<sup>15</sup> with nearly identical language to the previous version.<sup>16</sup> Representative McSally took a hard stance on the cruelty involved in cosmetic testing, stating “the cruelty animals are subjected to during cosmetics testing is unacceptable—from lethal dose tests to irritation and force-feeding tests.”<sup>17</sup> Representative McSally also argued that “modern technology makes [cosmetic testing] unnecessary and overly expensive.”<sup>18</sup> Although a Republican, most of Representative McSally’s 175 cosponsors are Democrats.<sup>19</sup>

In the United States there are no laws or Food and Drug Administration (FDA) regulations requiring cosmetics, or their ingredients, to be tested on animals.<sup>20</sup> Cosmetic companies are not required to share their safety testing information with the FDA, and the FDA has advised companies to “use whatever testing is necessary” to ensure the cosmetics are safe.<sup>21</sup> Some companies choose to test their cosmetics on animals, while others choose not to.<sup>22</sup>

The language of the Humane Cosmetics Act is quite strong, and would prohibit governmental and private entities from conducting cosmetic testing in the United States on any “live non-human vertebrate,”<sup>23</sup> effective one year after the date of enactment.<sup>24</sup> The bill would also prohibit the sale or transport of “any cosmetic” if “any component” or the “final product” was “developed or manufactured using cosmetic animal testing.”<sup>25</sup> This prohibition on sale or transport would be effective three years after enactment.<sup>26</sup> Violators would face stiff penalties of \$10,000 per animal tested upon, per day of testing.<sup>27</sup>

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<sup>14</sup> Humane Cosmetics Act, H.R. 2858, 114th Cong. (2015).

<sup>15</sup> Humane Cosmetics Act, H.R. 2790, 115th Cong. (2017).

<sup>16</sup> *Id.*; H.R. 2858, *supra* note 14.

<sup>17</sup> Press Release, Rep. Martha McSally (R-Ariz.), Rep. McSally Introduces Bipartisan Bill to End Inhumane Cosmetic Testing on Animals (June 6, 2017) <https://mcsally.house.gov/media-center/press-releases/rep-mcsally-introduces-bipartisan-bill-end-inhumane-cosmetic-testing> [<https://perma.cc/5V5J-4Z9M>] (accessed Aug. 3, 2018).

<sup>18</sup> *Id.*

<sup>19</sup> *Cosponsors: H.R. 2790—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/2790/cosponsors> [<https://perma.cc/3T5U-SLM2>] (accessed Aug. 3, 2018).

<sup>20</sup> *FDA Authority Over Cosmetics: How Cosmetics Are Not FDA-Approved, but Are FDA-Regulated*, FDA, [https://www.fda.gov/Cosmetics/GuidanceRegulation/LawsRegulations/ucm074162.htm#Who\\_is\\_responsible](https://www.fda.gov/Cosmetics/GuidanceRegulation/LawsRegulations/ucm074162.htm#Who_is_responsible) [<https://perma.cc/QRA4-6BWT>] (accessed Aug. 3, 2018).

<sup>21</sup> *Id.*

<sup>22</sup> *These Beauty Brands are Still Tested on Animals*, PETA, <https://www.peta.org/living/personal-care-fashion/beauty-brands-that-you-thought-were-cruelty-free-but-arent/> [<https://perma.cc/28LA-LBLB>] (accessed Aug. 3, 2018).

<sup>23</sup> H.R. 2790.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

Americans may be ready for such a bill, and polls continue to show that consumers want cosmetics that are not tested on animals.<sup>28</sup> The bill has been endorsed by the Animal Welfare Institute (AWI), the Humane Society of the United States (HSUS), and nearly 200 companies in the cosmetics industry.<sup>29</sup>

### B. *Pet Safety and Protection Act of 2017*

While most Americans oppose testing cosmetics on animals,<sup>30</sup> the morality of using animals in medical research is more disputed.<sup>31</sup> This may be one reason Democratic Representative Michael Doyle has tried, and failed, to pass the Pet Safety and Protection Act of 2017 through every congress since March 1, 2007.<sup>32</sup> The stated purpose of the bill is to “amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.”<sup>33</sup> The original language of the bill has remained unchanged,<sup>34</sup> and barring a sudden media or public interest, it seems unlikely that the Pet Safety and Protection Act of 2017 will be signed into law. The 2017 version of the bill only has 44 cosponsors, compared to the 2007 version of the bill, which gathered 130 cosponsors, yet failed to be signed into law.<sup>35</sup>

On his website, Representative Doyle mentions an HBO documentary titled “Dealing Dogs” that may have inspired him to re-introduce

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<sup>28</sup> Monica Engebretson, *Phasing Out Animal-Tested Cosmetics in North America Makes Good Sense*, HUFFINGTON POST (Oct. 5, 2017), [https://www.huffingtonpost.com/entry/phasing-out-animal-tested-cosmetics-in-north-america\\_us\\_59d6eb65e4b08ce873a8ccc9](https://www.huffingtonpost.com/entry/phasing-out-animal-tested-cosmetics-in-north-america_us_59d6eb65e4b08ce873a8ccc9) [<https://perma.cc/H3C2-48M6>] (accessed Aug. 3, 2018).

<sup>29</sup> *The Humane Cosmetics Act*, ANIMAL WELFARE INST., <https://awionline.org/content/humane-cosmetics-act> [<https://perma.cc/6QNT-YAK5>] (accessed Aug. 3, 2018); *Support Legislation to End Cosmetics Testing on Animals*, HUMANE SOC’Y LEGIS. FUND, <https://secure.humanesociety.org/site/Advocacy?cmd=display&page=UserAction&id=7374> [<https://perma.cc/PU47-JVMC>] (accessed Aug. 3, 2018); Press Release, Rep. McSally, *supra* note 17.

<sup>30</sup> *More Than a Makeup Trend: New Survey Shows 72 Percent of Americans Oppose Testing Cosmetics Products on Animals*, PHYSICIANS COMMITTEE FOR RESPONSIBLE MED., <https://www.pcrm.org/research/animaltestalt/cosmetics/americans-oppose-testing-cosmetics-on-animals> [<https://perma.cc/Q326-C4V3>] (accessed Aug. 3, 2018).

<sup>31</sup> Jeffrey M. Jones, *Americans Hold Record Liberal Views on Most Moral Issues*, GALLUP (May 11, 2017), <http://news.gallup.com/poll/210542/americans-hold-record-liberal-views-moral-issues.aspx> [<https://perma.cc/RT2P-XZQL>] (accessed Aug. 3, 2018).

<sup>32</sup> Pet Safety and Protection Act of 2017, H.R. 1141, 115th Cong. (2017); Pet Safety and Protection Act of 2015, H.R. 2849, 114th Cong. (2015); Pet Safety and Protection Act of 2013, H.R. 2224, 113th Cong. (2013); Pet Safety and Protection Act of 2011, H.R. 2256, 112th Cong. (2011); Pet Safety and Protection Act of 2009, H.R. 3907, 111th Cong. (2009); Pet Safety and Protection Act of 2007, H.R. 1280, 110th Cong. (2007).

<sup>33</sup> H.R. 1141.

<sup>34</sup> *Id.*; H.R. 2849; H.R. 2224; H.R. 2256; H.R. 3907; H.R. 1280.

<sup>35</sup> *Cosponsors: H.R. 1141—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/1141/cosponsors> [<https://perma.cc/69N2-GLBA>] (accessed Aug. 3, 2018); *Cosponsors: H.R. 1280—110th Congress (2007–2008)*, LIBR. CONGRESS, <https://www.congress.gov/bill/110th-congress/house-bill/1280/cosponsors> [<https://perma.cc/92A6-DWQW>] (accessed Aug. 3, 2018).

the bill.<sup>36</sup> The 2006 film documents an undercover investigation of a Class B dog dealer, revealing dogs that are starving, covered in bite wounds, shot to death, and dogs that appear to be stolen pets.<sup>37</sup> In February of 2017, Representative Doyle said that “Class B dealers have racked up an atrocious record of illegal activity and cruelty to animals,” and that he re-introduced the bill to “ensure the integrity of scientific research,” “protect American families and their pets,” and “end the Class B dealer problem once and for all.”<sup>38</sup> If enacted, the bill would “prohibit ‘Class B’ animal dealers from selling dogs and cats to researchers.”<sup>39</sup>

Whether or not the Pet Safety and Protection Act of 2017 is signed into law, Representative Doyle’s “Class B dealer problem” has been temporarily resolved.<sup>40</sup> Language was added to the Consolidated Appropriations Act of 2016 that, by denying funding, made Class B dealers unable to be licensed or relicensed.<sup>41</sup> The 2017 spending bill had the same language, and, as of January 2018, it appears the 2018 spending bill will maintain the language—continuing to deny funding for licensing Class B dealers.<sup>42</sup>

### III. COMPANION ANIMALS

#### A. *Dog and Cat Meat Trade Prohibition Act of 2017*

While Americans are second only to Australians when it comes to per capita meat consumption,<sup>43</sup> there is often public outrage, at least briefly, when the Yulin Dog Meat Festival reminds Americans that dogs and cats are sometimes eaten in other countries.<sup>44</sup> On May 25,

<sup>36</sup> Press Release, Rep. Mike Doyle (D-Pa.), Congressmen Doyle and Smith Reintroduce Legislation to Protect Family Pets (Feb. 17, 2017), <https://doyle.house.gov/press-release/congressmen-doyle-and-smith-reintroduce-legislation-protect-family-pets> [<https://perma.cc/DD2Q-AMQP>] (accessed Aug. 3, 2018).

