

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(5) the term “substantial bodily injury” means—

(A) deep cuts and serious burns or abrasions;

(B) short-term or nonobvious disfigurement;

(C) fractured or dislocated bones, or torn members of the body;

(D) significant physical pain;

(E) illness;

(F) short-term loss or impairment of the function of a bodily member, organ, or mental faculty; or

(G) any other significant injury to the body.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, regardless of the point of view expressed, or to limit any existing legal remedies for such interference; or

(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this action, or to preempt State or local laws that may provide such penalties or remedies.

(Added Pub. L. 102-346, §2(a), Aug. 26, 1992, 106 Stat. 928; amended Pub. L. 104-294, title VI, §601(r)(3), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 107-188, title III, §336, June 12, 2002, 116 Stat. 681; Pub. L. 109-374, §2(a), Nov. 27, 2006, 120 Stat. 2652.)

#### PRIOR PROVISIONS

A prior section 43, acts June 25, 1948, ch. 645, 62 Stat. 687; Sept. 2, 1960, Pub. L. 86-702, §2, 74 Stat. 754; Dec. 5, 1969, Pub. L. 91-135, §7(a), 83 Stat. 279, related to transportation of wildlife taken in violation of State, national, or foreign law, the receipt of such wildlife, and the making of false records in relation thereto, prior to repeal by Pub. L. 97-79, §9(b)(2), Nov. 16, 1981, 95 Stat. 1079. See section 3372(a) of Title 16, Conservation.

#### AMENDMENTS

2006—Pub. L. 109-374 amended section catchline and text generally, substituting provisions relating to force, violence, and threats involving animal enterprises for provisions relating to animal enterprise terrorism.

2002—Subsec. (a). Pub. L. 107-188, §336(a), amended heading and text of subsec. (a) generally, deleting par. (2) reference to intentionally stealing and to requirement that economic damage exceed \$10,000, and in concluding provisions substituting reference to punishment under subsec. (b) for reference to fine or imprisonment of not more than one year.

Subsec. (b). Pub. L. 107-188, §336(b), amended subsec. (b) generally, substituting “Penalties” for “Aggravated Offense” in heading and list of penalties for property damage, personal injury and death for reference to serious bodily injury and death in text.

Subsec. (c)(3). Pub. L. 107-188, §336(c), added par. (3).  
1996—Subsec. (c). Pub. L. 104-294 inserted “or 3663A” after “section 3663” in introductory provisions.

#### SHORT TITLE

Pub. L. 102-346, §1, Aug. 26, 1992, 106 Stat. 928, provided that: “This Act [enacting this section and provisions set out below] may be cited as the ‘Animal Enterprise Protection Act of 1992.’”

#### STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES

Section 3 of Pub. L. 102-346 directed Attorney General and Secretary of Agriculture to jointly conduct a study on extent and effects of domestic and international terrorism on enterprises using animals for food or fiber production, agriculture, research, or testing, and, not later than 1 year after Aug. 26, 1992, submit a report that describes the results of the study together with any appropriate recommendations and legislation to Congress.

**[§ 44. Repealed. Pub. L. 97-79, §9(b)(2), Nov. 16, 1981, 95 Stat. 1079]**

Section, acts June 25, 1948, ch. 645, 62 Stat. 687; Dec. 5, 1969, Pub. L. 91-135, §8, 83 Stat. 281, related to marking of packages or containers used in the shipment of fish and wildlife. See section 3372(b) of Title 16, Conservation.

**[§ 45. Repealed. Pub. L. 101-647, title XII, § 1206(a), Nov. 29, 1990, 104 Stat. 4832]**

Section, act June 25, 1948, ch. 645, 62 Stat. 688, related to penalties for capturing or killing carrier pigeons.

#### § 46. Transportation of water hyacinths

(a) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, alligator grass (alternanthera philoxeroides), or water chestnut plants (trapa natans) or water hyacinth plants (eichhornia crassipes) or the seeds of such grass or plants;

(b) Whoever knowingly sells, purchases, barter, exchanges, gives, or receives any grass, plant, or seed which has been transported in violation of subsection (a); or

(c) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, an advertisement, to sell, purchase, barter, exchange, give, or receive alligator grass or water chestnut plants or water hyacinth plants or the seeds of such grass or plants—

Shall be fined under this title, or imprisoned not more than six months, or both.

(Added Aug. 1, 1956, ch. 825, §1, 70 Stat. 797; amended Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

#### § 47. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes

(a) Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges shall be fined under this title, or imprisoned not more than six months, or both.

