



# Feline Conservation Foundation

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*FCF is a 501(3)(c) non-profit organization whose mission is conservation of wild felines through educational opportunities, responsible ownership, and advocacy*

EIN 59-2048618

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### Feline Conservation Foundation

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June 24, 2020

The Honorable Tom McClintock  
Republican Leader  
Subcommittee on Water, Oceans, and Wildlife  
1329 Longworth House Office Building  
Washington, D.C. 20515

Dear Rep. McClintock:

As the Subcommittee on Water, Oceans, and Wildlife prepares to hold a legislative hearing on H.R. 1776, the "Captive Primate Safety Act," on June 25, 2020, I write, on behalf of the Feline Conservation Foundation, to oppose H.R. 1776, as currently written.

The Feline Conservation Foundation (FCF) is a non-profit, non-governmental organization that consists of wild feline managers, educators, conservationists, researchers, and citizens across the nation who support the mission of feline conservation both in captivity and in the wild. For over 60 years, this unique expertise has allowed the FCF to be a critical source of empirical information about the responsible management and the status of exotic felines in the United States and abroad.

This legislation attempts to regulate primate movement in interstate commerce in ways that will enhance public safety and animal welfare, which the FCF supports. However, the current language raises issues that may result in unexpected negative outcomes for the animals that legislators are working to protect.

We have four areas in which we would suggest changes to the legislation: (1) a lack of key definitions in the bill; (2) dual agency regulation and potential conflicts; (3) wildlife sanctuary exemption; and (4) additional non-human primate owner concerns.

### 1. Lack of Key Definitions

The bill text is lacking specific definitions for multiple key terms, leaving them open to interpretation. Exclusion of key terms from the definition section will create significant confusion in the industry as affected facilities work to understand the true impact of this bill. Instances where crucial definitions are missing include:

A. "Public" as referenced in Sec. 3 (e) (2) (A)(ii), requiring that the USDA licensee "does not allow direct contact between any member of the public and a live bear, tiger, lion, jaguar, cougar, African leopard, snow leopard, ape, gibbon, siamang, monkey, or loris, regardless of the age of the animal."

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The term “public” may be interpreted as any person who is not a paid employee, which potentially excludes interns, contractors such as landscape maintenance workers, infrastructure repair workers, even the most experienced volunteers, and other entities that provide critical support services to a facility.

Many of our member facilities rely extensively on the assistance of trained volunteers, which often include retired specialists in animal care or former zookeepers. H.R. 1776 would likely prohibit the continued use of volunteers, which would cause significant financial hardship for many facilities, and could create a crisis for the continued care of our animals.

B. “Direct contact” as referenced in Sec. 3 (e) (2) (A)(ii), same as above.

The term “direct contact” may be interpreted to address people sharing space with an animal with no barrier, or touching animals through a protective barrier, as is commonly done with animals in training situations. The USDA, the existing federal regulatory agency for these facilities, has historically treated instances of feeding animals with tongs or long feeding sticks as a kind of direct contact. Many facilities use these methods to provide sustenance or for training purposes, and those activities may be conducted by someone other than paid staff.

Is a fully anesthetized animal considered at the same level of risk, or will a veterinarian’s staff be allowed to work in “direct contact” with the animal for a procedure? It is unclear how H.R. 1776 would operate here.

Also, the FCF is concerned how H.R. 1776 would be promulgated in view of another bill, H.R. 1380, the “Big Cat Public Safety Act” that has been approved by the committee. For example, what would be the effect of the competing definitions in H.R. 1380 on the same issue area should both bills be enacted?

## **2. Dual Agency Regulation and Potential Conflicts**

USDA APHIS provides oversight and licensing for all facilities working commercially with these species. Using an interstate commerce law to regulate intrastate business activities already regulated by another federal agency will create a significant tangle of regulations for businesses to navigate.

At this time, the US Fish and Wildlife Service interacts with USDA regulated businesses by providing permits for activity, including interstate transactions. Reported unpermitted interstate activity is investigated—a valid permit either exists or not. That system will not apply to this kind of business oversight.

It is not clear how this bill language of H.R. 1776 would be promulgated and determining if this enacted law has been violated could be very complex. A person who purchased or sold an animal across state lines without taking possession of the animal, instead placing it into another setting in the same state, may himself be subject to unannounced inspections by the US Fish and Wildlife Service. Unlike the issuance of a permit, determining compliance with ongoing business activity that may be seasonal or sporadic may require a substantial increase in federal enforcement staff.

### **3. Wildlife Sanctuary Exemption**

The bill contains a lack of clarity regarding which exemption will apply to wildlife sanctuaries that hold both a USDA Class C license and fulfill the criteria as listed for the sanctuary exemption, especially given the bill language to strike the modifier “accredited.”

Given that the category of USDA Class C exhibitor also represents the vast majority of sanctuaries holding big cats, and that the restrictions on management practices differ so widely between the two exemptions, this creates confusion about to which set of requirements any specific facility is required to adhere, and makes facilities vulnerable to inconsistency in enforcement decisions.

### **4. Additional Non-human Primate Owner Concerns**

Non-human primates are not the focus of our expertise, but we share some concerns their owners have raised with this bill. Given that veterinary care for non-human primates is quite specialized, we request the addition of a provision that would allow an owner to seek veterinary care for their non-human primates across state lines.

Some primates are very long-lived, spanning decades. We also request the addition of a provision for a primate to be bequeathed across state lines to another caregiver on the death or disability of the owner, should that state allow legal possession.

### **Conclusion**

The Feline Conservation Foundation would support a version of this bill that successfully fulfills the criteria of enhancing public safety and animal welfare, when drafted with precise and well-defined language, and informed by subject matter experts. Unfortunately, H.R. 1776 fails to accomplish these goals and would create confusion and perhaps irreversible damage to the operation of our facilities that would threaten their very survival – which is quite antithetical to the purported reason for the committee to take up this legislation.

For the above reasons, the Feline Conservation Foundation opposes H.R. 1776 as currently written, and calls on the committee to address these concerns in order to avoid adversely impacting animal welfare by passing a bill that has the potential for a variety of unintended consequences.

Sincerely,

A handwritten signature in cursive script that reads "Mindy Stinner".

Mindy Stinner, President  
Feline Conservation Foundation