<sup>37</sup> Chip Crews, *HBO’s ‘Dogs’: A Gnawing Portrait of Despair*, WASH. POST (Feb. 21, 2006), <http://www.washingtonpost.com/wp-dyn/content/article/2006/02/20/AR2006022001591.html> [<https://perma.cc/B6GD-KDDG>] (accessed Aug. 3, 2018).

<sup>38</sup> Press Release, Rep. Doyle, *supra* note 36.

<sup>39</sup> *Id.*

<sup>40</sup> *What are B Dealers?*, LAST CHANCE FOR ANIMALS, <http://www.lcanimal.org/index.php/campaigns/class-b-dealers-and-pet-theft/what-are-b-dealers> [<https://perma.cc/6KER-PN96>] (accessed Aug. 3, 2018).

<sup>41</sup> *Id.*; Consolidated Appropriations Act, Pub. L. No. 114-113, § 753, 129 Stat. 2284 (2016).

<sup>42</sup> Consolidated Appropriations Act, Pub. L. No. 115-31, § 739, 131 Stat. 174 (2017); H.R. 3354, 115th Cong. § 737 (1st Sess. 2017).

<sup>43</sup> Skye Gould & Lauren F. Friedman, *The Countries Where People Eat the Most Meat*, BUS. INSIDER (Sept. 26, 2015, 9:30 AM), <http://www.businessinsider.com/where-do-people-eat-the-most-meat-2015-9> [<https://perma.cc/7MG6-RK4W>] (accessed Aug. 3, 2018).

<sup>44</sup> Brian Clark Howard, *Dog Meat Festival Opens Amid Outrage*, NAT’L GEOGRAPHIC (June 21, 2016), <https://news.nationalgeographic.com/2016/06/china-yulin-dog-meat-festival-controversy/> [<https://perma.cc/6YLH-CLLF>] (accessed Aug. 3, 2018); Jesse Mechanic, *The Hypocritical Outrage Over the Yulin Dog Meat Festival*, HUFFINGTON

2016, roughly one month before the start of the 2016 Yulin Dog Meat Festival,<sup>45</sup> Democratic Representative Alcee Hastings introduced House Resolution 752, which condemned the festival and urged China to end the dog meat trade.<sup>46</sup> Representative Hastings focused on cruelty and health issues, calling the festival an “extreme spectacle of animal cruelty [that] is both inhumane and a threat to public health in Yulin.”<sup>47</sup> The resolution gathered 161 cosponsors,<sup>48</sup> but never made it to the floor for a vote.<sup>49</sup> On January 6, 2017, the bill was reintroduced to the 115th congress as House Resolution 30.<sup>50</sup>

On March 7, 2017, Representative Hastings continued the fight by introducing the Dog and Cat Meat Trade Prohibition Act of 2017 to “amend the Animal Welfare Act to prohibit the slaughter of dogs and cats for human consumption.”<sup>51</sup> With 245 cosponsors, the bill has a good chance of passing if brought for a vote.<sup>52</sup> After introducing the bill, Representative Hastings hosted a Congressional Briefing on human consumption of dogs and cats.<sup>53</sup> Representative Hastings reiterated cruelty concerns, urging passage of the bill so that “the United States” can make “dog and cat meat trade illegal” and end the “brutal and inhumane practice” of the slaughter of dogs and cats for human consumption.<sup>54</sup>

As of March of 2017, the month the bill was introduced, forty-four states did not have any laws preventing dog or cat slaughter for

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Posr (updated June 1, 2017), [https://www.huffingtonpost.com/entry/the-hypocritical-outrage-over-the-yulin-dog-meat-festival\\_us\\_593035a4e4b042ffa289e7f4/](https://www.huffingtonpost.com/entry/the-hypocritical-outrage-over-the-yulin-dog-meat-festival_us_593035a4e4b042ffa289e7f4/) [<https://perma.cc/AR6K-8PUP>] (accessed Aug. 3, 2018).

<sup>45</sup> Howard, *supra* note 44.

<sup>46</sup> Condemning the Dog Meat Festival in Yulin, China, and Urging China to End the Dog Meat Trade, H.R. Res. 752, 114th Cong. (2016).

<sup>47</sup> Press Release, Rep. Alcee Hastings (D-Fla.), Hastings Introduces Resolution Condemning China’s Yulin Dog Meat Festival (May 25, 2016), <https://alceehastings.house.gov/news/documentsingle.aspx?DocumentID=398741> [<https://perma.cc/DK56-RUN5>] (accessed Aug. 3, 2018).

<sup>48</sup> *Cosponsors: H. Res. 752—114th Congress (2015-2016)*, LIBR. CONGRESS, <https://www.congress.gov/bill/114th-congress/house-resolution/752/cosponsors> [<https://perma.cc/BUS7-V5PK>] (accessed Aug. 3, 2018).

<sup>49</sup> Press Release, Rep. Alcee Hastings (D-Fla.), Hastings’ Statement on the 2017 Yulin Dog Meat Festival (June 21, 2017), <https://alceehastings.house.gov/news/document-single.aspx?DocumentID=398846> [<https://perma.cc/2H56-FSBN>] (accessed Aug. 3, 2018).

<sup>50</sup> Condemning the Dog Meat Festival in Yulin, China, and Urging China to End the Dog Meat Trade, H.R. Res. 30, 115th Cong. (2017).

<sup>51</sup> Dog and Cat Meat Trade Prohibition Act of 2017, H.R. 1406, 115th Cong. (2017).

<sup>52</sup> *Cosponsors: H.R. 1406—115th Congress (2017-2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/1406/cosponsors> [<https://perma.cc/X8NH-6FTP>] (accessed Aug. 3, 2018).

<sup>53</sup> Press Release, Rep. Alcee Hastings (D-Fla.), Hastings Hosts Briefing on Protecting Dogs and Cats from Human Consumption in the U.S. (Mar. 24, 2017), <https://alceehastings.house.gov/news/documentsingle.aspx?DocumentID=398794> [<https://perma.cc/66VQ-JKBY>] (accessed Aug. 3, 2018).

<sup>54</sup> *Id.*

human consumption.<sup>55</sup> The Dog and Cat Meat Trade Prohibition Act of 2017 broadly prohibits knowingly shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, donating, or slaughtering cats or dogs for human consumption.<sup>56</sup> Despite broad prohibitions, violators only face imprisonment of up to one year, and a fine of not more than \$2500.<sup>57</sup>

Many animal welfare groups support the bill, such as the AWI, the Animal Hope & Wellness Foundation, and the HSUS.<sup>58</sup> Nickolaus Sackett of the non-profit charity, Think Elephants International, in thanking Representative Hastings for bringing the bill, summed up the bill quite succinctly: “As Americans we love our dogs and cats and H.R. 1406 is simply a codification of those values.”<sup>59</sup>

### B. *Pet and Women Safety Act of 2017*

On July 30, 2014, Democratic Representative Katherine Clark introduced the Pet and Women Safety Act of 2014 to “protect the pets of victims of domestic violence, sexual assault, stalking, and dating violence.”<sup>60</sup> It was the second bill Representative Clark introduced after being sworn in on December 12, 2013.<sup>61</sup> The bill was formed with the help from partnerships “between organizations working to end both domestic violence and animal abuse.”<sup>62</sup> Representative Clark, in discussing the bill, said “one in every four women will experience” domestic violence, and the violence “is made even worse for those who fear for the safety of their pet.”<sup>63</sup> “No one should have to make the choice between leaving an abusive situation and ensuring their pet’s safety.”<sup>64</sup>

The original bill gathered 55 cosponsors and was referred to the subcommittee on Crime, Terrorism, Homeland Security, and Investi-

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<sup>55</sup> *Id.*

<sup>56</sup> H.R. 1406.

