



CONGRESSIONAL BUDGET OFFICE  
PAY-AS-YOU-GO ESTIMATE

October 26, 1998

**H.R. 2807**

**An act to clarify restrictions under the Migratory Bird Treaty Act  
on baiting and to facilitate acquisition of migratory bird habitat,  
and for other purposes**

*As cleared by the Congress on October 15, 1998*

Four provisions of H.R. 2807 could affect receipts from criminal or civil fines; therefore, pay-as-you-go procedures would apply to the legislation. CBO estimates that any changes in receipts would be negligible, however, and would be largely offset by resulting changes in direct spending.

Section 102 would codify a national standard, presently applied in only a few states, that would make it unlawful for a person to hunt over a field if that person knows or reasonably should know that the area is baited. At present, the standard for establishing when someone is guilty of hunting over a baited area is determined by the courts, most of which apply strict liability—that is, anyone found hunting over a baited field is guilty of violating federal law whether the person knew that the area was baited or not. It is possible that applying the standard established by section 102 could make it more difficult for some prosecutors to prove that the law has been violated, resulting in fewer convictions in some states. CBO estimates, however, that the aggregate decrease in federal revenues from fines would be insignificant because the overall conviction rate would be unlikely to fall by much—these rates are already extremely high in all states, regardless of which standard is applied.

Section 103 would raise from \$500 to \$15,000 the maximum criminal penalty for certain violations of the Migratory Bird Treaty Act. CBO estimates that this provision would not cause any significant increase in revenues from fines because we expect that prosecutors would be very unlikely to ask for higher penalties than they currently seek. (The government rarely imposes the current \$500 maximum fine in the more than 1,000 cases it prosecutes annually.) In any case, changes in revenues from enacting this section would result in offsetting changes in direct spending from the Crime Victims Fund.

Section 206 would reduce the penalty for unintentional violations of the National Wildlife Refuge System Act by recategorizing them from Class A misdemeanors to Class B

misdemeanors, thus making them easier to prosecute. The change would lower the maximum fine for such violations from \$100,000 to \$5,000. CBO estimates that this provision would have a negligible effect on governmental receipts because any receipts forgone as a result of the reduction in the maximum penalty are likely to be roughly offset in any given year by additional fines collected as a result of an increase in prosecutions.

Finally, title IV would prohibit any person from selling, importing, or exporting products containing (or labeled as containing) any substance derived from rhinoceroses or tigers. This title would establish both criminal and civil penalties to be imposed on anyone who violates the prohibition and therefore could affect governmental receipts (revenues). The direction of any change, however, is uncertain. On the one hand, revenues could increase if the sale and export of prohibited (or falsely labeled) items does not change and federal enforcement agencies are able to collect more fines under the broader language of this title. On the other hand, revenues could fall if the legislation induces some sellers and importers to curtail their activities. In either event, CBO estimates that any increases or decreases in revenues would be less than \$500,000 annually. Moreover, such changes would be offset by decreases or increases in direct spending from the Crime Victims Fund (where criminal fines are deposited) or the resource management account of the U.S. Fish and Wildlife Service (where civil fines are deposited).

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.