



THE HUMANE SOCIETY OF THE UNITED STATES

**Hearing on H.R. 2480
Truth in Fur Labeling Act
A bill to improve the accuracy of fur product labeling, and for other purposes**

**U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Commerce, Trade, and Consumer Protection**

**Testimony of Michael Markarian
Chief Operating Officer
The Humane Society of the United States**

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I am Michael Markarian, chief operating officer of The Humane Society of the United States, and I want to thank you, Chairman Rush, Ranking Member Whitfield, and members of the Subcommittee for the opportunity to testify in support to H.R. 2480, the Truth in Fur Labeling Act, a bill to improve the accuracy of fur product labeling, and for other purposes. We are grateful to Representatives Moran and Bono Mack for their leadership on this important issue. On behalf of The HSUS, the nation's largest animal protection organization, and our more than 11 million supporters nationwide, we strongly support this legislation, which would give consumers the information they need to make informed purchasing decisions.

This common-sense legislation would simply provide consumers with important product information on the fur garments they are buying. It would not restrict the trade in any species of fur or any methods of producing fur. H.R. 2480 is supported by retailers, fashion designers, animal welfare groups, and consumer protection groups, and we urge the Subcommittee to report it favorably for swift action by the full Congress.

History of the Fur Products Labeling Act

In response to rampant false advertising and false labeling of animal fur garments, Congress passed the Fur Products Labeling Act in 1951, with the law taking effect in 1952, requiring that animal fur garments be labeled with the name of the species used, manufacturer, country of origin, and other information. The law was intended to prevent unfair competition in the marketplace and to protect consumers by providing product information and letting them know whether the product is made from real animal fur, and if so, what type of fur. A *New York Times* article published in 1952 noted that the new law was “enacted to eliminate unfair trade practices and deceptive merchandising and advertising of fur coats.”ⁱ At the time, some sellers were using misleading terms such as “mink-dyed muskrat” for muskrat coats, “coney” for rabbit fur, and

“marten dyed skunk” for skunk, and leaders of the fur industry called for strict labeling standards to ensure that consumers had accurate and consistent product information.

When the Fur Products Labeling Act was passed, it exempted products with a “relatively small quantity or value” of fur. At the time, fur was primarily used for full-length coats and stoles, and fur-trimmed and faux fur items were relatively uncommon. More than a half-century later, however, the market has been inverted: Fashions have changed, and the market demand for fur trim is much larger. As many fur-trimmed garments are sold today as full-length fur coats, and the fur industry has predicted that the use of fur for trim in the U.S. could surpass the use of fur for full-length apparel, if it hasn’t already. With the improvements in synthetic materials, it is also more difficult today to distinguish between real and faux fur. The existing labeling law has not kept up with the changes in the marketplace, and simply does not reflect the present market realities.

The Federal Trade Commission currently sets the “small quantity or value” exemption at \$150, which allows massive quantities of fur to go unlabeled. Based on approximate pelt prices after tanning and dressing, an individual garment using the fur from 30 rabbits (\$5 each), 25 ermines (\$6 each), fifteen muskrats (\$10 each), twelve opossums (\$12 each), nine chinchillas (\$16 each), eight skunks (\$18 each), five raccoons (\$28 each), three badgers, beavers, fishers, or minks (\$50 each), three Arctic, grey, or red foxes (\$50 each), three raccoon dogs (\$45 each), two coyotes (\$75 each), one sable (\$90), one otter (\$120), one silver fox or wolverine (\$130), one lynx (\$135), one bobcat (\$140), or one bear or timber wolf (\$150) could be sold without a label.

This dollar value exemption constitutes a major loophole in the Fur Products Labeling Act, and it should be eliminated. Laws applying to other garments don’t have an exemption like the fur industry: For example, although the Wool Products Labeling Act of 1939 provides exemptions for certain non-clothing items (such as carpets, rugs, and mats), it *does not provide any exemptions for apparel based on value or cost*. The labeling of fur garments should be treated no differently. The result will be a better functioning marketplace.

The Loophole is Causing Consumer Confusion and Deception

Many garments—such as jackets, parkas, sweaters, vests, and accessories like hats, gloves, and shawls—are trimmed with animal fur. If either the manufacturer’s selling price of the finished garment *or merely the cost to the manufacturer of the fur pelts* (not including the cost of adding the fur trim to the garment) is \$150 or less, the product does not have to be labeled and consumers are left to guess whether the fur is real, and if so, what type of animal it is.

