

§ 40A. Operation of unauthorized unmanned aircraft over wildfires

(a) IN GENERAL.—Except as provided in subsection (b), an individual who operates an unmanned aircraft and knowingly or recklessly interferes with a wildfire suppression, or law enforcement or emergency response efforts¹ related to a wildfire suppression, shall be fined under this title, imprisoned for not more than 2 years, or both.

(b) EXCEPTIONS.—This section does not apply to the operation of an unmanned aircraft conducted by a unit or agency of the United States Government or of a State, tribal, or local government (including any individual conducting such operation pursuant to a contract or other agreement entered into with the unit or agency) for the purpose of protecting the public safety and welfare, including firefighting, law enforcement, or emergency response.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) UNMANNED AIRCRAFT.—The term “unmanned aircraft” has the meaning given the term in section 44801 of title 49, United States Code.

(2) WILDFIRE.—The term “wildfire” has the meaning given that term in section 2 of the Emergency Wildfire Suppression Act (42 U.S.C. 1856m).

(3) WILDFIRE SUPPRESSION.—The term “wildfire suppression” means an effort to contain, extinguish, or suppress a wildfire.

(Added Pub. L. 115–254, div. B, title III, §382(a), Oct. 5, 2018, 132 Stat. 3320.)

CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

Sec.

- 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.
- 42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations.
- 43. Force, violence, and threats involving animal enterprises.
- [44 to 46. Repealed.]
- 47. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes.
- 48. Animal crushing.
- 49. Enforcement of animal fighting prohibitions.

HISTORICAL AND REVISION NOTES

The criminal provisions of the Migratory Bird Treaty Act, sections 703–711 of title 16, U.S.C., 1940 ed., Conservation, and the Migratory Bird Conservation Act, sections 715–715r of title 16, U.S.C., 1940 ed., Conservation, were considered for inclusion in this chapter. Since these provisions, except parts of sections 704–707 of said title 16, are so inextricably interwoven with the Migratory Bird Acts, it was found advisable to exclude them.

Editorial Notes

AMENDMENTS

2020—Pub. L. 116–260, div. O, title X, §1003(b), Dec. 27, 2020, 134 Stat. 2156, struck out item 46 “Transportation of water hyacinths”.

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

2019—Pub. L. 116–72, §2(b), Nov. 25, 2019, 133 Stat. 1152, substituted “Animal crushing” for “Animal crush videos” in item 48.

2010—Pub. L. 111–294, §3(b), Dec. 9, 2010, 124 Stat. 3179, substituted “Animal crush videos” for “Depiction of animal cruelty” in item 48.

2007—Pub. L. 110–22, §2(b), May 3, 2007, 121 Stat. 88, added item 49.

2006—Pub. L. 109–374, §2(b), Nov. 27, 2006, 120 Stat. 2655, substituted “Force, violence, and threats involving animal enterprises” for “Animal enterprise terrorism” in item 43.

1999—Pub. L. 106–152, §1(b), Dec. 9, 1999, 113 Stat. 1732, added item 48.

1992—Pub. L. 102–346, §2(b), Aug. 26, 1992, 106 Stat. 929, which directed the general amendment of item 43, was executed by adding item 43 to reflect the probable intent of Congress, because item 43 had been previously struck out by Pub. L. 101–647. See 1990 Amendment note below.

1990—Pub. L. 101–647, title XII, §1206(b), title XXXV, §3506, Nov. 29, 1990, 104 Stat. 4832, 4922, 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 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 carrier pigeons”, and inserted “; pollution of watering holes” after “burros” in item 47.

1959—Pub. L. 86–234, §1(b), Sept. 8, 1959, 73 Stat. 470, added item 47.

1956—Act Aug. 1, 1956, ch. 825, §2(b), 70 Stat. 798, amended chapter heading to include reference to “Plants” and added item 46.

§ 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.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 103–322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §145 and §§676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., Conservation (Jan. 24, 1905, ch. 137, §2, 33 Stat. 614; June 29, 1906, ch. 3593, §2, 34 Stat. 607; Mar. 4, 1909, ch. 321, §84, 35 Stat. 1104; Aug. 11, 1916, ch. 313, 39 Stat. 476; June 5, 1920, ch. 247, §2, 41 Stat. 986; Apr. 15, 1924, ch. 108, 43 Stat. 98; Feb. 28, 1925, ch. 376, 43 Stat. 1091; July 3, 1926, ch. 744, §6, 44 Stat. 821; July 3, 1926, ch. 776, §3, 44 Stat. 889; June 28, 1930, ch. 709, §2, 46 Stat. 828; Mar. 10, 1934, ch. 54, §2, 48 Stat. 400; Reorg. Plan No. II, §4(f), 4 F.R. 2731, 53 Stat. 1433).

This revised section condenses, consolidates, and simplifies similar provisions of sections 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., with section 145 of title 18, 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 10, part 1, pages 12, 13, 14, Sixtieth 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.

Editorial Notes

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, of the mongoose of the species *Herpestes auropunctatus*; of the species of so-called “flying foxes” or fruit bats of the genus *Pteropus*; of the zebra mussel of the species *Dreissena polymorpha*; of the quagga mussel of the species *Dreissena rostriformis* or *Dreissena bugensis*; of the bighead carp of the species *Hypophthalmichthys nobilis*; and such other species of wild mammals, wild 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, and 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,¹ 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 raised 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), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(3) Notwithstanding the foregoing, the Secretary of the Interior, when he finds that there has been a proper showing of responsibility and continued protection of the public interest and health, shall permit the importation for zoological, educational, medical, and scientific purposes 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 evi-

¹ See References in Text note below.