

Public Law 109–266
109th Congress

An Act

Aug. 3, 2006
[S. 1496]

Electronic Duck
Stamp Act of
2005.
16 USC 718 note.

16 USC 718 note.

To direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Electronic Duck Stamp Act of 2005”.

SEC. 2. FINDINGS.

Congress finds that—

(1) on March 16, 1934, Congress passed and President Roosevelt signed the Act of March 16, 1934 (16 U.S.C. 718a et seq.) (popularly known as the “Duck Stamp Act”), which requires all migratory waterfowl hunters 16 years of age or older to buy a Federal migratory bird hunting and conservation stamp annually;

(2) the Federal Duck Stamp program has become one of the most popular and successful conservation programs ever initiated;

(3) because of that program, the United States again is teeming with migratory waterfowl and other wildlife that benefit from wetland habitats;

(4) as of the date of enactment of this Act, 1,700,000 migratory bird hunting and conservation stamps are sold each year;

(5) as of 2003, those stamps have generated more than \$600,000,000 in revenue that has been used to preserve more than 5,000,000 acres of migratory waterfowl habitat in the United States; and

(6) many of the more than 540 national wildlife refuges have been paid for wholly or partially with that revenue.

16 USC 718 note.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ACTUAL STAMP.**—The term “actual stamp” means a Federal migratory-bird hunting and conservation stamp required under the Act of March 16, 1934 (16 U.S.C. 718a et seq.) (popularly known as the “Duck Stamp Act”), that is printed on paper and sold through a means in use immediately before the date of enactment of this Act.

(2) **AUTOMATED LICENSING SYSTEM.**—

(A) **IN GENERAL.**—The term “automated licensing system” means an electronic, computerized licensing system

used by a State fish and wildlife agency to issue hunting, fishing, and other associated licenses and products.

(B) INCLUSION.—The term “automated licensing system” includes a point-of-sale, Internet, or telephonic system used for a purpose described in subparagraph (A).

(3) ELECTRONIC STAMP.—The term “electronic stamp” means an electronic version of an actual stamp that—

(A) is a unique identifier for the individual to whom it is issued;

(B) can be printed on paper;

(C) is issued through a State automated licensing system that is authorized, under State law and by the Secretary under this Act, to issue electronic stamps;

(D) is compatible with the hunting licensing system of the State that issues the electronic stamp; and

(E) is described in the State application approved by the Secretary under section 4(b).

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. ELECTRONIC DUCK STAMP PILOT PROGRAM.

16 USC 718 note.

(a) REQUIREMENT TO CONDUCT PROGRAM.—The Secretary shall conduct a 3-year pilot program under which up to 15 States authorized by the Secretary may issue electronic stamps.

(b) COMMENCEMENT AND DURATION OF PROGRAM.—The Secretary shall—

(1) use all means necessary to expeditiously implement this section by the date that is 1 year after the beginning of the first full Federal migratory waterfowl hunting season after the date of enactment of this Act; and

Deadline.

(2) carry out the pilot program for 3 Federal migratory waterfowl hunting seasons.

(c) CONSULTATION.—The Secretary shall carry out the program in consultation with State management agencies.

SEC. 5. STATE APPLICATION.

16 USC 718 note.

(a) APPROVAL OF APPLICATION REQUIRED.—A State may not participate in the pilot program under this Act unless the Secretary has received and approved an application submitted by the State in accordance with this section.

(b) CONTENTS OF APPLICATION.—The Secretary may not approve a State application unless the application contains—

(1) a description of the format of the electronic stamp that the State will issue under the pilot program, including identifying features of the licensee that will be specified on the stamp;

(2) a description of any fee the State will charge for issuance of an electronic stamp;

(3) a description of the process the State will use to account for and transfer to the Secretary the amounts collected by the State that are required to be transferred to the Secretary under the program;

(4) the manner by which the State will transmit electronic stamp customer data to the Secretary;

(5) the manner by which actual stamps will be delivered;

(6) the policies and procedures under which the State will issue duplicate electronic stamps; and

(7) such other policies, procedures, and information as may be reasonably required by the Secretary.

(c) PUBLICATION OF DEADLINES, ELIGIBILITY REQUIREMENTS, AND SELECTION CRITERIA.—Not later than 30 days before the date on which the Secretary begins accepting applications for participation in the pilot program, the Secretary shall publish—

(1) deadlines for submission of applications to participate in the program;

(2) eligibility requirements for participation in the program; and

(3) criteria for selecting States to participate in the program.

