

# LACEY ACT

## Position

Illegal logging is a global problem that has serious environmental and economic consequences, and effectively addressing this problem is an important goal that retailers support. However, Congress' 2008 amendment of the Lacey Act was enacted with little input from the importing community, and it has become apparent that there are some challenges with the law as it is written. RILA believes legislation is necessary to address some of the challenges with the 2008 amendment without undermining the goal to stop illegal logging.

## Background

In 2008, Congress amended the Lacey Act to significantly expand the scope of the law and to add several new requirements for importers of a wide variety of consumer products. These requirements have proved challenging for retailers, and unless the challenges are meaningfully addressed, the Lacey Act requirements could pose an unworkable burden on importers and raise a significant barrier on trade.

## Recent Activity

In October 2011, Congressman Jim Cooper (D-TN) introduced a bill (H.R. 3210) to amend the Lacey Act without undermining the goal to stop illegal logging. H.R. 3210 would limit the Lacey declaration requirements to plant products that are solid wood, if the plant product is derived from a tree, and would require a review on the feasibility of creating a public database of all foreign laws from countries in which plants are exported. RILA sent a letter to Congressman Cooper supporting H.R. 3210. Environmental non-government organizations (NGOs) are opposed to H.R. 3210.

Senators Ron Wyden (D-OR) and Lamar Alexander (R-TN) are also in the process of drafting legislation to amend the Lacey Act, and are holding a series of meetings with stakeholders to identify consensus solutions.

RILA has worked closely with environmental NGOs and other stakeholders to find positive solutions to the challenges that have been identified with the Lacey Act. We have organized and signed three consensus statements, along with other business interests and NGOs, that are intended to help guide Congress and the Administration on this issue.

Separately, the Lacey National Consensus Committee unveiled a Lacey Consensus Due Care Standard in February 2012. The Standard's purpose is to protect and enhance the global forest environment; increase Lacey compliance and reduce illegal logging by providing more certainty on how to comply with Lacey Due Care; achieve a sales and competitive advantage for companies certifying to the Standard; and provide defenses to liability for companies executing a bona fide legally binding certification of compliance to the Standard, including to the FTC Environmental Marketing Guides. The intent of the Standard is to identify measures that companies can take to meet the "due care" requirements of the Act. The standard hopes to serve as precedent for a court to look to an industry standard in defining due care.

### **Action Needed**

RILA continues to advocate for a legislative change to address some of the challenges that have arisen with the 2008 amendment to the Lacey Act, while still maintaining an effective regime to combat illegal logging. Companies should reach out to their Congressional delegations to educate them on modest changes to the Lacey Act that could be made to facilitate compliance with the law.

### **Contact RILA**

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