

117TH CONGRESS
2D SESSION

H. R. 7197

To amend the Endangered Species Act of 1973 to further restrict the Secretary of the Interior from designating certain lands used for national defense-related purposes as critical habitats for any species under that Act and to broaden exclusions and exemptions from that Act for such defense-related purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2022

Mr. BIGGS (for himself, Mr. GOHMERT, and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to further restrict the Secretary of the Interior from designating certain lands used for national defense-related purposes as critical habitats for any species under that Act and to broaden exclusions and exemptions from that Act for such defense-related 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 “Armed Forces Endan-
5 gered Species Exemption Act”.

1 **SEC. 2. EXCLUSION OF MILITARY INSTITUTIONS AS CRIT-**
2 **ICAL HABITAT.**

3 Section 4(a)(3)(B) of the Endangered Species Act of
4 1973 (16 U.S.C. 1533(a)(3)(B)) are amended to read as
5 follows:

6 “(i) The Secretary shall not designate
7 as critical habitat—

8 “(I) any military installation or a
9 State-owned National Guard installa-
10 tion, or any portion thereof, as such
11 terms are defined in section 100 of
12 the Sikes Act (16 U.S.C. 670); or

13 “(II) any other lands, waters, or
14 geographical area not described in
15 clause (i) that is otherwise designated
16 for use by the Secretary of Defense
17 including by any contractor of the De-
18 partment of Defense, if the Secretary
19 of Defense determines in writing and
20 submitted to the Secretary of the In-
21 terior that such area is necessary for
22 military training, weapons testing, or
23 any other reason determined appro-
24 priate by such Secretary of Defense.

25 “(ii) The Secretary of Defense shall
26 not be required to consult with the Sec-

retary of the Interior, under section 7(a)(2) of this Act with respect to agency action, regardless of whether the area described in clause (i) is subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a).”.

**SEC. 3. ADDITIONAL EXCLUSIONS AND EXEMPTIONS FROM
THE ENDANGERED SPECIES ACT FOR DE-
FENSE-RELATED OPERATIONS.**

Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following new subsection:

“(h) EXCLUSION FOR NATIONAL DEFENSE-RELATED OPERATIONS.—

“(1) EXCLUSIONS.—The prohibitions under section 9 shall not apply with respect to—

“(A) the taking of any endangered species or threatened species, or the importation or exportation of any such species taken as prohibited by such section, by military personnel engaged in a national defense-related operation;

“(B) damaging or destroying any threatened or endangered species, or removing, cutting, digging up, damaging, or destroying any

1 such species, by military personnel engaged in
2 a national defense-related operation; or

3 “(C) an injury to or mortality of a threat-
4 ened or endangered species that results from,
5 but is not the purpose of, a national defense-re-
6 lated operation,

7 regardless of whether the operation is conducted on
8 a military installation or other area described in sec-
9 tion 4(a)(3)(B)(i).

10 “(2) DEFINITIONS.—For the purposes of this
11 subsection—

12 “(A) the term ‘national defense-related op-
13 eration’ means—

14 “(i) research, development, testing,
15 and evaluation of military munitions, other
16 ordnance, and weapons systems;

17 “(ii) the training of members of the
18 Armed Forces in the use and handling of
19 military munitions, other ordnance, and
20 weapons systems;

21 “(iii) general training and military
22 preparedness; or

23 “(iv) any action or duty that the Sec-
24 retary of Defense deems necessary to sup-

1 port the Department of Defense in its mis-
2 sion; and

3 “(B) the term ‘military personnel’
4 means—

5 “(i) a member of the Armed Forces;
6 and

7 “(ii) a civilian employee or contractor
8 (including a subcontractor at any tier) of
9 the—

10 “(I) Department of Defense (in-
11 cluding a nonappropriated fund in-
12 strumentality of the Department); or

13 “(II) any other Federal agency,
14 or any provisional authority, to the
15 extent such employment relates to
16 supporting the mission of the Depart-
17 ment of Defense overseas.”.

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