16 USC 718 note. **SEC. 6. STATE OBLIGATIONS AND AUTHORITIES.**

(a) DELIVERY OF ACTUAL STAMP.—The Secretary shall require that each individual to whom a State sells an electronic stamp under the pilot program shall receive an actual stamp—

Deadline.

(1) by not later than the date on which the electronic stamp expires under section 7(c); and

(2) in a manner agreed upon by the State and Secretary.

(b) COLLECTION AND TRANSFER OF ELECTRONIC STAMP REVENUE AND CUSTOMER INFORMATION.—

(1) REQUIREMENT TO TRANSMIT.—The Secretary shall require each State participating in the pilot program to collect and submit to the Secretary in accordance with this section—

(A) the first name, last name, and complete mailing address of each individual that purchases an electronic stamp from the State;

(B) the face value amount of each electronic stamp sold by the State; and

(C) the amount of the Federal portion of any fee required by the agreement for each stamp sold.

(2) TIME OF TRANSMITTAL.—The Secretary shall require the submission under paragraph (1) to be made with respect to sales of electronic stamps by a State occurring in a month—

Deadline.

(A) by not later than the 15th day of the subsequent month; or

(B) as otherwise specified in the application of the State approved by the Secretary under section 5.

(3) ADDITIONAL FEES NOT AFFECTED.—This section shall not apply to the State portion of any fee collected by a State under subsection (c).

(c) ELECTRONIC STAMP ISSUANCE FEE.—A State participating in the pilot program may charge a reasonable fee to cover costs incurred by the State and the Department of the Interior in issuing electronic stamps under the program, including costs of delivery of actual stamps.

(d) DUPLICATE ELECTRONIC STAMPS.—A State participating in the pilot program may issue a duplicate electronic stamp to replace an electronic stamp issued by the State that is lost or damaged.

(e) LIMITATION ON AUTHORITY TO REQUIRE PURCHASE OF STATE LICENSE.—A State may not require that an individual purchase a State hunting license as a condition of issuing an electronic stamp under the pilot program.

SEC. 7. ELECTRONIC STAMP REQUIREMENTS; RECOGNITION OF ELECTRONIC STAMP. 16 USC 718 note.

(a) **STAMP REQUIREMENTS.**—The Secretary shall require an electronic stamp issued by a State under the pilot program—

(1) to have the same format as any other license, validation, or privilege the State issues under the automated licensing system of the State; and

(2) to specify identifying features of the licensee that are adequate to enable Federal, State, and other law enforcement officers to identify the holder.

(b) **RECOGNITION OF ELECTRONIC STAMP.**—Any electronic stamp issued by a State under the pilot program shall, during the effective period of the electronic stamp—

(1) bestow upon the licensee the same privileges as are bestowed by an actual stamp;

(2) be recognized nationally as a valid Federal migratory bird hunting and conservation stamp; and

(3) authorize the licensee to hunt migratory waterfowl in any other State, in accordance with the laws of the other State governing that hunting.

(c) **DURATION.**—An electronic stamp issued by a State under the pilot program shall be valid for a period agreed to by the State and the Secretary, which shall not exceed 45 days.

SEC. 8. TERMINATION OF STATE PARTICIPATION.

16 USC 718 note.

Participation by a State in the pilot program may be terminated—

(1) by the Secretary, if the Secretary—

(A) finds that the State has violated any of the terms of the application of the State approved by the Secretary under section 5; and

(B) provides to the State written notice of the termination by not later than the date that is 30 days before the date of termination; or

(2) by the State, by providing written notice to the Secretary by not later than the date that is 30 days before the termination date.

SEC. 9. EVALUATION.

16 USC 718 note.

(a) **EVALUATION.**—The Secretary, in consultation with State fish and wildlife management agencies and appropriate stakeholders with expertise specific to the duck stamp program, shall evaluate the pilot program and determine whether the pilot program has provided a cost-effective and convenient means for issuing migratory-bird hunting and conservation stamps, including whether the program has—

(1) increased the availability of those stamps;

(2) assisted States in meeting the customer service objectives of the States with respect to those stamps;

(3) maintained actual stamps as an effective and viable conservation tool; and

(4) maintained adequate retail availability of the actual stamp.

(b) **REPORT.**—The Secretary shall submit to Congress a report on the findings of the Secretary under subsection (a).

SEC. 10. TECHNICAL CORRECTIONS.

(a) **PROHIBITION ON TAKING.**—The first section of the Act of March 16, 1934 (16 U.S.C. 718a) is amended by striking “That no person who has attained the age of sixteen years” and all that follows through the end of the section and inserting the following:

“SECTION 1. PROHIBITION ON TAKING.

