portation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations for importation of injurious mammals and birds; permits for specimens for museums" in item 42, struck out item 43 "Transportation or importation in violation of state, national, or foreign laws", item 44 "Marking packages or containers", and item 45 "Capturing or killing anterior pigeons", and inserted "pollution of watering holes" after "burros" in item 47.

1956—Pub. L. 84-234, §1(b), Sept. 8, 1959, 73 Stat. 470, added item 47.

§ 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be fined under this title or imprisoned not more than six months, or both.


HISTORICAL AND REVISION NOTES


This revised section condenses, consolidates, and simplifies similar provisions of sections 676, 682, 685, 688, 690, 692a, and 694a of title 16, U.S.C. 1940 ed., with such changes of phraseology as make clear the intent of Congress to protect all wildlife within Federal sanctuaries, refuges, fish hatcheries, and breeding grounds. Irrelevant provisions of such sections in title 16 are to be retained in that title.

Because of the general nature of this consolidated section, no specific reference is made to rules and regulations issued by the Secretary of the Interior or any other personage, but only to rules and regulations "promulgated by authority of law".

The punishment provided by the sections consolidated varied from a fine not exceeding $100 or imprisonment not exceeding 6 months, or both, in section 694a of title 16, U.S.C. 1940 ed., to a fine not exceeding $1,000 or imprisonment not exceeding 1 year, or both, in sections 676, 685, and 688 of such title 16. The revised section adopts the punishment provisions of the other five sections.

The references to "misdemeanor" in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U.S.C. 1940 ed., were omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 16, part I, page 13, 14, Sixteenth Congress, first session, to accompany S. 2982.

Words "upon conviction", contained in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U.S.C. 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.

Words "in any United States court of competent jurisdiction", in sections 676, 685, and 688 of title 16, U.S.C. 1940 ed., words "in any United States court", in sections 689b, 692a, and 694a of such title 16, and words "in the discretion of the court", in said sections 676, 685, 688, and 689b, were likewise omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than $500".

§ 42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

(a)(1) The importation into the United States, any territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act, insofar as such importation is subject to regulation under that Act.

(2) As used in this subsection, the term "wild" relates to any creatures that, whether or not in captivity, normally are found in a wild state; and the terms "wildlife" and "wildlife resources" include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, and the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act, insofar as such importation is subject to regulation under that Act.

1 See References in Text note below.
poses of any mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles, or the offspring or eggs thereof, where such importation would be prohibited otherwise by or pursuant to this Act, and this Act shall not restrict importations by Federal agencies for their own use.

(4) Nothing in this subsection shall restrict the importation of dead natural-history specimens for museums or for scientific collections, or the importation of domesticated canaries, parrots (including all other species of psittacine birds), or such other cage birds as the Secretary of the Interior may designate.

(5) The Secretary of the Treasury and the Secretary of the Interior shall enforce the provisions of this subsection, including any regulations issued hereunder, and, if requested by the Secretary of the Interior, the Secretary of the Treasury may require the furnishing of an appropriate bond when desirable to insure compliance with such provisions.

(b) Whoever violates this section, or any regulation issued pursuant thereto, shall be fined under this title or imprisoned not more than six months, or both.

(c) The Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981 shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane or unhealthful conditions or in violation of such requirements. In any criminal prosecution for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

(1) the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the provisions of this subsection have been violated; and

(2) the presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed prima facie evidence of the violation of the provisions of this subsection.


historical and revision notes

1948 act


This section consolidates the provisions of sections 301 and 394 of title 18, U.S.C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words “Territory or district thereof” were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words “upon conviction thereof”, were omitted as surplusage because punishment can only be imposed after conviction.

The amount of the fine was reduced from $1,000 to $500, thus making the violation a petty offense as defined in section 1 of this title. (See also section 41 of this title which provides a similar punishment.)

Minor verbal changes were also made.