Unlabeled fur-trimmed garments—many of which are also falsely advertised—are a widespread problem for retailers and consumers across the nation. A series of recent investigations by The Humane Society of the United States revealed that dozens of designers and retailers were selling some fur-trimmed jackets described as “faux” or not labeled at all, which turned out to contain animal fur, including some which were made of dog fur.

Of a group of 38 jackets subjected to mass spectrometry testing, every single garment was either unlabeled, contained a label that misidentified the animal, or was falsely advertised. Several of these jackets were sold as “faux” fur when in fact they were raccoon dog, domestic dog, or rabbit fur. Others were advertised as “raccoon” or “rabbit” fur when in fact the fur was from the

raccoon dog, a canine species native to Asia. Three of the jackets advertised as fake fur—two of which had no label—were found to contain fur from domestic dogs.

For example:

- A Burberry jacket sold at SaksFifthAvenue.com was unlabeled and advertised as “faux fur,” but testing concluded it was rabbit fur.
- A Marc New York jacket sold at Bluefly.com and a Joie jacket sold at Nordstrom.com both were unlabeled and advertised as “faux fur,” but testing concluded they were domestic dog fur.
- An Andrew Marc jacket sold at Neiman Marcus and a Marc New York jacket sold at Lord & Taylor were both labeled “Trim: Polyester” but testing concluded the trim was made from raccoon dog and rabbit fur.
- Two Rocawear jackets, both unlabeled and one advertised as “faux fur,” were found to be made from raccoon dog.
- A Tommy Hilfiger jacket sold at ShopTommy.com was labeled “Nylon Coyote” and advertised as “fake fur,” but testing concluded it was domestic dog.

A complete list of this group of 38 jackets tested by The HSUS is attached. Some companies voluntarily pulled these jackets from their stores and adopted fur-free policies in response to the investigative findings. Other companies have endorsed legislation to close the fur labeling loophole, presumably because they want their customers to know what they are getting and to have confidence in the products they are buying.

But until this loophole in the Fur Products Labeling Act is closed, designers, retailers, and consumers can have no confidence in what they are getting—whether it is faux fur or real, and if real, from what animal—especially when many of these garments are sourced from China. In 2000, Congress banned the import of fur products made from domestic dogs and cats, but customers are still wary that dog and cat fur is slipping into the U.S. because these garments are imported and sold without labels.

Additionally, many of today’s fur manufacturing techniques add to the consumer confusion. The fur industry uses dyeing and shearing today more than ever before, making the absence of a label especially problematic. If customers see pink, orange, blue, or sheared trim, they often assume it is faux or synthetic because it is not labeled and does not resemble an animal’s fur.

When the garment itself does not contain a label describing the fur material, it’s difficult for retail staff to even know what they are selling to consumers. While this may not pose a problem for furriers in specialty fur salons—they are experts in the materials they are sourcing, and customers go to those venues seeking fur—it’s a completely different scenario in mainstream department stores. The retail sales clerks are not experts in fur material, and they are dealing with merchandise that cycles through their departments regularly. A rack of jackets with a sign advertising “fake fur” may include some real fur as well, as inventory changes or as customers and salespeople try on items and then return them to the wrong racks.

Without a label on the individual jacket, consumers have no choice but to trust what they are told by a sales clerk or what they read in advertising materials. Here’s what some sales clerks have told undercover investigators posing as customers when asked about unlabeled jackets that were trimmed with animal fur:

Ex. 1 - Grasshoppers (children's clothing), California:

“It’s not real fur...It’s fake...If it’s real fur they say real fur.”

Ex. 2 - Bloomingdale's, California:

“I really don’t think it’s real fur.”