“(a) PROHIBITION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no individual who has attained the age of 16 years shall take any migratory waterfowl unless, at the time of the taking, the individual carries on the person of the individual a valid Migratory Bird Hunting and Conservation Stamp, validated by the signature of the individual written in ink across the face of the stamp prior to the time of the taking by the individual of the waterfowl.

“(2) EXCEPTION.—No stamp described in paragraph (1) shall be required for the taking of migratory waterfowl—

“(A) by Federal or State agencies;

“(B) for propagation; or

“(C) by the resident owner, tenant, or sharecropper of the property, or officially designated agencies of the Department of the Interior, for the killing, under such restrictions as the Secretary may by regulation prescribe, of such waterfowl when found damaging crops or other property.

“(b) DISPLAY OF STAMP.—Any individual to whom a stamp has been sold under this Act shall, upon request, display the stamp for inspection to—

“(1) any officer or employee of the Department of the Interior who is authorized to enforce this Act; or

“(2) any officer of any State or political subdivision of a State authorized to enforce State game laws.

“(c) OTHER LICENSES.—Nothing in this section requires any individual to affix the Migratory Bird Hunting and Conservation Stamp to any other license prior to taking 1 or more migratory waterfowl.”.

(b) **SALES; FUND DISPOSITION; UNSOLD STAMPS.**—Section 2 of the Act of March 16, 1934 (16 U.S.C. 718b) is amended by striking “SEC. 2.” and all that follows through the end of subsection (a) and inserting the following:

“SEC. 2. SALES; FUND DISPOSITION; UNSOLD STAMPS.

“(a) SALES.—

“(1) IN GENERAL.—The stamps required under section 1 shall be sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations promulgated jointly by the Postal Service and the Secretary, at—

“(A) any post office; and

“(B) such other establishments, facilities, or locations as the Postal Service or the Secretary (or a designee) may direct or authorize.

“(2) PROCEEDS.—The funds received from the sale of stamps under this Act by the Department of the Interior shall be deposited in the Migratory Bird Conservation Fund in accordance with section 4.

“(3) MINIMUM AND MAXIMUM VALUES.—Except as provided in subsection (b), the Postal Service shall collect the full face value of each stamp sold under this section for the applicable hunting year.

“(4) VALIDITY.—No stamp sold under this Act shall be valid under any circumstances to authorize the taking of migratory waterfowl except—

“(A) in compliance with Federal and State laws (including regulations);

“(B) on the condition that the individual so taking the waterfowl wrote the signature of the individual in ink across the face of the stamp prior to the taking; and

“(C) during the hunting year for which the stamp was issued.

“(5) UNUSED STAMPS.—

“(A) DEFINITION OF RETAIL DEALER.—In this paragraph, the term ‘retail dealer’ means—

“(i) any individual or entity that is regularly engaged in the business of retailing hunting or fishing equipment; and

“(ii) any individual or entity duly authorized to act as an agent of a State or political subdivision of a State for the sale of State or county hunting or fishing licenses.

“(B) REDEMPTION OF UNUSED STAMPS.—The Department of the Interior, pursuant to regulations promulgated by the Secretary, shall provide for the redemption, on or before the 30th day of June of each year, of unused stamps issued for the year under this Act that—

Deadline.

“(i) were sold on consignment to any person authorized by the Secretary to sell stamps on consignment (including retail dealers for resale to customers); and

“(ii) have not been resold by any such person.

“(6) PROHIBITION ON CERTAIN STAMP SALES.—The Postal Service shall not—

“(A) sell on consignment any stamps issued under this Act to any individual, business, or organization; or

“(B) redeem stamps issued under this Act that are sold on consignment by the Secretary (or any agent of the Secretary).”.

(c) COST OF STAMPS.—Section 2(b) of the Act of March 16, 1934 (16 U.S.C. 718b(b)) is amended—

(1) by striking “(b) The” and inserting the following:

“(b) COST OF STAMPS.—The”;

(2) by striking “Secretary of the Interior” and inserting “Secretary”;

(3) by striking “migratory bird conservation fund” and inserting “Migratory Bird Conservation Fund”; and

(4) in paragraph (2), by striking “For purposes” and all that follows through “of any such year.”.

(d) AUTHORIZATION AND EXEMPTION.—Section 3 of the Act of March 16, 1934 (16 U.S.C. 718c) is amended by striking “SEC. 3. Nothing” and inserting the following:

“SEC. 3. AUTHORIZATION AND EXEMPTION.

