

§ 1338. Criminal provisions**(a) Violations; penalties; trial**

Any person who—

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 1334 of this title, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this chapter,

shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18.

(b) Arrest; appearance for examination or trial; warrants: issuance and execution

Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants, in all such cases.

(Pub. L. 92-195, § 8, Dec. 15, 1971, 85 Stat. 650; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

“United States magistrate judge” and “magistrate judge” substituted for “United States magistrate” and “magistrate”, respectively, in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 1338a. Transportation of captured animals; procedures and prohibitions applicable

In administering this chapter, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the

direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of section 47(a) of title 18 shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary. Nothing in this chapter shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this chapter, or the provisions of section 47(a) of title 18, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18 shall be applicable to such use.

(Pub. L. 92-195, § 9, as added Pub. L. 94-579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775; amended Pub. L. 104-333, div. I, title VIII, § 803(a), Nov. 12, 1996, 110 Stat. 4186.)

REFERENCES IN TEXT

This chapter, referred to in last sentence, was in the original “this title”, and was translated as reading “this Act”, meaning the Wild Free-Roaming Horses and Burros Act which enacted this chapter, to reflect the probable intent of Congress, because that Act does not contain titles.

AMENDMENTS

1996—Pub. L. 104-333 inserted at end “Nothing in this chapter shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this chapter, or the provisions of section 47(a) of title 18, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18 shall be applicable to such use.”

§ 1339. Limitation of authority

Nothing in this chapter shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.

(Pub. L. 92-195, § 10, formerly § 9, Dec. 15, 1971, 85 Stat. 651, renumbered Pub. L. 94-579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775.)

§ 1340. Joint report to Congress; consultation and coordination of implementation, enforcement, and departmental activities; studies

After the expiration of thirty calendar months following December 15, 1971, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this chapter, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this chapter and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this chapter. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses

and burros that they may deem necessary in order to carry out the provisions of this chapter.

(Pub. L. 92-195, § 11, formerly § 10, Dec. 15, 1971, 85 Stat. 651, renumbered Pub. L. 94-579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of this section relating to the Secretaries of the Interior and Agriculture submitting a joint report to Congress every twenty-four months on the administration of this chapter, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 147 of House Document No. 103-7.

CHAPTER 31—MARINE MAMMAL PROTECTION

SUBCHAPTER I—GENERALLY

- Sec.
1361. Congressional findings and declaration of policy.
1362. Definitions.

SUBCHAPTER II—CONSERVATION AND PROTECTION OF MARINE MAMMALS

1371. Moratorium on taking and importing marine mammals and marine mammal products.
 (a) Imposition; exceptions.
 (b) Exemptions for Alaskan natives.
 (c) Taking in defense of self or others.
 (d) Good Samaritan exemption.
 (e) Chapter not to apply to incidental takings by United States citizens employed on foreign vessels outside United States EEZ.
1372. Prohibitions.
 (a) Taking.
 (b) Importation of pregnant or nursing mammals; depleted species or stock; inhumane taking.
 (c) Importation of illegally taken mammals.
 (d) Nonapplicability of prohibitions.
 (e) Retroactive effect.
 (f) Commercial taking of whales.
1373. Regulations on taking of marine mammals.
 (a) Necessity and appropriateness.
 (b) Factors considered in prescribing regulations.
 (c) Allowable restrictions.
 (d) Procedure.
 (e) Periodic review.
 (f) Report to Congress.
1374. Permits.
 (a) Issuance.
 (b) Requisite provisions.
 (c) Importation for scientific research, public display, or enhancing survival or recovery of species or stock.
 (d) Application procedures; notice; hearing; review.
 (e) Modification, suspension, and revocation.
 (f) Possession of permit by issuee or his agent.
 (g) Fees.
 (h) General permits.
1375. Penalties.
- 1375a. Use of fines for protection and recovery of manatees, polar bears, sea otters, and walrus.
1376. Seizure and forfeiture of cargo.
 (a) Application of consistent provisions.
 (b) Penalties.
 (c) Reward for information leading to conviction.

Sec.
1377.

Enforcement.

- (a) Utilization of personnel.
(b) State officers and employees.
(c) Warrants and other process for enforcement.
(d) Execution of process; arrest; search; seizure.
(e) Disposition of seized cargo.

1378.

International program.

- (a) Duties of Secretary.
(b) Consultations and studies concerning North Pacific fur seals.
(c) Description of annual results of discussions; proposals for further action.

1379.

Transfer of management authority.

- (a) State enforcement of State laws or regulations prohibited without transfer to State of management authority by Secretary.
(b) Findings prerequisite to transfer of authority; State program; implementation.
(c) Standards with which State process must comply.
(d) Cooperative allocation agreements.
(e) Revocation of transfer of management authority.
(f) Transfer of management authority to State of Alaska.
(g) Environmental impact statement not required.
(h) Taking of marine mammals as part of official duties.
(i) Regulations covering taking of marine mammals by Alaskan natives.
(j) Grants to develop or administer State conservation and management programs.
(k) Delegation of administration and enforcement to States.
(l) Authorization of appropriations.

1380.

Marine mammal research grants.

- (a) Authorization; research concerning yellowfin tuna; annual report.
(b) Terms and conditions.
(c) Gulf of Maine ecosystem protection.
(d) Bering Sea ecosystem protection.

1381.

Commercial fisheries gear development.

- (a) Research and development program; report to Congress; authorization of appropriations.
(b) Reduction of level of taking of marine mammals incidental to commercial fishing operations.
(c) Reduction of level of taking of marine mammals in tuna fishery.
(d) Research and observation.

1382.

Regulations and administration.

- (a) Consultation with Federal agencies.
(b) Cooperation by Federal agencies.
(c) Contracts, leases and cooperative agreements.
(d) Annual review; suspension of program.
(e) Measures to alleviate impacts on strategic stocks.

1383.

Application to other treaties and conventions.

- (a) Generally; findings; waiver of penalties.
(b) Review of effectiveness of Agreement on the Conservation of Polar Bears.
(c) Review of implementation of Agreement on the Conservation of Polar Bears; report.
(d) Consultation regarding conservation of polar bears in Russia and Alaska; report.