Ex. 3 - Bloomingdale's, New York:

Investigator: **“I don’t see anything on the label.”**

Sales clerk: **“Fur trim—it doesn’t mention the fur trim.”**

Investigator: **“So what do you think that means?”**

Sales clerk: **“It’s goose down so it’s warm. It would say raccoon or rabbit, whatever—it doesn’t say, I believe it’s acrylic—fake fur.”**

Investigator: **“So if it doesn’t say, you think that means it’s fake?”**

Sales clerk: **“I believe it’s fake.”**

Ex. 4 – Bergdorf Goodman, New York (two sales clerks were asked separately about the same jacket):

Investigator: **“We’re just trying to figure out what type of fur this is. Do you know?”**

Sales clerk 1: **“Yeah, rabbit.”**

Investigator: **“Rabbit?”**

Sales clerk 1: **“Yeah.”**

Sales clerk 2: **“Well, this is fox.”**

Investigator: **“Fox?”**

Sales clerk 2: **“Mmm-hmm.”**

Investigator: **“Yeah it doesn’t...we couldn’t find a label saying anything about it.”**

Sales clerk 2: **“They often don’t and they should, I know...but often they don’t...but it is fox.”**

While it is difficult to tell one species of fur from another without a label, it has also become increasingly difficult to tell animal fur from fake fur, due to the realistic look of synthetic fur and sometimes the fake look of animal fur. Outside of a laboratory, there are several methods of telling real fur from fake—including cutting the fur material open to see whether it is attached to skin or fabric, or pulling a few of the hairs from the fur and lighting them with a match to determine whether the smell is similar to human hair or plastic when burned. Of course, these types of tests cannot be conducted while browsing the department store racks. Since most consumers and sales clerks cannot tell the difference between animal fur and fake fur simply by visually inspecting the garment, the inclusion of a clear and accurate label is the only answer to this problem.

Broad Support for a Common-Sense Labeling Policy

H.R. 2480 is a bipartisan bill with 166 cosponsors, including many Members from the Energy and Commerce Committee (Markey, Eshoo, Engel, Capps, Doyle, Schakowsky, Inslee, Weiner,

Matsui, Sarbanes, C. Murphy, McNerney, Sutton, Welch, Upton, Whitfield, Bono Mack, Rogers, Myrick). A similar bill in the 110th Congress (H.R. 891), which was broader in scope than the current legislation, had 177 bipartisan cosponsors.

A number of the best-known retailers and designers—including Macy’s, Bloomingdale’s, Saks Fifth Avenue, Andrew Marc, Overstock.com, VPL/Victoria Bartlett, Buffalo Exchange, Tommy Hilfiger, Burlington Coat Factory, Loehmann’s, House of Deréon, Charlotte Ronson, Ed Hardy, and Marc Ecko Enterprises—have publicly endorsed legislation to close the fur labeling loophole so that all animal fur is labeled regardless of dollar value. In fact, labeling all fur products would help simplify and bring consistency to the manufacturing and retailing of fur apparel, and would help protect retailers whose sales staff often don’t know about the loophole, or what type of fur is on a product.

Consumer protection organizations and agencies have also weighed in on the need for stronger fur labeling laws. The National Association of Consumer Agency Administrators (NACAA), an organization representing more than 160 government agencies and 50 corporate consumer offices, recently passed a resolution urging “the passage of state and federal legislation to protect consumers by requiring that garment labels strictly prohibit false and deceptive labels and advertising related to fur products.” NACAA further urged “that any federal legislation specifically eliminate any loopholes for garments or products below a certain dollar value,” and asserted “that truthful, non-misleading advertising is vital regardless of the price of the garment to provide for a fair marketplace.”

Consumer Action, a national consumer protection organization, has endorsed H.R. 2480, and wrote in a letter: “Full disclosure of animal fur on wearing apparel is a key decision making factor to many garment buyers, and all consumers should be able to make informed purchasing decisions without falling prey to deceptive labeling. This is a deceptive consumer issue that needs to be addressed. Retailers may sell coats made with rabbit or dog hair without identifying that the trim is animal fur. In some cases these garments are labeled in such a way as to lead consumers to conclude that the fur is man-made, when in fact it is animal fur, even dog fur! To purchase a garment with ‘faux fur’ trim and never know that it is actually dog fur is an outrage!”