<sup>57</sup> *Id.*

<sup>58</sup> *Dog and Cat Meat Trade Prohibition Act*, ANIMAL WELFARE INST., <https://awionline.org/legislation/dog-and-cat-meat-trade-prohibition-act> [<https://perma.cc/L65B-MM5Z>] (accessed Aug. 3, 2018); *H.R. 1406: Dog and Cat Meat Trade Prohibition Act of 2017*, ANIMAL HOPE & WELLNESS FOUND., <https://animalhopeandwellness.org/hr-1406/> [<https://perma.cc/3SGS-JFRP>] (accessed Aug. 3, 2018); Wayne Pacelle, *Lawmakers Target Dog Meat Trade in the United States*, HUMANE SOC’Y U.S. (Mar. 7, 2017), <https://blog.humanesociety.org/wayne/2017/03/lawmakers-target-dog-meat-trade-united-states.html> [<https://perma.cc/5S9U-E4UP>] (accessed Aug. 3, 2018).

<sup>59</sup> Press Release, Rep. Hastings, *supra* note 53.

<sup>60</sup> Pet and Women Safety Act of 2014, H.R. 5267, 113th Cong. (2014).

<sup>61</sup> *Katherine Clark Sworn into Office*, BOS. GLOBE (Dec. 12, 2013), <http://www.bostonglobe.com/news/politics/2013/12/12/katherine-clark-sworn-into-office/TRuodhA7PFwkeEaUXkdNuK/story.html> [<https://perma.cc/D8FT-4A6B>] (accessed Aug. 3, 2018).

<sup>62</sup> Press Release, Rep. Katherine Clark (D-Mass.), Clark Introduces Bill to Protect Victims of Domestic Violence and their Pets (Aug. 18, 2017), <https://katherineclark.house.gov/index.cfm/2014/8/clark-introduces-bill-to-protect-victims-of-domestic-violence-and-their-pets> [<https://perma.cc/95SZ-EUDJ>] (accessed Aug. 3, 2018).

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

gations, where it stalled.<sup>65</sup> The bill was reintroduced as House Bill 1258 in the 114th congress on March, 4, 2015, but met a similar fate—stalling in the subcommittee on Crime, Terrorism, Homeland Security, and Investigations.<sup>66</sup> This second version of the bill, House Bill 1258, gathered the support of more than half of the House at 223 cosponsors.<sup>67</sup> The most recent version of the bill was introduced on February 7, 2017, as House Bill 909 and has 247 cosponsors as of August 4, 2018.<sup>68</sup> The Senate version of the bill, Senate Bill 322, has 38 cosponsors.<sup>69</sup>

The idea that animal abuse and domestic violence are linked is not new,<sup>70</sup> and many organizations now recognize that animal abuse and domestic violence are intertwined.<sup>71</sup> Pets are often used as a means for abusers to manipulate their victims, but very few domestic violence shelters accept pets.<sup>72</sup> In discussing the bill, Representative Clark said “the idea of leaving a beloved pet behind in a dangerous situation is unthinkable.”<sup>73</sup> The Pet and Women Safety Act of 2017 seeks to alleviate this concern by “expand[ing] existing federal domestic violence protections to include threats or acts of violence against a victim’s pet.”<sup>74</sup>

<sup>65</sup> *Cosponsors: H.R. 5267—113th Congress (2013-2014)*, LIBR. CONGRESS, <https://www.congress.gov/bill/113th-congress/house-bill/5267/cosponsors> [<https://perma.cc/WVC2-CJZQ>] (accessed Aug. 3, 2018); *All Actions H.R. 5267—113th Congress (2013-2014)*, LIBR. CONGRESS, <https://www.congress.gov/bill/113th-congress/house-bill/5267/all-actions> [<https://perma.cc/ZE34-ZNU2>] (accessed Aug. 3, 2018).

<sup>66</sup> *Pet and Women Safety Act of 2014, H.R. 1258, 114th Cong. (2015)*; *H.R. 1258—114th Congress (2015-2016)*, LIBR. CONGRESS, <https://www.congress.gov/bill/114th-congress/house-bill/1258> [<https://perma.cc/F6XK-AX4M>] (accessed Aug. 3, 2018).

<sup>67</sup> *Cosponsors: H.R. 1258—114th Congress (2015-2016)*, LIBR. CONGRESS, <https://www.congress.gov/bill/114th-congress/house-bill/1258/cosponsors> [<https://perma.cc/6JC2-HLRK>] (accessed Aug. 3, 2018).

<sup>68</sup> *Pet and Women Safety Act of 2017, H.R. 909, 115th Cong. (2017)*; *Cosponsors: H.R. 909—115th Congress (2017-2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/909/cosponsors> [<https://perma.cc/SUT9-JK93>] (accessed Aug. 3, 2018).

<sup>69</sup> *Pet and Women Safety Act of 2017, S. 322, 115th Cong. (2017)*; *Cosponsors: S. 322—115th Congress (2017-2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/senate-bill/322/cosponsors> [<https://perma.cc/P9QB-KJW2>] (accessed Aug. 3, 2018).

<sup>70</sup> Frank R. Ascione et al., *Battered Pets and Domestic Violence: Animal Abuse Reported by Women Experiencing Intimate Violence and by Nonabused Women*, SAGE J.: 13 VIOLENCE AGAINST WOMEN 354, 355 (2007), <http://journals.sagepub.com/doi/abs/10.1177/1077801207299201> [<https://perma.cc/X9UL-8H2Y>] (accessed Aug. 3, 2018).

<sup>71</sup> *The Link Between Domestic Violence and Animal Abuse*, DOMESTIC VIOLENCE AWARENESS PROJECT, <https://nrcdv.org/dvam/DV-and-Animal-Abuse> [<https://perma.cc/DP2W-V48H>] (accessed Aug. 3, 2018); *Animal Abuse and Domestic Violence*, DOMESTIC VIOLENCE ROUNDTABLE, <http://www.domesticviolenceroundtable.org/animal-abuse-and-dv.html> [<https://perma.cc/A2H4-3YGG>] (accessed Aug. 3, 2018); *Facts and Myths About Domestic Violence and Animal Abuse*, ANIMAL WELFARE INST., <https://awionline.org/content/facts-and-myths-about-domestic-violence-and-animal-abuse> [<https://perma.cc/T5WF-TGP4>] (accessed Aug. 3, 2018).

<sup>72</sup> Press Release, Rep. Clark, *supra* note 62.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*



The bill also provides funding for programs that shelter and house domestic violence victims with pets.<sup>75</sup>

The stated purpose has changed in the most recent version of the bill.<sup>76</sup> Whereas the stated purpose of the 2014 version of the bill was “to protect the pets,” the stated purpose of the 2017 version is to “protect [human] victims . . . from emotional and psychological trauma caused by acts of violence or threats of violence against their pets.”<sup>77</sup> While it is probably a ‘loss’ for animal welfare groups that the bill’s purpose is no longer “to protect the pets,” it is certainly a ‘win,’ for these groups that the bill explicitly recognizes emotional and psychological trauma are inflicted on human owners when their pets are harmed or threatened. The bill broadly defines “pet” to mean “a domesticated animal, such as a dog, cat, bird, rodent, fish, turtle, horse, or other animal that is kept for pleasure rather than for commercial purposes.”<sup>78</sup>

The Pet and Women Safety Act of 2017 is supported by the AWI, the HSUS, the American Society for the Prevention of Cruelty to Animals (ASPCA), and many other animal welfare groups.<sup>79</sup> It is opposed by the Heritage Foundation, which takes the position that, “not every problem needs a federal solution. Congress should not make a federal case out of intimidating or harassing pets.”<sup>80</sup>

#### IV. TERRESTRIAL WILDLIFE

##### A. *The Chronic Wasting Disease Management Act, H.R. 4454, and the Chronic Wasting Disease Support for States Act, S. 2252*

Chronic Wasting Disease (CWD) was discovered in deer in a Colorado research facility in 1967,<sup>81</sup> and by 1978 it had been confirmed that CWD is a transmissible spongiform encephalopathy disease, also

<sup>75</sup> *Id.*

<sup>76</sup> H.R. 909.

<sup>77</sup> H.R. 5267; H.R. 909.

