

# Subcommittee on Federal Lands

Tom McClintock, Chairman  
Hearing Memorandum

September 8, 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 **H.R. 3668 (Rep. Jeff Duncan)**, To provide for the preservation of sportsmen’s heritage and enhance recreation opportunities on Federal land, and for other purposes.  
**September 12, 2017 at 10:00 A.M.; 1334 Longworth HOB**

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## **H.R. 3668 (Rep. Jeff Duncan), “*Sportsmen's Heritage and Recreational Enhancement Act*” or the “*SHARE Act*”**

### **Bill Summary**

H.R. 3668, introduced by Rep. Jeff Duncan (R-SC), “*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 114<sup>th</sup> 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  
Washington, D.C.

*Mr. Stephen Halbrook, Ph.D.*  
Attorney  
Fairfax, Virginia

*Ms. Anna Seidman*  
Director of Government Affairs  
Safari Club International  
Washington, D.C.

Mr. Christopher Sharon  
Chief Operating Officer  
Hope for the Warriors  
Springfield, Virginia

## **Background**

The *SHARE Act* guarantees 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 in the U.S. over the age of 16 hunted or fished.<sup>1</sup> Outdoor sporting activities are also a major economic driver, contributing over \$90 billion to the U.S. economy in 2011.<sup>2</sup>

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 for hunting, fishing, and recreational shooting on federal lands 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.

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

<sup>2</sup> *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 the U.S. Forest Service (USFS) and the Director of the Bureau of Land Management (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 (this already applies to National Parks).

### **TITLE IV—RECREATIONAL FISHING AND HUNTING HERITAGE OPPORTUNITIES ACT**

- Requires BLM and USFS lands to be open for hunting fishing and shooting unless specifically closed. National Parks and Wildlife Refuges will remain exempt from this provision, and the BLM or USFS will retain authority to implement restrictions when needed to protect public safety.
- Revises the U.S. Fish & Wildlife Service’s (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 National Park Service (NPS) lands.

### **TITLE VI—FARMER AND HUNTER PROTECTION ACT**

- Authorizes state extension offices to determine “normal agricultural practices.” This will remedy recent situations in which the FWS has interpreted the Migratory Bird Treaty Act to include hunting of migrating birds on rolled rice fields as illegal baiting, resulting in fines up to \$10,000 for farmers and hunters.
- Aims to set criteria of what constitutes “normal agricultural practices” by having the FWS refer to local U.S. Department of Agriculture (USDA) extension offices for the determination.

### **TITLE VI—TRANSPORTING BOWS ACROSS NATIONAL PARK SERVICE LANDS**

- Authorizes the lawful transportation of bows and crossbows on NPS lands. Bows and crossbows must be secured in a vehicle while in a National Park unit.
- 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 VII—RESPECT FOR TREATIES AND RIGHTS**

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

## **TITLE VIII—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 IX—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 Administrative Conference of the United States 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 X—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 XI—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 XII—POLAR BEAR CONSERVATION AND FAIRNESS ACT**

- Enables 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, if submitted, before May 15, 2008, submits proof that 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 XIII—NORTH AMERICAN WETLANDS CONSERVATION EXTENSION**

- Reauthorizes the North American Wetlands Conservation Act for five years at \$50 million per year.
- Restricts funds from being used by the federal government to purchase land that will be administered by the United States.

#### **TITLE XIV—GRAY WOLVES**

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

#### **TITLE XV—HEARING PROTECTION**

- 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.
- Reduces the cost of purchasing a suppressor by removing a \$200 transfer tax.

#### **TITLE XVI—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 principles 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."

#### **TITLE XVII—FEDERAL LAND TRANSACTION FACILITATION ACT REAUTHORIZATION (FLTFA)**

- Reauthorizes FLTFA, enabling the government to sell excess public land and use the revenue to acquire high-priority in-holdings from willing sellers or fund projects on the maintenance backlog list.

#### **TITLE XIII—FILM CREW PERMIT AND FEES**

- Directs the U.S. Department of the Interior and the U.S. Department of Agriculture to issue permits and assess fees on an annual-basis for commercial filming on federal land for crews of five people or fewer. This will allow for greater access for small media groups and individuals.

## **TITLE XIX—RESPECT FOR STATE WILDLIFE MANAGEMENT AUTHORITY**

- Reaffirms and highlights the existing authority of the states to manage fish and wildlife within their borders, including on federal lands and waters
- Directs the Secretary of the Interior and Secretary of Agriculture to cooperate with the states, and to utilize state fish and wildlife agencies' data and analyses when planning, developing and implementing land management plans for USFS, BLM, and FWS lands.

### **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 \(Ramseyer\)](#)**