“Nothing”.

(e) EXPENDITURE OF FUNDS.—Section 4 of the Act of March 16, 1934 (16 U.S.C. 718d) is amended—

(1) by redesignating subsections (a) through (c) as paragraphs (1) through (3), respectively, and indenting appropriately;

(2) by striking “SEC. 4. All moneys” and all that follows through “expended:” and inserting the following:

“SEC. 4. EXPENDITURE OF FUNDS.

“(a) IN GENERAL.—All funds received for stamps sold under this Act shall be—

“(1) accounted for by the Postal Service or the Secretary, as appropriate;

“(2) paid into the Treasury of the United States; and

“(3) reserved and set aside as a special fund, to be known as the ‘Migratory Bird Conservation Fund’ (referred to in this section as the ‘fund’), to be administered by the Secretary.

“(b) USE OF FUNDS.—All funds received into the fund are appropriated for the following purposes, to remain available until expended.”;

(3) in subsection (b)(1) (as redesignated by paragraphs (1) and (2))—

(A) by striking “(1) So much” and all that follows through “for engraving” and inserting the following:

“(1) ADVANCE ALLOTMENTS.—So much as may be necessary shall be used by the Secretary for engraving”;

(B) by striking “migratory bird hunting stamps” and inserting “Migratory Bird Hunting and Conservation Stamps”;

(C) by striking “personal” and inserting “personnel”; and

(D) by striking “postal service” and inserting “Postal Service”;

(4) in subsection (b)(2) (as so redesignated)—

(A) by striking “(2) Except as provided in subsections (c) and (d) of this section” and inserting the following:

“(2) AREAS FOR REFUGES.—Except as provided in paragraph (3) and subsection (c)”;

(B) by inserting “(16 U.S.C. 715 et seq.)” after “Conservation Act”;

(5) in subsection (b)(3) (as so redesignated)—

(A) by striking “(3) The Secretary of the Interior is authorized to utilize funds made available under subsection (b) of this section for the purposes of such subsection, and such other funds as may be appropriated for the purposes of such subsection, or of this subsection,” and inserting the following:

“(3) CONDITIONS ON USE OF FUNDS.—The Secretary may use funds made available under paragraph (2) for the purposes of that paragraph, and such other funds as may be appropriated for the purposes of that paragraph or this paragraph.”; and

(B) in the second sentence—

(i) by inserting “(16 U.S.C. 715 et seq.)” after “Conservation Act”; and

(ii) by striking “this subsection” and inserting “this paragraph”;

(6) by redesignating subsection (d) as subsection (c); and

(7) in subsection (c) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking “(1) The Secretary of the Interior may utilize” and inserting the following:

“(1) IN GENERAL.—The Secretary may use”; and

(ii) by striking “migratory bird hunting and conservation stamps” and inserting “Migratory Bird Hunting and Conservation Stamps”; and

(B) in paragraph (2), by striking “(2) The Secretary of the Interior” and inserting the following:

“(2) COMPONENTS OF REPORT.—The Secretary”.

(f) LOANS AND TRANSFERS, ALTERATION, AND REPRODUCTION OF STAMPS.—Section 5 of the Act of March 16, 1934 (16 U.S.C. 718e) is amended—

(1) by striking “SEC. 5. (a) That no person to whom has been sold a migratory-bird hunting stamp,” and inserting the following:

“SEC. 5. LOANS AND TRANSFERS, ALTERATION, AND REPRODUCTION OF STAMPS.

“(a) IN GENERAL.—No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp,”;

(2) in subsection (b), by striking “(b)” and all that follows through “shall alter” and inserting the following:

“(b) ALTERATION.—Except as provided in clauses (i) and (ii) of section 504(l)(D) of title 18, United States Code, no person shall alter”;

(3) in subsection (c)—

(A) by striking “(c) Notwithstanding” and inserting the following:

“(c) REPRODUCTION.—Notwithstanding”;

(B) by striking “Secretary of the Interior” each place it appears and inserting “Secretary”; and

(C) in the matter following paragraph (2)—

(i) by striking “migratory bird hunting stamps” and inserting “Migratory Bird Hunting and Conservation Stamps”; and

(ii) by striking “shall be paid into the migratory bird conservation fund” and inserting “shall be paid, after deducting expenses for marketing, into the Migratory Bird Conservation Fund”.

(g) ENFORCEMENT.—Section 6 of the Act of March 16, 1934 (16 U.S.C. 718f) is amended—

(1) by striking “SEC. 6. For the efficient” and inserting the following:

“SEC. 6. ENFORCEMENT.