<sup>78</sup> H.R. 909.

<sup>79</sup> *Pet and Women Safety (PAWS) Act*, ANIMAL WELFARE INST., <https://awionline.org/content/pet-and-women-safety-paws-act> [<https://perma.cc/JY8J-6SN6>] (accessed Aug. 3, 2018); *Protect Pets and Women from Domestic Violence*, HUMANE SOC’Y U.S., <https://secure.humanesociety.org/site/Advocacy?cmd=display&page=UserAction&id=7322> [<https://perma.cc/N6YB-CC5V>] (accessed Aug. 4, 2018); *Congress Introduces Bill to Help Victims of Domestic Violence and Their Pets*, AM. SOC’Y FOR PREVENTION CRUELTY TO ANIMALS., <https://www.aspc.org/news/congress-introduces-bill-help-victims-domestic-violence-and-their-pets> [<https://perma.cc/R4CU-DDA8>] (accessed Aug. 4, 2018).

<sup>80</sup> See John-Michael Seibler, *This Bill Would Drag the Federal Government into Disputes over Pets*, DAILY SIGNAL (Feb. 24, 2017), <http://dailysignal.com/2017/02/24/this-bill-would-drag-the-federal-government-into-disputes-over-pets/> [<https://perma.cc/J9CQ-9W3F>] (accessed Aug. 3, 2018) (mentioning that the author, John-Michael Seibler, is a legal fellow at The Heritage Foundation. The article was also published on The Heritage Foundation’s website on February 24, 2017.).

<sup>81</sup> NATL’ WILDLIFE HEALTH CTR., DEPT. OF THE INTERIOR, CHRONIC WASTING DISEASE (Aug. 2007), [https://www.nwhc.usgs.gov/publications/fact\\_sheets/pdfs/cwd/CWDFact-sheet2007.pdf](https://www.nwhc.usgs.gov/publications/fact_sheets/pdfs/cwd/CWDFact-sheet2007.pdf) [<https://perma.cc/XRN5-A5ED>] (accessed Aug. 3, 2018).

known as a prion disease.<sup>82</sup> Other prion diseases include mad cow disease (affecting cattle), scrapie (affecting sheep), and Creutzfeldt-Jakob disease (affecting humans).<sup>83</sup> All prion diseases are fatal, and there are no known treatments.<sup>84</sup> It is believed humans can get Creutzfeldt-Jakob disease by consuming cattle infected with mad cow disease,<sup>85</sup> and scientists are concerned it may be possible for humans to develop prion diseases by eating deer infected with CWD.<sup>86</sup>

A major challenge in managing Chronic Wasting Disease is that it is infecting and spreading amongst wild deer populations,<sup>87</sup> which can be difficult to manage by the nature of their mobility and freedom to roam. For contrast, mad cow disease can be controlled by monitoring livestock and killing those that show symptoms of the disease.<sup>88</sup>

In 2002, Republican Representative Scott McInnis introduced House Bill 4795 to encourage CWD research and “methods to control” CWD.<sup>89</sup> The bill gathered 20 cosponsors.<sup>90</sup> The bill was reintroduced in 2003 as House Bill 2057, and gathered 8 cosponsors.<sup>91</sup> House Bill 2636 was also introduced in 2003 to “assist State and tribal efforts to manage and control the spread of chronic wasting disease.”<sup>92</sup> House Bill 2636 gathered 2 cosponsors.<sup>93</sup>

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<sup>82</sup> Ermias D. Belay et al., *Chronic Wasting Disease and Potential Transmission to Humans*, CTNS. FOR DISEASE CONTROL & PREVENTION: 10 EMERGING INFECTIOUS DISEASES 977, 977 (2014) [https://wwwnc.cdc.gov/eid/article/10/6/03-1082\\_article](https://wwwnc.cdc.gov/eid/article/10/6/03-1082_article) [<https://perma.cc/NFR6-Z9CB>] (accessed Aug. 3, 2018).

<sup>83</sup> NATL’ WILDLIFE HEALTH CTR., *supra* note 81.

<sup>84</sup> Tarakad S. Ramachandran, *Prion-Related Diseases*, MEDSCAPE (updated Dec. 18, 2017), <https://emedicine.medscape.com/article/1168941-overview> [<https://perma.cc/XN2H-LZP7>] (accessed Aug. 3, 2018).

<sup>85</sup> *Variant Creutzfeldt-Jakob Disease (vCJD)*, CTNS. FOR DISEASE CONTROL & PREVENTION (updated Mar. 20, 2017), <https://www.cdc.gov/prions/vcjd/risk-travelers.html> [<https://perma.cc/8Q8P-AGJ9>] (accessed Aug. 3, 2018).

<sup>86</sup> Belay et al., *supra* note 82.

<sup>87</sup> NATL’ WILDLIFE HEALTH CTR., *supra* note 81.

<sup>88</sup> *See Bovine Spongiform Encephalopathy (BSE), or Mad Cow Disease*, CTNS. FOR DISEASE CONTROL & PREVENTION (updated Feb. 10, 2015), <https://www.cdc.gov/prions/bse/control-measures.html> [<https://perma.cc/65EH-PTGY>] (accessed Aug. 3, 2018) (describing control measures that exist to help with the spread of mad cow disease, such as monitoring and culling sick animals).

<sup>89</sup> Chronic Wasting Disease Support for States Act of 2002, H.R. 4795, 107th Cong. (2002).

<sup>90</sup> *Cosponsors: H.R. 4795—107th Congress (2001–2002)*, LIBR. CONGRESS, <https://www.congress.gov/bill/107th-congress/house-bill/4795/cosponsors> [<https://perma.cc/QG53-THRV>] (accessed Aug. 3, 2018).

<sup>91</sup> Chronic Wasting Disease Support for States Act of 2003, H.R. 2057, 108th Cong. (2003); *Cosponsors: H.R. 2057—108th Congress (2003–2004)*, LIBR. CONGRESS, <https://www.congress.gov/bill/108th-congress/house-bill/2057/cosponsors> [<https://perma.cc/3CSE-WF6B>] (accessed Aug. 3, 2018).

<sup>92</sup> Chronic Wasting Disease Financial Assistance Act of 2003, H.R. 2636, 108th Cong. (2003).

<sup>93</sup> *Cosponsors: H.R. 2636—108th Congress (2003–2004)*, LIBR. CONGRESS, <https://www.congress.gov/bill/108th-congress/house-bill/2636/cosponsors> [<https://perma.cc/W7QE-P42F>] (accessed Aug. 3, 2018).

On November 21, 2017, Democratic Representative Ron Kind introduced the Chronic Wasting Disease Management Act to support CWD research and management strategies.<sup>94</sup> A few weeks later, on December 19, 2017, Democratic Senator Jon Tester introduced the Chronic Wasting Disease Support for States Act to “amend the Animal Health Protection Act” to develop CWD “management strategies,” “support [CWD] research,” and “control the further spread” of CWD.<sup>95</sup> Both Congressmen emphasized the tradition of hunting in their states,<sup>96</sup> and the importance of deer to their state economies.<sup>97</sup> Representative Kind expressed a desire for bipartisan support, stating “it is time we bring hunters, scientists, and officials together to create a comprehensive plan to manage and prevent the spread of the disease.”<sup>98</sup> Representative Kind’s bill has been endorsed by numerous hunting organizations, and Senator Tester’s bill has received support from similar organizations, as well as “[s]portsmen from across Montana,” Senator Tester’s home state.<sup>99</sup>

### B. Public Law 115-20

On February 7, 2017, Republican Representative from Alaska, Don Young, introduced House Joint Resolution 69 to nullify a U.S. Fish and Wildlife Service (FWS) rule (81 Fed. Reg. 52247) that his website says “seize[s] authority away from the State of Alaska to manage fish and wildlife on federal wildlife refuges in Alaska.”<sup>100</sup> On February 16, 2017, the resolution of disapproval passed the House with 225 yeas (almost entirely Republicans) to 193 nays (almost entirely Democrats).<sup>101</sup> On March 21, 2017, the resolution passed through the

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<sup>94</sup> Chronic Wasting Disease Management Act, H.R. 4454, 115th Cong. (2017).

<sup>95</sup> Chronic Wasting Disease Support for States Act, S. 2252, 115th Cong. (2017).