1949 act

This section [section 2] incorporates in section 42 of title 18, U.S.C., with slight changes in phraseology, the provisions of act of June 29, 1948 (ch. 716, 62 stat. 1096), which became law subsequent to the enactment of the revision of title 18.

References in text

The Public Health Service Act, referred to in subsection (a)(1), is act July 1, 1944, ch. 373, 58 stat. 682, as amended, which is classified generally to chapter 6A (§ 265 et seq.) of title 42. The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsection (a)(1), is act June 25, 1938, ch. 765, 52 stat. 1490, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of title 21, Foods and Drugs. For complete classification of this Act to the Code, see section 301 of title 21 and Tables.


This Act, referred to in subsection (a)(3), probably refers to Pub. L. 86–702, which amended this section and section 43 of this title.

The enactment of the Lacey Act Amendments of 1981, referred to in subsection (c), means the date of enactment of Pub. L. 97–79, which was approved Nov. 16, 1981.

Amendments


1994—Subsection (b). Pub. L. 103–322 substituted “fined under this title” for “fined not more than $500”.


1981—Subsection (c). Pub. L. 97–79 substituted “Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981” for “Secretary of the Treasury”.

1960—Pub. L. 86–702 substituted “Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia and reptiles; permits; specimens for museums; regulations” for “Importation of injurious animals and birds; permits; specimens for museums” in section catchline.

Subsection (a)(1). Pub. L. 86–702 designated first sentence of subsection (a) as par. (1), prohibited importation into the Commonwealth of Puerto Rico or any possession of
the United States and shipments between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, described the mongoose and flying foxes by their scientific names, extended the provisions prohibiting importation or shipment to include wild mammals, wild birds, fish (including mollusks and crustaceans), amphibians, reptiles, or their eggs or offspring, and empowered the Secretary to prohibit importation or shipment if injurious to human beings, forestry, or to wildlife or wildlife resources, required prompt exportation or destruction at the expense of the importer or consignee, provided that this section shall not be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act and that it shall not authorize any action with respect to the importation of plant pests, and deleted provisions which required destruction of prohibited birds and animals or their return at the expense of the owner, and which prohibited the importation of the English sparrow and the starling.

Subsec. (a)(2), (3). Pub. L. 86–702 added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 86–702 designated second sentence of subsec. (a) as par. (4), limited importation of natural history specimens to dead ones, and included all species of psittacine birds.

Subsec. (a)(5). Pub. L. 86–702 designated third sentence of subsec. (a) as par. (5), authorized enforcement by the Secretary of the Interior, and permitted the Secretary of the Treasury, if requested by the Secretary of the Interior, to require the furnishing of a bond.


1949—Subsec. (a). Act May 24, 1949, made section applicable to any Territory or district thereof as well as to the United States, and changed phraseology.

Subsec. (b). Act May 24, 1949, reenacted subsec. (b) without change.

Subsec. (c). Act May 24, 1949, added subsec. (c).

Invasive Species

For provisions relating to restrictions on the introduction of invasive species into natural ecosystems of the United States, see Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, set out as a note under section 3663 of this title with respect of section 3663A of this title with respect to a violation of this section may also include restitution—

(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; (2) for the loss of food production or farm income reasonably attributable to the offense; and

(3) for any other economic damage, including any losses or costs caused by economic disruption, resulting from the offense.

(d) Definitions.—As used in this section—

(1) the term “animal enterprise” means—

(A) a commercial or academic enterprise that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, or testing;

(B) a zoo, aquarium, animal shelter, pet store, breeder, furrier, circus, or rodeo, or other lawful competitive animal event; or

(C) any fair or similar event intended to advance agricultural arts and sciences;

(2) the term “course of conduct” means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose; and

(3) the term “economic damage”—

(A) means the replacement costs of lost or damaged property or records, the costs of re-

1 So in original. Probably should be “subsection”.

2 So in original. Probably should be preceded by “for”. 