“For the efficient”; and

(2) in the first sentence—

(A) by striking “Secretary of Agriculture” and inserting “Secretary”;

(B) by striking “Department of Agriculture” and inserting “Department of the Interior”; and

(C) by inserting “(16 U.S.C. 703 et seq.)” after “Treaty Act”.

(h) VIOLATIONS; COOPERATION; USE OF CONTEST FEES; DEFINITIONS; SHORT TITLE.—The Act of March 16, 1934 is amended by

striking sections 7 through 10 (16 U.S.C. 718g–718j) and inserting the following:

“SEC. 7. VIOLATIONS.

“Any person that violates or fails to comply with any provision of this Act (including a regulation promulgated under this Act) shall be subject to the penalties described in section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707).

“SEC. 8. COOPERATION.

“The Secretary is authorized to cooperate with the States and the territories and possessions of the United States in the enforcement of this Act.

“SEC. 9. USE OF CONTEST FEES.

“Notwithstanding any other provision of law, funds received by the United States Fish and Wildlife Service in the form of fees for entering any Migratory Bird Hunting and Conservation Stamp contest shall be credited—

“(1) first, to the appropriation account from which expenditures for the administration of the contest are made; and

“(2) second, to the extent any funds remain, to the Migratory Bird Conservation Fund.

“SEC. 10. DEFINITIONS.

“(a) IN GENERAL.—In this Act, the terms defined in the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) have the meanings given those terms in those Acts.

“(b) OTHER DEFINITIONS.—In this Act:

“(1) HUNTING YEAR.—The term ‘hunting year’ means the 1-year period beginning on July 1 of each year.

“(2) MIGRATORY WATERFOWL.—The term ‘migratory waterfowl’ means the species enumerated in paragraph (a) of subdivision 1 of article I of the Convention between the United States and Great Britain for the Protection of Migratory Birds, signed at Washington on August 16, 1916 (USTS 628) (16 U.S.C. 703 et seq.).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“(4) STATE.—The term ‘State’ means—

“(A) a State;

“(B) the District of Columbia;

“(C) the Commonwealth of Puerto Rico;

“(D) Guam;

“(E) American Samoa;

“(F) the Commonwealth of the Northern Mariana Islands;

“(G) the Federated States of Micronesia;

“(H) the Republic of the Marshall Islands;

“(I) the Republic of Palau; and

“(J) the United States Virgin Islands.

“(5) TAKE.—The term ‘take’ means—

“(A) to pursue, hunt, shoot, capture, collect, or kill;

or

“(B) to attempt to pursue, hunt, shoot, capture, collect, or kill.

“SEC. 11. SHORT TITLE.

16 USC 718 note.

“This Act may be cited as the ‘Migratory Bird Hunting and Conservation Stamp Act’.”.

(i) **DISPOSITION OF UNSOLD STAMPS.**—Section 3 of the Act of July 30, 1956 (Public Law 84–838; 70 Stat. 722), is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

16 USC 718b, 718i.

(2) in subsection (a) (16 U.S.C. 718b–1)—

(A) by striking “SEC. 3. (a) Hereafter” and all that follows through the end of the first sentence and inserting the following:

“SEC. 3. DISPOSITION OF UNSOLD STAMPS.

“(a) **DISPOSITION OF UNSOLD STAMPS.**—A Migratory Bird Hunting and Conservation Stamp shall be transferred to the Postal Service or the Secretary of the Interior (or a designee) for sale to a collector if the stamp—

“(1) has not been sold by the end of the hunting year (as that term is defined in section 10 of the Migratory Bird Hunting and Conservation Stamp Act) during which the stamp is issued; and

“(2) as determined by the Postal Service or the Secretary of the Interior—

“(A) is appropriate to supply a market for sale to collectors; and

“(B) is in suitable condition for sale to a collector.”;

and

(B) by striking the second sentence and inserting the following:

“(b) **SURPLUS STOCK.**—The Postal Service or the Secretary of the Interior may destroy any surplus stock of Migratory Bird Hunting and Conservation Stamps at such time and in such manner as the Postal Service or the Secretary of the Interior determines to be appropriate.”.

Approved August 3, 2006.

LEGISLATIVE HISTORY—S. 1496:

HOUSE REPORTS: No. 109–556 (Comm. on Resources).

SENATE REPORTS: No. 109–187 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 151 (2005): Dec. 16, considered and passed Senate.

Vol. 152 (2006): July 24, considered and passed House.