<sup>96</sup> Press Release, Rep. Ron Kind (D-Wis.), Rep. Kind Introducing Bipartisan Bill to Manage and Prevent the Spread of Chronic Wasting Disease (Nov. 17, 2017) <https://kind.house.gov/media-center/press-releases/rep-kind-introducing-bipartisan-bill-manage-and-prevent-spread-chronic> [<https://perma.cc/4URD-YMUE>] (accessed Aug. 3, 2018); Press Release, Sen. Jon Tester (D-Mont.), Tester Introduces Bill to Support Montana Hunters, Fight the Spread of Chronic Wasting Disease (Dec. 19, 2017), [https://www.testersenate.gov/?p=press\\_release&id=5747](https://www.testersenate.gov/?p=press_release&id=5747) [<https://perma.cc/3D22-UMRY>] (accessed Aug. 3, 2018).

<sup>97</sup> Press Release, Rep. Kind, *supra* note 96; Press Release, Sen. Tester, *supra* note 96.

<sup>98</sup> See Press Release, Rep. Ron Kind, *supra* note 96 (regarding the introduction of a bipartisan bill for the planning and prevention of CWD).

<sup>99</sup> *Id.*; see Press Release, Sen. Jon Tester, *supra* note 96 (regarding gaining support for the Bill from Montana organizations).

<sup>100</sup> H.R.J. Res. 69, 115th Cong. (2017); Press Release, Congressman Don Young, Young’s Efforts to Overturn Unlawful U.S. Fish and Wildlife Rule Moves Forward (Feb. 15, 2017), <https://donyoung.house.gov/news/documentsingle.aspx?DocumentID=398844> [<https://perma.cc/64YW-G6KS>] (accessed Aug. 3, 2018).

<sup>101</sup> *Final Vote Results for Roll Call 98*, U.S. SENATE (Feb. 16, 2017), <http://clerk.house.gov/evs/2017/roll098.xml> [<https://perma.cc/ACN8-U9BY>] (accessed Aug. 3, 2018).

Senate, without a single democratic vote, by 52 to 47.<sup>102</sup> On April 3, 2017, President Trump signed the resolution into law, which became Public Law 115-20.<sup>103</sup>

FWS and the State of Alaska work together to manage fish and wildlife in the National Wildlife Refuges (NWR) in Alaska, but FWS's position was that FWS had the ultimate management authority over resources in NWR.<sup>104</sup> FWS maintained that the refuges "must be managed consistent with the purpose to conserve fish and wildlife populations and habitats in their natural diversity."<sup>105</sup> The State of Alaska implemented "predator control," which FWS defines as "the intention to reduce the population of predators for the benefit of prey species," and wanted to extend "predator control" to NWR in Alaska.<sup>106</sup> FWS's position was that "predator control" was inconsistent with maintaining natural diversity, which "includes avoiding emphasis of management activities favoring some species to the detriment of others" and "avoiding artificial developments and habitat manipulation programs whenever possible."<sup>107</sup> Ultimately, FWS promulgated a rule that "prohibit[ed] predator control on refuges in Alaska" when "[d]emands for more wildlife for human harvest" was "the sole or primary basis for predator control."<sup>108</sup> Enactment of Public Law 115-20 voided this prohibition.<sup>109</sup> Many Animal Welfare groups opposed Public Law 115-20, including Alaskan groups such as Alaskans FOR Wildlife, Alaska Wildlife Alliance, Friends of Alaska Wildlife Refuges, Lynn Canal Conservation, Northern Alaska Environmental Center, Oasis Earth, Resurrection Bay Conservation Alliance, and the Southeast Alaska Conservation Council.<sup>110</sup> Before the resolution was signed into law, the CEO of the HSUS said, "[k]illing hibernating bears, shooting wolf

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<sup>102</sup> *Roll Call Vote 115th Congress—1st Session* (Mar. 21, 2017), [https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=115&session=1&vote=00092](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=1&vote=00092) [<https://perma.cc/FCF6-7RC2>] (accessed Aug. 3, 2018).

<sup>103</sup> Pub. L. No. 115-20, 131 Stat. 86 (2017).

<sup>104</sup> Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska, 81 Fed. Reg. 151, 52248 (Aug. 5, 2016) (to be codified at 50 C.F.R. pts. 32 and 36).

<sup>105</sup> *Id.* at 52249.

<sup>106</sup> Dan Joling, *Trump Revokes Alaska Refuge Rule; Change May be Symbolic*, AP NEWS (Apr. 4, 2017), <https://apnews.com/2c9bc74bdc7b4fd2b79d1262d3b20282> [<https://perma.cc/Y3S2-RY7T>] (accessed Aug. 3, 2018); Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska, 81 Fed. Reg. at 52252.

<sup>107</sup> Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska, 81 Fed. Reg. at 52252.

<sup>108</sup> *Id.*

<sup>109</sup> Elwood Brehmer, *State Sues Feds over Predator Control*, ALASKA J. COM. (Jan. 16, 2017), <http://www.alaskajournal.com/2017-01-16/state-sues-feds-over-predator-control-restrictions> [<https://perma.cc/9RDG-FUSW>] (accessed Aug. 3, 2018).

<sup>110</sup> *Congress Seeking to Unwind Decision by Professional Wildlife Managers and Restart Inhumane and Unethical Hunting Practices on National Wildlife Refuges in Alaska*, HUMANE SOC'Y U.S. (Feb. 14, 2017), [http://www.humanesociety.org/news/press\\_releases/2017/02/AK-CRA-commercial-021417.html](http://www.humanesociety.org/news/press_releases/2017/02/AK-CRA-commercial-021417.html) [<https://perma.cc/X6MR-53F4>] (accessed Aug. 3, 2018).

pups in their dens, and chasing down grizzlies by aircraft and then shooting them on the ground . . . is exactly what Don Young is trying to restore on National Wildlife Refuges in Alaska. No decent person should support this appalling, despicable treatment of wildlife.”<sup>111</sup> The National Rifle Association, Safari Club International, and twenty-six other hunting groups endorsed Public Law 115-20.<sup>112</sup>

## V. AQUATIC WILDLIFE

### A. Shark Fin Trade Elimination Act of 2017

Shark finning is the practice of cutting the fin off a shark, and then throwing the remainder of the shark back into the water where they “drown, starve, or die a slow death.”<sup>113</sup> Shark fins are often worth much more than the other parts of the shark,<sup>114</sup> creating economic incentive for fishers to “fin” the shark and throw back the rest.<sup>115</sup> Shark finning is already illegal in the United States; however, shark fishing is not.<sup>116</sup> It is currently legal for fishers to remove the fin once the shark is brought ashore and, once removed, it can be hard for others to determine if the fin was lawfully removed.<sup>117</sup> To address these issues, Democratic Senator Cory Booker introduced the Shark Fin Trade Elimination Act of 2016 on June 23, 2016.<sup>118</sup> The bill would not make shark fishing illegal, but would require fishers to destroy or discard the fins.<sup>119</sup>

Senator Cory Booker has been accused by some of pushing an “extreme animal-rights agenda.”<sup>120</sup> Senator Booker has been vegan since 2014,<sup>121</sup> has personally saved two dogs’ lives,<sup>122</sup> and has spoken of

<sup>111</sup> *Id.*

<sup>112</sup> *Tell Your Representative to Vote Yes on HJ Res. 69, Overturning Harmful Alaska Regulation*, SAFARI CLUB INT’L (Feb. 7, 2017), <https://www.safariclub.org/what-we-do/freedom-to-hunt/first-for-hunters-blog/first-for-hunters/2017/02/07/tell-your-representative-to-vote-yes-on-hj-res-49> [<https://perma.cc/6MSV-M6MG>] (accessed Aug. 3, 2018).

<sup>113</sup> Shark Fin Trade Elimination Act of 2017, S. 793, 115th Cong. § 2(8) (2017).

<sup>114</sup> *Id.* § 2(6).

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* § 2(9).

<sup>117</sup> *Id.* § 2(10).

<sup>118</sup> Shark Fin Trade Elimination Act of 2016, S. 3095, 114th Cong. (2016).

<sup>119</sup> *Id.* § 3(1).

<sup>120</sup> Eliyahu Federman, *Cory Booker’s Animal-Rights Extremism*, N.Y. POST (Jan. 4, 2015), <https://nypost.com/2015/01/04/cory-bookers-animal-rights-extremism/> [<https://perma.cc/2LNS-5RGS>] (accessed Aug. 3, 2018).

<sup>121</sup> Shelbi Austin, *10 Things You Didn’t Know About Cory Booker*, U.S. NEWS & WORLD REP. (Mar. 16, 2017), <https://www.usnews.com/news/national-news/articles/2017-03-16/10-things-you-didnt-know-about-cory-booker> [<https://perma.cc/MT8L-9ER4>] (accessed Aug. 3, 2018).