(b) Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals re-

ferred to in subsection (a) of this section shall be fined under this title, or imprisoned not more than six months, or both.

(c) As used in subsection (a) of this section—

(1) The term “aircraft” means any contrivance used for flight in the air; and

(2) The term “motor vehicle” includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

(Added Pub. L. 86-234, §1(a), Sept. 8, 1959, 73 Stat. 470; amended Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

### § 48. Animal crush videos

(a) DEFINITION.—In this section the term “animal crush video” means any photograph, motion-picture film, video or digital recording, or electronic image that—

(1) depicts actual conduct in which 1 or more living non-human mammals, birds, reptiles, or amphibians is intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury (as defined in section 1365 and including conduct that, if committed against a person and in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242); and

(2) is obscene.

(b) PROHIBITIONS.—

(1) CREATION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly create an animal crush video, if—

(A) the person intends or has reason to know that the animal crush video will be distributed in, or using a means or facility of, interstate or foreign commerce; or

(B) the animal crush video is distributed in, or using a means or facility of, interstate or foreign commerce.

(2) DISTRIBUTION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly sell, market, advertise, exchange, or distribute an animal crush video in, or using a means or facility of, interstate or foreign commerce.

(c) EXTRATERRITORIAL APPLICATION.—Subsection (b) shall apply to the knowing sale, marketing, advertising, exchange, distribution, or creation of an animal crush video outside of the United States, if—

(1) the person engaging in such conduct intends or has reason to know that the animal crush video will be transported into the United States or its territories or possessions; or

(2) the animal crush video is transported into the United States or its territories or possessions.

(d) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not more than 7 years, or both.

(e) EXCEPTIONS.—

(1) IN GENERAL.—This section shall not apply with regard to any visual depiction of—

(A) customary and normal veterinary or agricultural husbandry practices;

(B) the slaughter of animals for food; or

(C) hunting, trapping, or fishing.

(2) GOOD-FAITH DISTRIBUTION.—This section shall not apply to the good-faith distribution of an animal crush video to—

(A) a law enforcement agency; or

(B) a third party for the sole purpose of analysis to determine if referral to a law enforcement agency is appropriate.

(f) NO PREEMPTION.—Nothing in this section shall be construed to preempt the law of any State or local subdivision thereof to protect animals.

(Added Pub. L. 106-152, §1(a), Dec. 9, 1999, 113 Stat. 1732; amended Pub. L. 111-294, §3(a), Dec. 9, 2010, 124 Stat. 3178.)

#### AMENDMENTS

2010—Pub. L. 111-294 amended section generally. Prior to amendment, section related to depiction of animal cruelty.

#### SEVERABILITY

Pub. L. 111-294, §3(c), Dec. 9, 2010, 124 Stat. 3179, provided that: “If any provision of section 48 of title 18, United States Code (as amended by this section), or the application of the provision to any person or circumstance, is held to be unconstitutional, the provision and the application of the provision to other persons or circumstances shall not be affected thereby.”

#### FINDINGS

Pub. L. 111-294, §2, Dec. 9, 2010, 124 Stat. 3177, provided that: “The Congress finds the following:

“(1) The United States has a long history of prohibiting the interstate sale, marketing, advertising, exchange, and distribution of obscene material and speech that is integral to criminal conduct.

“(2) The Federal Government and the States have a compelling interest in preventing intentional acts of extreme animal cruelty.

“(3) Each of the several States and the District of Columbia criminalize intentional acts of extreme animal cruelty, such as the intentional crushing, burning, drowning, suffocating, or impaling of animals for no socially redeeming purpose.

“(4) There are certain extreme acts of animal cruelty that appeal to a specific sexual fetish. These acts of extreme animal cruelty are videotaped, and the resulting video tapes are commonly referred to as ‘animal crush videos’.

“(5) The Supreme Court of the United States has long held that obscenity is an exception to speech protected under the First Amendment to the Constitution of the United States.

“(6) In the judgment of Congress, many animal crush videos are obscene in the sense that the depictions, taken as a whole—

“(A) appeal to the prurient interest in sex;

“(B) are patently offensive; and

“(C) lack serious literary, artistic, political, or scientific value.

“(7) Serious criminal acts of extreme animal cruelty are integral to the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos.

“(8) The creation, sale, distribution, advertising, marketing, and exchange of animal crush videos is intrinsically related and integral to creating an incentive for, directly causing, and perpetuating demand for the serious acts of extreme animal cruelty that the videos depict. The primary reason for those criminal acts is the creation, sale, distribution, advertising,