

Quick-Reference Legal Summary

Obtained from <http://laws.fws.gov/lawsdigest/baldegl.html>

Federal Wildlife and Related Laws Handbook; Chapter 4. Statute Summaries

BALD AND GOLDEN EAGLE PROTECTION ACT

16 U.S.C. §§ 668-668d, June 8, 1940, as amended 1959, 1962, 1972, and 1978.

Overview. The Act prohibits the taking or possession of and commerce in bald and golden eagles, with limited exceptions.

Findings/Policy. The enacting clause of the original Act stated that the Continental Congress in 1782 adopted the bald eagle as the national symbol; that the bald eagle became the symbolic representation of a new nation and the American ideals of freedom; and that the bald eagle threatened with extinction. § 668 note.

Selected Definitions. Take: includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. Transport: includes convey or carry by any means; also deliver or receive for conveyance. § 668c.

Prohibitions. The Act imposes criminal and civil penalties on anyone (including associations, partnerships and corporations) in the U.S. or within its jurisdiction who, unless excepted, takes, possesses, sells, purchases, barter, offers to sell or purchase or barter, transports, exports or imports at any time or in any manner a bald or golden eagle, alive or dead; or any part, nest or egg of these eagles; or violates any permit or regulations issued under the Act. A criminal conviction requires that the violator acted knowingly or with wanton disregard of the consequences. According to the Act, the criminal penalty is a maximum \$5,000 fine or one-year imprisonment, or both, doubled for subsequent convictions, but the Sentencing Reform Act of 1984, as amended in 1987, increases maximum fines significantly. Each prohibited act is a separate violation. One-half of the criminal fine, but not to exceed \$2,500, must be paid to whoever gives information leading to conviction. The civil penalty is a maximum fine of \$5,000 per violation, with each violation a separate offense. Any livestock grazing agreement on federal land held by a person convicted under this Act is subject to immediate cancellation. § 668.

Exceptions. If compatible with the preservation of bald and golden eagles, the Secretary of the Interior may issue regulations authorizing the taking, possession and transportation of these eagles for scientific or exhibition purposes, for religious purposes of Indian tribes or for the protection of wildlife, agricultural or other interests. If requested by a state governor, the Secretary must authorize the taking of golden eagles to protect domesticated flocks and herds in the state. The Secretary also may permit the taking, possession and transportation of golden eagles for falconry, if these eagles would have been taken because of depredations on livestock or wildlife. The Secretary may permit the taking of golden eagle nests which interfere with resource development or recovery operations. Bald eagles may not be taken for any purpose unless the Secretary issues a permit prior to the taking. § 668a.

Enforcement. Authorized Department of Interior employees who witness a violation of this Act may arrest the violator without a warrant and take the person to an officer or court. These employees also may execute warrants to enforce the Act and conduct searches. Any federal judge or magistrate may issue warrants upon probable cause. The Secretary may enter into cooperative agreements with state fish and wildlife agencies or other appropriate authorities to facilitate enforcement of the Act, and may delegate enforcement authority to state law enforcement personnel as appropriate. § 668b.

Forfeiture. All bald or golden eagles, or their parts, nests or eggs, taken or otherwise used in violation of this Act, and all guns, traps, nets, other equipment and means of transportation used in violation of this Act, are subject to forfeiture to the federal government. Federal laws relating to the forfeiture of vessels for violation of custom laws apply to forfeitures under this Act. § 668b.

Appropriations Authorized. Funds available to the Secretary for administering and enforcing the Migratory Bird Treaty Act are equally available for administering and enforcing this Act. § 668d.

Suggested in-text citation and full reference:

(16 U.S.C. 668 et seq.)

16 U.S.C. §§668-668d, 54 Stat. 250. Bald and Golden Eagle Protection Act 1940.