<sup>122</sup> Kevin Fallon, *Cory Booker Rescues a Freezing Dog & 9 Other Things He Has Saved*, DAILY BEAST (Jan. 26, 2013), <https://www.thedailybeast.com/cory-booker-rescues-a-freezing-dog-and-9-other-things-he-has-saved> [<https://perma.cc/4X36-7W9C>] (accessed Aug. 3, 2018); *Cory Booker, New Jersey Mayor, Rescues Allegedly Abused Dog with Twitter’s Help (TWEETS)*, HUFFINGTON POST (July 1, 2013), <https://www.huf>

“compassion and love, not just for humanity but . . . [also] for animals.”<sup>123</sup> Senator Booker has long been recognized as a political leader,<sup>124</sup> and many suspect he is positioning himself for a presidential run in 2020.<sup>125</sup> The day after Senator Booker’s bill was introduced, Democratic Representative Gregorio Kilili Camacho Sablan introduced the House version of the bill.<sup>126</sup> The Senate bill gathered nine cosponsors,<sup>127</sup> and the House bill gathered twenty-six cosponsors.<sup>128</sup>

In 2017, the bills were reintroduced to the 115th congress.<sup>129</sup> The House bill was reintroduced by Republican Representative Edward Royce, on March 9, 2017,<sup>130</sup> and the Senate bill was reintroduced by Senator Booker on March 30, 2017.<sup>131</sup> Both bills are seeing strong support—the House bill has 242 cosponsors and the Senate bill has 33 cosponsors.<sup>132</sup> The 2017 versions of the bills state the same purpose the 2016 versions had—banning the sale of shark fins in the United States.<sup>133</sup> As of March 9, 2017, the day the House bill was introduced, the sale of shark fins was legal in almost forty states.<sup>134</sup>

Members of both parties have spoken to the cruelty and environmental harm caused by shark finning.<sup>135</sup> In discussing the bill, Republican Senator John McCain said, “the cruel practice of shark finning is

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fingtonpost.com/2013/07/01/cory-booker-rescues-dog\_n\_3528967.html [https://perma.cc/EM4L-S7LG] (accessed Aug. 3, 2018).

<sup>123</sup> Corey Booker, FACEBOOK (Feb. 21, 2017), <https://www.facebook.com/corybooker/videos/10156570580692228/> [https://perma.cc/JL2C-APW6] (accessed Aug. 3, 2018).

<sup>124</sup> Dan Anderson, *Newark Mayor Cory Booker Sees Pivotal Time of Leadership Change in America*, ELON U. (Feb. 5, 2009), <http://www.elon.edu/e-net/Article/43125> [https://perma.cc/2RB7-LDGU] (accessed Aug. 3, 2018).

<sup>125</sup> Chris Cillizza, *Here’s How You Know Cory Booker Wants to Run for President in 2020*, WASH. POST (Jan. 11, 2017), [https://www.washingtonpost.com/news/the-fix/wp/2017/01/11/heres-how-you-know-cory-booker-wants-to-run-for-president-in-2020/?utm\\_term=.84f1e068c0db](https://www.washingtonpost.com/news/the-fix/wp/2017/01/11/heres-how-you-know-cory-booker-wants-to-run-for-president-in-2020/?utm_term=.84f1e068c0db) [https://perma.cc/456U-N4FX] (accessed Aug. 3, 2018).

<sup>126</sup> Shark Fin Trade Elimination Act of 2016, H.R. 5584, 114th Cong. (2016).

<sup>127</sup> *Cosponsors: S. 3095—114th Congress (2015–2016)*, LIBR. CONGRESS, <https://www.congress.gov/bill/114th-congress/senate-bill/3095/cosponsors> [https://perma.cc/AMM3-ZV6P] (accessed Aug. 3, 2018).

<sup>128</sup> *Cosponsors: H.R. 5584—114th Congress (2015–2016)*, LIBR. CONGRESS, <https://www.congress.gov/bill/114th-congress/house-bill/5584/cosponsors> [https://perma.cc/5M8B-35LD] (accessed Aug. 3, 2018).

<sup>129</sup> Shark Fin Sales Elimination Act of 2017, H.R. 1456, 115th Cong. (2017); Shark Fin Trade Elimination Act of 2017, S. 793, 115th Cong. (2017).

<sup>130</sup> H.R. 1456.

<sup>131</sup> S. 793.

<sup>132</sup> *Cosponsors: H.R. 1456—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/1456/cosponsors> [https://perma.cc/253K-UWAF] (accessed Aug. 3, 2018); *Cosponsors: S. 793—115th Congress (2017-2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/senate-bill/793/cosponsors> [https://perma.cc/NS3C-PVLG] (accessed Aug. 3, 2018).

<sup>133</sup> H.R. 1456; S. 793; S. 3095; H.R. 5584.

<sup>134</sup> Press Release, Rep. Ed Royce (R-Cal.), Chairman Royce Introduces Shark Fin Sales Ban (Mar. 9, 2017), <https://royce.house.gov/news/documentsingle.aspx?DocumentID=398281> [https://perma.cc/UB2W-2RJ6] (accessed Aug. 3, 2018).

<sup>135</sup> Press Release, Sen. Corey Booker (D-N.J.), Booker, Capito, Blumenthal, McCain, Cantwell, Murkowski Introduce Bill Seeking to Ban Sale of Shark Fins (June 23, 2016),

not only decimating the shark population, but also damaging entire ocean ecosystems, . . . this legislation has the teeth to make a significant impact.”<sup>136</sup> Democratic Senator Richard Blumenthal called shark finning “a sordid practice . . . cruel to every butchered shark left to die finless in the ocean.”<sup>137</sup> “[Shark finning] threatens the entire ocean ecosystem.”<sup>138</sup>

Not everyone agrees that banning domestic trade of shark fins is a good idea. Some have argued domestic shark populations are rising, and that these bills harm commercial fishers, promote waste, and do little to affect the global shark fin trade.<sup>139</sup> Oceana, an ocean conservation group, urges Congress to pass the bill to “reduce the international fin trade . . . and reinforce the status of the United States as a leader in shark conservation.”<sup>140</sup>

### B. *Streamlining Environmental Approvals Act of 2017*

On June 29, 2017, Republican Representative Mike Johnson introduced the Streamlining Environmental Approvals Act of 2017 (SEA Act).<sup>141</sup> The stated purpose of the act is to “amend the Marine Mammal Protection Act of 1972 (MMPA) to reduce unnecessary permitting delays . . . [and] increase economic development and support coastal restoration programs.”<sup>142</sup> Representative Johnson’s website says “government regulation continues to stand in the way of hard-working Americans” and imposes “barriers to new technological innovations.”<sup>143</sup> Representative Johnson mentions these regulations are slowing efforts to protect coastlines, but adds “[e]ven worse, our Armed Forces have been forced to devote valuable resources to address regulations put in place by the MMPA. This is simply unacceptable.”<sup>144</sup> Representative Johnson says the bill will “remove government red tape,” free the market, and create jobs.<sup>145</sup> If passed, the bill will

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[https://www.booker.senate.gov/?p=press\\_release&id=443](https://www.booker.senate.gov/?p=press_release&id=443) [<https://perma.cc/T9AP-KWUA>] (accessed Aug. 3, 2018).

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> Shaun Gehan, *Shark Fin Bill Hurts Americans, Hinders Shark Conservation*, HILL (May 16, 2017), <http://thehill.com/blogs/congress-blog/energy-environment/333502-shark-fin-bill-hurts-americans-hinders-shark> [<https://perma.cc/Z9TY-4T3P>] (accessed Aug. 3, 2018).

<sup>140</sup> *Shark Fin Trade: Why it Should be Banned in the United States*, OCEANA (June 2016), <http://usa.oceana.org/publications/reports/shark-fin-trade-why-it-should-be-banned-united-states> [<https://perma.cc/X2W6-36M9>] (accessed Aug. 3, 2018).

<sup>141</sup> Streamlining Environmental Approvals Act of 2017, H.R. 3133, 115th Cong. (2017).

<sup>142</sup> *Id.*

<sup>143</sup> Press Release, Rep. Mike Johnson (R-La.), Rep. Johnson Introduces Bill to Streamline Environmental Approvals, (June 29, 2017), <https://mikejohnson.house.gov/media/press-releases/rep-johnson-introduces-bill-streamline-environmental-approvals> [<https://perma.cc/3FTD-D2JF>] (accessed Aug. 3, 2018).