The major fur industry organizations, too, have generally been supportive of labeling, and have expressed pride in their products and in telling customers what garments are made of. Just as the Fur Products Labeling Act of 1951 was applauded by fur manufacturers as a way to bring accuracy and consistency to fur garments and crack down on the outliers in the industry, today the major organizations still highlight the importance of labeling, according to their own published statements:

- The International Fur Trade Federation: “IFTF believes strongly in providing information about fur to the consumer. In August 2002, the Federation’s constitution was changed, so that all member organisations must introduce retail labelling if it doesn’t already exist in their country.”ⁱⁱ
- Fur Commission USA: “Consumers have the right to know exactly what they are purchasing, and to expect that purveyors of mislabeled products will be punished.”ⁱⁱⁱ
- Fur Information Council of America: “We respect the decision of those who choose not to wear fur”^{iv}
- AgRights: “We support clear, simple and truthful labeling of our products to facilitate clear communication between producers and consumers.”^v

H.R. 2480

The HSUS believes that Section 2 of the legislation—the elimination of the exemption for products containing small quantities or values of fur—is the critical policy reform that is needed to correct the consumer confusion and deception in the marketplace. In addition to closing the labeling loophole, H.R. 2480 helps to address this problem in two other ways:

First, the legislation also directs the Federal Trade Commission to initiate rulemaking on a review of its Fur Products Name Guide, which has not been revised since 1967—43 years ago—when the agency amended the guide to change the name “Japanese Mink” to “Japanese Weasel” and “Chinese Mink” to “Chinese Weasel.”^{vi} Some of the species names listed in the guide may be confusing or out of date—for example, the raccoon dog (*Nyctereutes procyonoides*) is currently listed as “Asiatic Raccoon.” Allowing public notice and comment on agency review will allow all stakeholders, such as fur industry, consumer protection, animal welfare groups, and retailers to participate in the process and make recommendations for updating the guide.

Second, the legislation confirms that states also have the right to pass their own fur labeling laws, which has been the longstanding practice under the Fur Products Labeling Act since its passage. Five states—Delaware, Massachusetts, New Jersey, New York, and Wisconsin—currently have fur labeling laws that are stronger than the federal law in order to provide their consumers with additional protections, and California is considering a similar bill that has passed the state Assembly and is now pending in the Senate. These state laws essentially require that *all* fur and fur-trimmed garments sold in those states are labeled, while only *most* fur garments require labeling under current federal law.

As a practical matter for retailers and manufacturers selling nationwide, they already have to provide labels for fur-trimmed jackets sold in several states, but not in others. H.R. 2480 would provide a consistent labeling standard nationwide for all fur-trimmed apparel, rather than the current standard which is higher in some states than others.

Labeling Will Not be Costly or Burdensome

Labeling fur trim will not be burdensome for apparel manufacturers or retailers. According to the Federal Trade Commission,^{vii} the total number of fur garments, fur-trimmed garments, and fur accessories sold annually in the United States is estimated at 1,019,054. Of that, approximately 886,577 items—or 87 percent—are already required to abide by labeling requirements. It will not present a difficulty to label the additional 13 percent of products using real fur, and it may actually increase the efficiency of the manufacturing process.

The Federal Trade Commission also notes that the current labeling requirements are not a burden on manufacturers: “Staff believes that there are no current start-up costs or other capital costs associated with the Regulations. Because the labeling of fur products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Regulations’ labeling requirements. Industry sources indicate that much of the information required by the Fur Act and its implementing Regulations would be included on the product label even absent the regulations. Similarly, invoicing, recordkeeping, and advertising disclosures are tasks performed in the ordinary course of business so that covered

firms would incur no additional capital or other non-labor costs as a result of the Act or the Regulations.”^{viii}

There is also evidence that labeling fur-trimmed apparel will help businesses by inspiring more consumer confidence. Where the market fails to supply information adequate to allow consumers to make consumption choices that reflect their preferences—a market failure referred to by economists as “asymmetric information”—labeling may be economically beneficial and therefore an appropriate policy tool.

Product attributes inferred from the origin of and production processes associated with fur production are not apparent to a consumer considering the purchase of a fur-trimmed garment through touching, visually inspecting, or using the product. Consequentially, consumers cannot distinguish between similar products on these bases unless they are provided with explicit disclosure from the manufacturer or retailer. A label that identifies species and country-of-origin attributes signals to consumers that a garment is trimmed with real animal fur. Clear, consistent, and obvious labeling of so-called “credence” characteristics allows the consumer to evaluate the product before deciding whether to buy it.^{ix}

The presence or absence of real animal fur on a garment is an attribute that is relevant to and valued by consumers and affects demand for the product. Some consumers are allergic to all animal fur or to the fur from specific animal species. Other consumers make ethical considerations before purchase because of concerns about the morality of wearing animal fur. According to a May 2009 Gallup News Service poll, 35 percent of Americans find “buying and wearing clothes made of animal fur” to be “morally wrong.”^x

Leaving the labeling decision with respect to fur-trimmed garments to manufacturers and retailers has not resulted in sufficient or accurate disclosure of information related to fur products. There is confusion at both the wholesale and retail levels. As a result, presently consumers cannot make informed purchasing decisions about this attribute that would affect their demand for such garments. Certain trends like dyeing animal fur unnatural colors have made it even harder for consumers to distinguish real fur from faux fur.

