

(h) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(i) The term “taken” means captured, killed, or collected.

(j) The term “transport” means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

(Pub. L. 97-79, §2, Nov. 16, 1981, 95 Stat. 1073.)

REFERENCES IN TEXT

This chapter, referred to in the provision preceding par. (a), and in par. (g), was in the original “this Act” and “the Act”, meaning Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073, known as the Lacey Act Amendments of 1981, which enacted this chapter; amended section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure; repealed sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18; and enacted provisions set out as notes under sections 1540 and 3371 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Reorganization Plan No. 4 of 1970 (84 Stat. 2090), referred to in par. (g), is set out in the Appendix to Title 5, Government Organization and Employees.

SHORT TITLE

Section 1 of Pub. L. 97-79 provided: “That this Act [enacting this chapter, amending section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealing sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacting provisions set out as a note under section 1540 of this title] may be cited as the ‘Lacey Act Amendments of 1981.’”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1997.

§ 3372. Prohibited acts

(a) Offenses other than marking offenses

It is unlawful for any person—

(1) to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife or plant taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law, or

(B) any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18)—

(A) to possess any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law or Indian tribal law, or

(B) to possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;¹

(4) to attempt to commit any act described in paragraphs (1) through (4).²

(b) Marking offenses

It is unlawful for any person to import, export, or transport in interstate commerce any container or package containing any fish or wildlife unless the container or package has previously been plainly marked, labeled, or tagged in accordance with the regulations issued pursuant to paragraph (2) of section 3376(a) of this title.

(c) Sale and purchase of guiding and outfitting services and invalid licenses and permits

(1) Sale

It is deemed to be a sale of fish or wildlife in violation of this chapter for a person for money or other consideration to offer or provide—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(2) Purchase

It is deemed to be a purchase of fish or wildlife in violation of this chapter for a person to obtain for money or other consideration—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(d) False labeling offenses

It is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be—

(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

(2) transported in interstate or foreign commerce.

(Pub. L. 97-79, §3, Nov. 16, 1981, 95 Stat. 1074; Pub. L. 100-653, title I, §101, Nov. 14, 1988, 102 Stat. 3825.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100-653, §101(1), substituted “taken, possessed, transported, or sold” for “taken or possessed”.

Subsec. (a)(4), (5). Pub. L. 100-653, §101(2), redesignated par. (5) as (4) and struck out former par. (4), which made it unlawful for any person having imported, exported, transported, sold, purchased, or received any fish or wildlife or plant imported from any foreign country or transported in interstate or foreign commerce, to make or submit any false record, account, label, or identification thereof.

Subsecs. (c), (d). Pub. L. 100-653, §101(3), added subsecs. (c) and (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3373, 3374, 3376, 3377, 4912 of this title; title 39 section 3015.

¹ So in original. Probably should be followed by “or”.

² So in original. Probably should refer to pars. (1) through (3).

§ 3373. Penalties and sanctions**(a) Civil penalties**

(1) Any person who engages in conduct prohibited by any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty, or regulation, and any person who knowingly violates section 3372(d) of this title, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation: *Provided*, That when the violation involves fish or wildlife or plants with a market value of less than \$350, and involves only the transportation, acquisition, or receipt of fish or wildlife or plants taken or possessed in violation of any law, treaty, or regulation of the United States, any Indian tribal law, any foreign law, or any law or regulation of any State, the penalty assessed shall not exceed the maximum provided for violation of said law, treaty, or regulation, or \$10,000, whichever is less.

(2) Any person who violates section 3372(b) of this title may be assessed a civil penalty by the Secretary of not more than \$250.

(3) For purposes of paragraphs (1) and (2), any reference to a provision of this chapter or to a section of this chapter shall be treated as including any regulation issued to carry out any such provision or section.

(4) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which a person may have taken or been in possession of the said fish or wildlife or plants.

(5) Any civil penalty assessed under this subsection may be remitted or mitigated by the Secretary.

(6) In determining the amount of any penalty assessed pursuant to paragraphs (1) and (2), the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and with respect to the violator, the degree of culpability, ability to pay, and such other matters as justice may require.

(b) Hearings

Hearings held during proceedings for the assessment of civil penalties shall be conducted in accordance with section 554 of title 5. The administrative law judge may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United

States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review of civil penalty

Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate District Court of the United States by filing a complaint in such court within 30 days after the date of such order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty *de novo*.

(d) Criminal penalties

(1) Any person who—

(A) knowingly imports or exports any fish or wildlife or plants in violation of any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title), or

(B) violates any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) by knowingly engaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants with a market value in excess of \$350,

knowing that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation, shall be fined not more than \$20,000, or imprisoned for not more than five years, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(2) Any person who knowingly engages in conduct prohibited by any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation shall be fined not more than \$10,000, or imprisoned for not more than one year, or both. Each violation