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

weaken Incidental Harassment Authorization regulations that restrict industry and governmental activity affecting marine mammals.<sup>146</sup>

The SEA Act has primarily found support with the energy, drilling, and petroleum industries and is endorsed by the International Association of Geophysical Contractors, the National Ocean Industries Association, American Petroleum Institute, and the International Association of Drilling Contractors.<sup>147</sup> The bill is opposed by many environmental and animal welfare groups, such as the Environmental Defense Fund, the International Fund for Animal Welfare (IFAW), and Ocean Conservancy.<sup>148</sup>

Industry groups, as well as Representative Johnson, imply that the MMPA was enacted only to address overfishing and overhunting.<sup>149</sup> The International Association of Geophysical Contractors (IAG) says “in the midst of stable and increasing marine mammal populations, the SEA Act will . . . [ensure] offshore energy and mineral exploration and military operations can move forward.”<sup>150</sup> Representative Johnson and IAGC both take the position that the MMPA should not hinder military operations.<sup>151</sup> Despite claims that the MMPA was intended only to address overfishing and overhunting, the stated purpose of the MMPA says nothing about fishing or hunting, but is simply “[t]o protect marine mammals” generally.<sup>152</sup> Further, the MMPA specifically targets military operations and uses the word “military” twelve times.<sup>153</sup>

Environmental and animal welfare groups argue the SEA Act will harm marine life such as the “highly endangered North Atlantic right whale,” of which there are only approximately 450 total remaining.<sup>154</sup> IFAW calls the bill “an oil and gas industry wish list” that “prevents

<sup>146</sup> CT Harry, *SEA ACT of 2017—Good for Oil and Gas Companies, Bad for Marine Mammals!*, INT’L FUND FOR ANIMAL WELFARE (Oct. 31, 2017), <http://www.ifaw.org/united-states/news/sea-act> [<https://perma.cc/S6DT-UGV3>] (accessed Aug. 3, 2018).

<sup>147</sup> Press Release, Rep. Johnson, *supra* note 143.

<sup>148</sup> Elizabeth Van Cleve, *Conservation Groups Oppose Bill that Weakens Marine Mammal Protection Act*, ENVTL. DEF. FUND (Sept. 19, 2017), <https://www.edf.org/media/conservation-groups-oppose-bill-weakens-marine-mammal-protection-act> [<https://perma.cc/6MKC-CJ9D>] (accessed Aug. 3, 2018); Harry, *supra* note 146; Derek Segars, *Save Dolphins—Leave the Marine Mammal Protection Act Alone*, OCEAN CONSERVANCY (Nov. 16, 2017), <https://oceanconservancy.org/blog/2017/11/16/save-dolphins-leave-marine-mammal-protection-act-alone/> [<https://perma.cc/5TW4-73VV>] (accessed Aug. 3, 2018).

<sup>149</sup> Gail Adams-Jackson, *SEA Act Offers a Common-Sense Approach to Correct Flawed Marine Mammal Protection Act of the 70s*, INT’L ASS’N GEOPHYSICAL CONTRACTORS (June 29, 2017), <https://globenewswire.com/news-release/2017/06/29/1035247/0/en/SEA-Act-offers-common-sense-approach-to-correct-flawed-Marine-Mammal-Protection-Act-of-the-70s.html> [<https://perma.cc/8VDC-MWU5>] (accessed Aug. 3, 2018); Press Release, Rep. Johnson, *supra* note 143.

<sup>150</sup> Adams-Jackson, *supra* note 149.

<sup>151</sup> Press Release, Rep. Johnson, *supra* note 143; Adams-Jackson, *supra* note 149.

<sup>152</sup> The Marine Mammal Protection Act of 1972, Pub. L. No. 92-522, § 2, 86 Stat. 1027.

<sup>153</sup> *Id.*

<sup>154</sup> Harry, *supra* note 146.



almost any type of mitigation strategy to reduce impacts to marine mammals during industry operations.”<sup>155</sup> IFAW says the SEA Act will harm marine mammals by removing current procedures that restrict industry activities to a specific geographic range, providing “automatic extension[s] of existing permits” after only fourteen days to determine if the extension is warranted, not requiring long-term monitoring of industry impact, and removing the requirement that industry activity must have the “‘least practicable impact’ on marine mammals.”<sup>156</sup>

The bill has gathered eight cosponsors, all republicans,<sup>157</sup> and passed through the House Committee on Natural Resources.<sup>158</sup> Committee Chairman Rob Bishop thanked Representative Johnson “for his work on this important bill” and said he “look[s] forward to advancing it through the House.”<sup>159</sup> The entire text of the SEA Act has been incorporated into House Bill 4239, the SECURE American Energy Act that was introduced by House Majority Whip Steve Scalise on November 3, 2017.<sup>160</sup> The SECURE American Energy Act passed through the House Committee on Natural Resources, only five days after being introduced, on November 8, 2017.<sup>161</sup> Whip Scalise said he “look[s] forward to passing it through the House with a strong vote and getting it on President Trump’s desk so he can sign it into law.”<sup>162</sup>

## VI. FARMED ANIMALS

### A. *Safeguard Aquaculture Farmers Act*

The Safeguard Aquaculture Farmers Act is one part of a dispute concerning two orders promulgated by the U.S. Fish and Wildlife Service (FWS) fifteen years ago. The orders, the Aquaculture Depredation Order, and the Public Resource Depredation Order, were promulgated in 1998 and 2003, respectively.<sup>163</sup> Each order allowed the killing of cormorants that were “committing or about to commit depredations on

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<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Cosponsors: H.R. 3133—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/3133/cosponsors> [<https://perma.cc/PCE7-6QS8>] (accessed Aug. 3, 2018).

<sup>158</sup> Press Release, House Comm. on Nat. Res., Committee Passes Bill to Improve Regulatory Efficiency, *Environmental Progress* (Jan. 10, 2018), <https://naturalresources.house.gov/newsroom/documentsingle.aspx?DocumentID=403736> [<https://perma.cc/3YA8-A983>] (accessed Aug. 3, 2018).

<sup>159</sup> *Id.*

<sup>160</sup> SECURE American Energy Act, H.R. 4239, § 110, 115th Cong. (2017).

<sup>161</sup> Press Release, House Committee on Natural Resources, Committee Passes Bipartisan SECURE American Energy Act (Nov. 8, 2017), <https://naturalresources.house.gov/newsroom/documentsingle.aspx?DocumentID=403332> [<https://perma.cc/7J6C-L44K>] (accessed Aug. 3, 2018).

<sup>162</sup> *Id.*

<sup>163</sup> *Pub. Emps. for Envtl. Responsibility v. U.S. Fish & Wildlife Serv.*, 177 F. Supp. 3d 146, 150 (D.D.C. 2016).

the public resources of fish.”<sup>164</sup> These orders have been reissued every five years since the initial promulgation.<sup>165</sup>

On October 29, 2014, Public Employees for Environmental Responsibility filed a lawsuit alleging the FWS director violated the National Environmental Policy Act (NEPA) by renewing the two orders without adequate review.<sup>166</sup> The court sided with the plaintiffs, finding that FWS “did not take a hard look at the Orders’ effect on cormorant populations and failed to consider a reasonable range of alternatives.”<sup>167</sup> In 2016, the court vacated the orders “until FWS performs a new and legally adequate” environmental analysis or environmental impact statement as required under NEPA.<sup>168</sup>

In response to this, on December 2, 2016, Republican Representative Eric Crawford introduced the Safeguard Aquaculture Farmers Act to “reduce depredation at aquaculture facilities and protect public resources.”<sup>169</sup> The bill gathered 8 cosponsors,<sup>170</sup> and was reintroduced on January 9, 2017, with the same language as the 2016 version of the bill.<sup>171</sup> The 2017 version of the bill currently has 9 cosponsors.<sup>172</sup> Republican Senator Tom Cotton reintroduced the Senate version of the bill, Senate Bill 219, which has gathered 5 cosponsors.<sup>173</sup>

Senator Cotton’s website says the bill will “restore the ability of Arkansas catfish farmers, as well as other aquaculture producers, to kill double-crested cormorants that attack their catfish.”<sup>174</sup> Senator Cotton’s website says the, now rescinded, orders “help[ed] protect aquaculture facilities” and that while FWS is completing the environmental analysis, “the livelihoods of many catfish farmers is in jeopardy.”<sup>175</sup> “Arkansas catfish farmers expect that much of their harvests

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<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> Trial Pleading, *Stromborg v. U.S. Fish & Wildlife Serv.*, 2014 WL 5510765 (D.D.C. 2014) (No. 14-1807).

