

The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

CHAPTER 53—CONTROL OF ILLEGALLY TAKEN FISH AND WILDLIFE

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1861, 4912 of this title; title 6 section 231.

§ 3371. Definitions

For the purposes of this chapter:

(a) The term “fish or wildlife” means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and includes any part, product, egg, or offspring thereof.

(b) The term “import” means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(c) The term “Indian tribal law” means any regulation of, or other rule of conduct enforceable by, any Indian tribe, band, or group but only to the extent that the regulation or rule

applies within Indian country as defined in section 1151 of title 18.

(d) The terms “law,” “treaty,” “regulation,” and “Indian tribal law” mean laws, treaties, regulations or Indian tribal laws which regulate the taking, possession, importation, exportation, transportation, or sale of fish or wildlife or plants.

(e) The term “person” includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the United States.

(f) The terms “plant” and “plants” mean any wild member of the plant kingdom, including roots, seeds, and other parts thereof (but excluding common food crops and cultivars) which is indigenous to any State and which is either (A) listed on an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (B) listed pursuant to any State law that provides for the conservation of species threatened with extinction.

(g) The term “Secretary” means, except as otherwise provided in this chapter, the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090); except that with respect to the provisions of this chapter which pertain to the importation or exportation of plants the term means the Secretary of Agriculture.

(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.

§ 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 vio-

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

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