

complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Foods and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Plant Pest Act, referred to in subsec. (a)(1), is Pub. L. 85-36, title I, May 23, 1957, 71 Stat. 31, as amended, which was classified generally to chapter 7B (§150aa et seq.) of Title 7, Agriculture, prior to repeal by Pub. L. 106-224, title IV, §438(a)(2), June 20, 2000, 114 Stat. 454. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (a)(3), probably refers to Pub. L. 86-702, which amended this section and section 43 of this title.

The enactment of the Lacey Act Amendments of 1981, referred to in subsec. (c), means the date of enactment of Pub. L. 97-79, which was approved Nov. 16, 1981.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-307 inserted “of the bighead carp of the species *Hypophthalmichthys nobilis*,” after “*Dreissena polymorpha*.”

1996—Subsec. (a)(1). Pub. L. 104-332 made technical amendment to Pub. L. 101-646, §1208. See 1990 Amendment note below.

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

1991—Subsec. (a)(1). Pub. L. 102-237 inserted “brown tree snakes,” after “reptiles,” in first sentence.

1990—Subsec. (a)(1). Pub. L. 101-646, as amended by Pub. L. 104-332, inserted “of the zebra mussel of the species *Dreissena polymorpha*,” after “*Pteropus*.”

1981—Subsec. (c). Pub. L. 97-79 substituted “Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981” for “Secretary of the Treasury”.

1960—Pub. L. 86-702 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 section catchline.

Subsec. (a)(1). Pub. L. 86-702 designated first sentence of subsec. (a) as par. (1), prohibited importation into the Commonwealth of Puerto Rico or any possession of the United States and shipments between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, described the mongoose and flying foxes by their scientific names, extended the provisions prohibiting importation or shipment to include wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, or their eggs or offspring, empowered the Secretary to prohibit importation or shipment if injurious to human beings, forestry, or to wildlife or wildlife resources, required prompt exportation or destruction at the expense of the importer or consignee, provided that this section shall not be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act and that it shall not authorize any action with respect to the importation of plant pests, and deleted provisions which required destruction of prohibited birds and animals or their return at the expense of the owner, and which prohibited the importation of the English sparrow and the starling.

Subsec. (a)(2), (3). Pub. L. 86-702 added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 86-702 designated second sentence of subsec. (a) as par. (4), limited importation of natural-history specimens to dead ones, and included all species of psittacine birds.

Subsec. (a)(5). Pub. L. 86-702 designated third sentence of subsec. (a) as par. (5), authorized enforcement by the Secretary of the Interior, and permitted the Sec-

retary of the Treasury, if requested by the Secretary of the Interior, to require the furnishing of a bond.

Subsec. (b). Pub. L. 86-702 included violations of regulations.

1949—Subsec. (a). Act May 24, 1949, made section applicable to any Territory or district thereof as well as to the United States, and changed phraseology.

Subsec. (b). Act May 24, 1949, reenacted subsec. (b) without change.

Subsec. (c). Act May 24, 1949, added subsec. (c).

INVASIVE SPECIES

For provisions relating to restrictions on the introduction of invasive species into natural ecosystems of the United States, see Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 43. Force, violence, and threats involving animal enterprises

(a) OFFENSE.—Whoever travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility of interstate or foreign commerce—

(1) for the purpose of damaging or interfering with the operations of an animal enterprise; and

(2) in connection with such purpose—

(A) intentionally damages or causes the loss of any real or personal property (including animals or records) used by an animal enterprise, or any real or personal property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise;

(B) intentionally places a person in reasonable fear of the death of, or serious bodily injury to that person, a member of the immediate family (as defined in section 115) of that person, or a spouse or intimate partner of that person by a course of conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation; or

(C) conspires or attempts to do so;

shall be punished as provided for in subsection (b).

(b) PENALTIES.—The punishment for a violation of section¹ (a) or an attempt or conspiracy to violate subsection (a) shall be—

(1) a fine under this title or imprisonment not² more than 1 year, or both, if the offense does not instill in another the reasonable fear of serious bodily injury or death and—

(A) the offense results in no economic damage or bodily injury; or

(B) the offense results in economic damage that does not exceed \$10,000;

(2) a fine under this title or imprisonment for not more than 5 years, or both, if no bodily injury occurs and—

(A) the offense results in economic damage exceeding \$10,000 but not exceeding \$100,000; or

(B) the offense instills in another the reasonable fear of serious bodily injury or death;

(3) a fine under this title or imprisonment for not more than 10 years, or both, if—

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

² So in original. Probably should be preceded by “for”.

- (A) the offense results in economic damage exceeding \$100,000; or
- (B) the offense results in substantial bodily injury to another individual;
- (4) a fine under this title or imprisonment for not more than 20 years, or both, if—
 - (A) the offense results in serious bodily injury to another individual; or
 - (B) the offense results in economic damage exceeding \$1,000,000; and
- (5) imprisonment for life or for any terms of years, a fine under this title, or both, if the offense results in death of another individual.

(c) RESTITUTION.—An order of restitution under section 3663 or 3663A of this title with respect to a violation of this section may also include restitution—

- (1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense;
- (2) for the loss of food production or farm income reasonably attributable to the offense; and
- (3) for any other economic damage, including any losses or costs caused by economic disruption, resulting from the offense.

(d) DEFINITIONS.—As used in this section—

- (1) the term “animal enterprise” means—
 - (A) a commercial or academic enterprise that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, or testing;
 - (B) a zoo, aquarium, animal shelter, pet store, breeder, furrier, circus, or rodeo, or other lawful competitive animal event; or
 - (C) any fair or similar event intended to advance agricultural arts and sciences;
- (2) the term “course of conduct” means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose;
- (3) the term “economic damage”—
 - (A) means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, the loss of profits, or increased costs, including losses and increased costs resulting from threats, acts or vandalism, property damage, trespass, harassment, or intimidation taken against a person or entity on account of that person’s or entity’s connection to, relationship with, or transactions with the animal enterprise; but
 - (B) does not include any lawful economic disruption (including a lawful boycott) that results from lawful public, governmental, or business reaction to the disclosure of information about an animal enterprise;
- (4) the term “serious bodily injury” means—
 - (A) injury posing a substantial risk of death;
 - (B) extreme physical pain;
 - (C) protracted and obvious disfigurement; or
 - (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 provi-

sions 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; or

(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 referred 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