This asymmetric information problem can be corrected by labeling. In the food industry, economists^{xi} have argued that labeling can be preferable to and less market-distorting than other policy tools in markets where:

- Consumers have different preferences.
- The information to be included on the label can be stated clearly and concisely.
- The labeling information may reduce health risks.
- Standards, testing, certification and enforcement services exist or can be established.
- There is a lack of political consensus on other regulatory options.

Each of these criteria is met when it comes to the proposed labeling of fur-trimmed garments to indicate species and country-of-origin. There is a range of consumer preferences related to wearing animal fur. The species and country-of-origin information can be clearly interpreted by consumers and can prevent adverse allergic reactions by some consumers. There are already labeling standards and enforcement mechanisms in place affecting approximately 87 percent of the market for fur garments. And clearly a labeling requirement strikes a compromise between those who favor and oppose the use of animal fur. H.R. 2480 seeks to correct the present failure

of the market for fur-trimmed garments to provide accurate and complete information that would affect consumer purchasing decisions.

Conclusion

The loophole in the current Fur Products Labeling Act should be closed, and all fur apparel should be clearly labeled with the species of animal used and the country of origin, regardless of dollar value. This labeling standard is already applied to seven out of eight fur garments sold in the United States, and that same standard should be applied to the remaining fur-trimmed garments. The changes in the marketplace and in the fashion industry over the last half-century—specifically the increased use of fur trim and the increased quality of synthetics—necessitate a change in the federal law to meet the present market realities. Since consumers, sales clerks, and other non-experts cannot easily tell animal fur from fake fur, a label on the garment is the only way to address this problem.

Many products in the marketplace—including food, medicine, and wool apparel—include labels so that consumers can make informed purchasing decisions, and the labeling requirement is not determined by the dollar value of the product. Consumers who may have allergies to animal fur, ethical objections to fur, or concern about the use of certain species, should have the same opportunity to make informed purchasing choices, regardless of the amount or dollar value of animal fur used on a garment. Consumers who may wish to avoid animal fur can make informed purchasing decisions as long as they are provided with the appropriate product information in the marketplace. A well-informed decision made by a consumer based on complete information is a cornerstone of a functioning market economy.

H.R. 2480 is a narrow bill that will protect consumers, and will not impose new burdens on businesses or the fur industry. This common-sense legislation has broad, bipartisan support, and it does not ban the trade in any species of fur or any method of producing fur. The HSUS urges the Subcommittee to report the bill favorably, and urges the Congress to swiftly pass it.

ⁱ “Fur-Labeling Law Starts Tomorrow.” The New York Times. August 8, 1952.

ⁱⁱ <http://www.iftf.com/#/labelling/>

ⁱⁱⁱ <http://www.furcommission.com/news/newsE93.htm>

^{iv} <http://www.fur.org/faqs.cfm>

^v <http://www.agrights.com/principles.php>

^{vi} The current names are listed at: <http://www.ftc.gov/os/statutes/textile/rr-fur.htm>

^{vii} Federal Register. February 12, 2009.

^{viii} Federal Register. February 12, 2009.

^{ix} Caswell, J.A. 1998. “How labeling of safety and process attributes affects markets for food.” *Agricultural and Resource Economics Review* 27(October): 151-158.

^x Saad, L., 2009. Gallup News Service. “Republicans Move to the Right on Several Moral Issues.” May 20. <http://www.gallup.com/poll/118546/republicans-veer-right-several-moral-issues.aspx>

^{xi} Golan E., F. Kuchler, L. Mitchell, C. Greene, and A. Jessup 2000. “Economics of food labeling.” USDA Economic Research Service. AER-793. December. <http://ers.usda.gov/publications/aer793/AER793.PDF>