

Quick-Reference Legal Summary

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

LACEY ACT

16 U.S.C. § 701, May 25, 1900.

Overview. This Act authorizes the Secretary of the Interior to adopt measures to aid in restoring game and other birds in parts of the U.S. where they have become scarce or extinct and to regulate the introduction of birds and animals in areas where they had not existed. All sections but one of the original 1900 Act have been repealed and either restated in or reenacted by other code provisions. This is a summary of the one remaining section of the original Lacey Act. The Lacey Act Amendments of 1981 are summarized separately.

Game and Wild Bird Preservation. The purposes of the Act are to aid in the restoration of game and other wild birds in parts of the U.S. where they have become scarce or extinct and to regulate the introduction of American or foreign birds or animals in localities where they have not previously existed. The duties and powers of the Department of the Interior include the preservation, distribution, introduction and restoration of game and other wild birds.

The Act directs the Secretary of the Interior (Secretary) to collect and publish information regarding the propagation, uses and preservation of game and other wild birds and adopt rules and regulations to carry out the purposes of the Act. § 701.

Editor's Note. A related statute, 16 U.S.C. § 702, enacted in 1902, grants the Secretary the power to authorize the importation of game birds' eggs for propagation and directs the Secretary to adopt rules and regulations on importation for this purpose.

LACEY ACT AMENDMENTS OF 1981

16 U.S.C. §§ 3371-3378, November 16, 1981, as amended 1984 and 1988.

Overview. This Act replaces the Black Bass Act of 1926 and most of the original Lacey Act. The Lacey Act Amendments make it unlawful to import, export, transport, buy or sell fish, wildlife and plants taken or possessed in violation of federal, state or tribal law. Interstate or foreign commerce in fish and wildlife taken or possessed in violation of foreign law also is illegal. The Act requires that packages containing fish or wildlife be plainly marked. Enforcement measures include civil and criminal penalties, cancellation of hunting and fishing licenses, and forfeiture.

Selected Definitions. Fish or wildlife: an alive or dead wild animal, including a wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate or other invertebrate, and including any part, product, egg or offspring. Import: land on, bring into, or introduce into any place subject to U.S. jurisdiction. Plant or plants: a wild member of the plant kingdom, including roots, seeds and other parts (but not common food crops) indigenous to a state and either listed on an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or under a state conservation statute. Secretary: Secretary of the Interior or Secretary of Commerce, according to program responsibilities; Secretary of Agriculture for provisions on the import or export of plants. Taken: captured, killed or collected. Transport: move, convey, carry or ship by any means, or deliver or receive for these purposes. § 3371.

Prohibitions on Activities. The Act makes it illegal to import, export, transport, sell, receive, acquire or purchase fish, wildlife or plants taken, possessed, transported or sold in violation of a federal law, treaty, regulation or Indian tribal law. It also is illegal for a person to import, export, transport, sell, receive, acquire or purchase in interstate or foreign commerce: fish or wildlife taken, possessed, transported or sold in violation of a state law, state regulation or foreign law; plants taken, possessed, transported or sold in violation of a state law or regulation. The Act also makes it illegal to possess within the special maritime and territorial jurisdiction of the U.S.: fish or wildlife taken, possessed, transported or sold in violation of a state law, state regulation, foreign law or Indian tribal law; plants taken, possessed, transported or sold in violation of a state law or regulation.

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Additionally, the Act establishes marking requirements, making it illegal to import, export or transport in interstate commerce a container or package containing fish or wildlife unless the container or package is plainly marked, labeled or tagged in accordance with regulations issued under the Act.

The Act places restrictions on persons offering guiding and outfitting services and licenses or permits. A person who for money or other consideration offers or provides guiding, outfitting or other services, or a hunting or fishing license or permit, for the illegal taking, acquiring, receiving, transporting or possessing of fish or wildlife is deemed to have conducted a sale in violation of the Act. A person who obtains these services for money or other consideration is deemed to have conducted a purchase in violation of the Act.

The Act also establishes false labeling offenses. It is illegal to make or submit a false record, account, label or false identification of any fish, wildlife or plant that has been or will be (1) imported, exported, transported, sold, purchased or received from a foreign country, or (2) transported in interstate or foreign commerce. § 3372.

Penalties. The Act provides significant civil and criminal penalties for violations. Criminal penalties, especially fines, are also described in the summary of the Sentencing Reform Act of 1984.

For anyone convicted of a criminal violation, the Secretary may suspend, modify or cancel a federal hunting or fishing license, permit or stamp, or any license or permit authorizing import or export of fish, wildlife or plants. Fish, wildlife or plants used in a way that violates the Act, and vessels, vehicles, aircraft and other equipment used in the illegal activity, are subject to forfeiture to the U.S. §§ 3373-3374.

Enforcement. The Act and its regulations must be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury, each of whom may enter into enforcement agreements with other federal or state agencies or Indian tribes. Persons enforcing the Act may carry firearms, make certain warrantless arrests, serve subpoenas and warrants, detain and inspect vessels and containers upon entry and departure from the U.S., and require the production of documents and permits. The Act authorizes rewards for information leading to an arrest, conviction, fine or forfeiture and expenses for the temporary care of seized fish, wildlife or plants. The Act also authorizes the issuance of regulations. §§ 3375-3376.

Appropriations Authorized. The Act requires the Secretary to request the funds necessary for enforcement as an item in the Department of the Interior appropriations budget proposal. § 3378.

Editor's Note. A related statute on the importation of animals, 18 U.S.C. §42, requires the Secretary of the Interior to develop regulations and issue permits for transporting wild animals and birds under humane and healthful conditions. The statute makes it illegal to transport knowingly a wild animal or bird to the U.S. under inhumane or unhealthful conditions or in violation of the regulations. The statute also prohibits the importation of wild mammals, birds, fish, amphibians, reptiles and brown tree snakes which the Secretary declares by regulation to be injurious to human beings, agriculture, horticulture, forestry or wildlife, with limited exceptions. The provisions of this statute were found originally in the Lacey Act, passed in 1900 (and summarized separately in this Handbook). The original provision was repealed and reenacted as § 42 of Title 18. § 18 U.S.C. 42.

Suggested in-text citation and full reference:

(16 U.S.C. 701)

16 U.S.C. § 701. Lacey Act. May 25, 1900, ch. 553, Sec. 1, 31 Stat. 187; 1939 Reorg. Plan No. II, Sec. 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.

(16 U.S.C. 3371 et seq.)

16 U.S.C. §§ 3371-3378. Lacey Act Amendments of 1981. November 16, 1981, as amended 1984 and 1988. Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073. Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