<sup>167</sup> 177 F. Supp. 3d at 154.

<sup>168</sup> *Pub. Employees for Env'tl. Responsibility v. U.S. Fish & Wildlife Serv.*, 189 F. Supp. 3d 1, 5 (D.D.C. 2016); *Pub. Employees for Env'tl. Responsibility v. U.S. Fish & Wildlife Serv.*, No. 16-5224, 2016 WL 6915561, at \*1 (D.C. Cir. Oct. 31, 2016).

<sup>169</sup> Safeguard Aquaculture Farmers Act, H.R. 6425, 114th Cong. (2016).

<sup>170</sup> *Cosponsors: H.R. 6425—114th Congress (2015–2016)*, LIBR. CONGRESS, <https://www.congress.gov/bill/114th-congress/house-bill/6425/cosponsors> [https://perma.cc/EUU8-59GB] (accessed Aug. 3, 2018).

<sup>171</sup> H.R. 6425; Safeguard Aquaculture Farmers Act, H.R. 368, 115th Cong. (2017).

<sup>172</sup> *Cosponsors: H.R. 368—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/368/cosponsors> [https://perma.cc/9HTM-MQSM] (accessed Aug. 3, 2018).

<sup>173</sup> Safeguard Aquaculture Farmers Act, S. 219, 115th Cong. (2017); *Cosponsors: S. 219—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/senate-bill/219/cosponsors> [https://perma.cc/L7FT-B83D] (accessed Aug. 3, 2018).

<sup>174</sup> Press Release, Sen. Tom Cotton (R-Ariz.), Cotton, Boozman Reintroduce Legislation to Protect Arkansas Catfish Farmers (Jan. 25, 2017), [https://www.cotton.senate.gov/?p=press\\_release&id=591](https://www.cotton.senate.gov/?p=press_release&id=591) [https://perma.cc/9K3H-VSN4] (accessed Aug. 3, 2018).

<sup>175</sup> *Id.*

won't survive the winter,"<sup>176</sup> says Senator Cotton. The bill is supported by fish farmers and opposed by Cormorant Defenders International.<sup>177</sup>

## VII. OTHER

### A. *Animal Emergency Planning Act of 2017*

On April 30, 2014, Democratic Representative Dina Titus introduced the Animal Emergency Planning Act of 2014 to amend the Animal Welfare Act (AWA) to require animal breeding facilities, commercial dealers, transporters, exhibitors, and research facilities to develop and implement emergency contingency plans.<sup>178</sup> Senator Titus said, "hurricanes Katrina and Sandy, as well as other recent disasters, have highlighted the need for planning to minimize the impact of these disasters on animals."<sup>179</sup> Representative Titus reintroduced the bill in 2015, and again on September 14, 2017.<sup>180</sup> The 2017 version of the bill has gathered 51 cosponsors, primarily democrats.<sup>181</sup>

The bill requires covered persons to "develop, document, and follow a contingency plan to provide for the humane handling, treatment, transportation, housing, and care of its animals in the event of an emergency or disaster."<sup>182</sup> Covered persons would be required to identify specific emergencies that might arise, establish a chain of command, outline specific responses, train staff, and annually review the contingency plans.<sup>183</sup>

Section 2 of the Animal Emergency Planning Act states Congress finds that lack "of preparedness in times of disaster can have especially devastating effects on animals and the people who risk their lives to protect them . . . [such as] first responders, nongovernmental agencies, and private individuals."<sup>184</sup> Thus, it "is reasonable to ask those who use animals commercially to demonstrate a level of readiness to protect the animals under their care." Despite these findings, the definition of "animal" in the AWA specifically excludes livestock,

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<sup>176</sup> *Id.*

<sup>177</sup> *Safeguard Aquaculture Farmers Act Needs Your Support*, WIS. AQUACULTURE ASS'N, INC., [http://wisconsinaquaculture.com/News\\_Details.cfm?NID=720&LinkType=58](http://wisconsinaquaculture.com/News_Details.cfm?NID=720&LinkType=58) [https://perma.cc/T7FZ-JDDA] (accessed Aug. 3, 2018); Frank E. Lockwood, *Bill to OK Fish-Farm Bird Kills Revived*, NW. ARK. DEMOCRAT-GAZETTE (Jan. 10, 2017) <http://www.pressreader.com/similar/282342564527622> [https://perma.cc/HWW9-FTSX] (accessed Aug. 4, 2018).

<sup>178</sup> Animal Emergency Planning Act of 2014, H.R. 4524, 113th Cong. (2014); 160 CONG. REC. H.3300 (daily ed. Apr. 30, 2014) (statement of Rep. Titus).

<sup>179</sup> 160 Cong. Rec. H.3300.

<sup>180</sup> Animal Emergency Planning Act of 2015, H.R. 3193, 114th Cong. (2015); Animal Emergency Planning Act of 2017, H.R. 3792, 115th Cong. (2017).

<sup>181</sup> *Cosponsors: H.R. 3792—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/3792/cosponsors> [https://perma.cc/6VAR-G5BX] (accessed Aug. 3, 2018).

<sup>182</sup> H.R. 3792 § 30(b).

<sup>183</sup> *Id.* § 30(b)(1).

<sup>184</sup> *Id.* § 2(2).

poultry, and other farm animals,<sup>185</sup> and farmers and persons involved in animal agriculture are exempted from the Animal Emergency Planning Act entirely.<sup>186</sup> Further, although the bill imposes requirements on research facilities, the definition of “animal” in the AWA excludes birds, rats, and mice bred for use in research,<sup>187</sup> and these animals make up ninety to ninety-five percent of animals actually used in research.<sup>188</sup>

In 2017, Hurricane Harvey demonstrated that although media can focus on dogs and cats after a natural disaster, “animals of every species” are impacted.<sup>189</sup> It is unknown how many research animals were affected by Hurricane Harvey, “because the numbers of rats, mice, birds, and fish used by laboratories are not tabulated by the U.S. Department of Agriculture.”<sup>190</sup> What is known, is that millions of cows were affected and thousands of pigs drowned.<sup>191</sup> Harvey also shows how simple preparations, like the flood-prevention doors used in many research facilities in Houston, can save animal lives where previously, without the doors, “thousands of research rodents” were killed.<sup>192</sup>

The Animal Emergency Planning Act of 2017 is supported by the ASPCA, and the HSUS.<sup>193</sup> On October 5, 2017, the bill was referred to the Subcommittee on Livestock and Foreign Agriculture, where it remains as of August 3, 2018.<sup>194</sup>

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<sup>185</sup> 7 U.S.C. § 2132(g).

<sup>186</sup> See H.R. 3792 §30(a) (applying only to research facilities, dealers, exhibitors, intermediate handlers, carriers, and federal research facilities).

<sup>187</sup> 7 U.S.C. § 2132(g).

<sup>188</sup> *Animals in Science/Research*, NEW ENGLAND ANTI-VIVISECTION SOC'Y, <https://www.neavs.org/research/laws> [<https://perma.cc/82S9-R86D>] (accessed Aug. 3, 2018).

<sup>189</sup> Merritt Clifton, *Hurricane Harvey: How Horses, Cattle, Lab & Zoo Animals Fared*, ANIMALS 24-7 (Sept. 2, 2017), <http://www.animals24-7.org/2017/09/02/hurricane-harvey-how-horses-cattle-lab-zoo-animals-fared/> [<https://perma.cc/C2TS-K27Y>] (accessed Aug. 3, 2018).

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

<sup>192</sup> *Id.*

<sup>193</sup> USA: *Support Legislation to Protect Animals During Disasters!*, ASPCA, <https://secure.aspc.org/action/us-disasters> [<https://perma.cc/X9GM-3NU5>] (accessed Aug. 3, 2018); Press Release, Rep. Dina Titus (D-Nev.), After Hurricanes, Titus Re-Introduces Legislation to Protect Animals During Natural Disasters (Sept. 15, 2017), <https://titus.house.gov/press-releases/after-hurricanes-titus-re-introduces-legislation-to-protect-animals-during-natural> [<https://perma.cc/M8MY-U9FV>] (accessed Aug. 3, 2018).

<sup>194</sup> *All Actions H.R. 3792—115th Congress (2017–2018)*, LIBR. CONGRESS, <https://www.congress.gov/bill/115th-congress/house-bill/3792/all-actions> [<https://perma.cc/XF4D-UW45>] (accessed Aug. 3, 2018).