

# ATTACHMENT A

97th Congress  
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COMMITTEE PRINT

A LEGISLATIVE HISTORY OF THE ENDAN-  
GERED SPECIES ACT OF 1973, AS AMENDED  
IN 1976, 1977, 1978, 1979, AND 1980

TOGETHER WITH

A SECTION-BY-SECTION INDEX

PREPARED BY THE

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(b) It is unlawful for any person subject to the jurisdiction of the United States to do anything which would result in a violation of the international Convention. The reference to the definitions in the Convention is required because a number of terms used in that Convention, such as "specimen" and "introduction from the sea", were defined with special care in that Convention and have highly specific meanings. This paragraph provides that an export permit covering the shipment of nonendangered species on Appendix II of the Convention will be presumed to be valid and issued in good faith, unless the Secretary has reliable evidence to offset the presumption of validity. In all other respects, of course, the requirements and regulations of the Act, including the requirement that such goods be brought in through designated ports of entry, accompanied by appropriate documentation, must be followed by the importer; the purpose of paragraph (b) (2) is to allow the Secretary to look behind an export permit only where he has evidence that it does not correctly reflect the situation in the country in which the animal or plant was originally taken, or that the permit itself is not valid.

(c) It is illegal to engage in business as an importer or exporter of fish or wildlife without a permit; this category includes zones, brokers, forwarders and taxidermists. The only exception to this requirement is provided in the case of businessmen dealing in nonendangered and nonthreatened species of shellfish and fish which are imported for commercial purposes or taken in U.S. waters or on the high seas for recreational purposes. Permit holders or licensees under this section are required to keep adequate records, permit inspection of these records and their premises by the Secretary, and file all required reports. The Secretary is also authorized to prescribe regulations under which these requirements are to be carried out.

(d) It is illegal for anyone (except in the specified conditions of the proviso), whether a businessman or otherwise, to fail to file declarations or reports required by the Secretary in conjunction with the enforcement of this Act or of the Convention. The filing of a false or misleading report would be a violation of this section.

The subsection is designed to provide the Secretary with the information which he must have on the wildlife shipments which presently cross U.S. borders in order for this country to participate effectively in the Convention, which requires a workable system of worldwide information in this area.

(e) This paragraph makes it illegal for anyone (except in the specified conditions of the proviso), whether a businessman or otherwise, to bring in fish or wildlife or plants in any port other than one designated by the Secretary. The requirement can be waived or modified at the discretion of the Secretary. Ports already designated under existing law will continue to be designated in the future, except as specifically changed.

(f) It is illegal to conspire to commit, or to attempt to commit, a violation of the Act.

#### EXCEPTIONS

SEC. 10. (a) The Secretary is allowed to issue permits for actions otherwise prohibited for scientific purposes or for the purpose of enhancing the propagation or survival of the species affected. The restrictions upon the discretion of the Secretary lie in the requirements

of subsection (c), as later described. Any such activities to encourage propagation or survival may take place in captivity, in a controlled habitat or even in an uncontrolled habitat so long as this is found to provide the most practicable and realistic opportunity to encourage the development of the species concerned. They might even, in extraordinary circumstances, include the power to cull excess members of a species where the carrying capacity of its environment is in danger of being overwhelmed.

(b) This paragraph provides the so-called "hardship exemption", authorizing the Secretary to exempt for a period of not to exceed one year from the date that a species is first proposed for inclusion on the list persons who can show that the listing of that species will create an undue economic hardship for them. Like subsection (a), exemptions to be provided under this subsection would be subject to the overall policy requirements of subsection (c) of this section. The paragraph does not prevent or forestall existing hardship exemptions under the Act; it does, however, require that no economic hardship exemption be granted covering an animal which is on Appendix I of the Convention if the use of the animal is for primarily commercial purposes. The Secretary is authorized to obtain any information necessary for him to decide whether or not the issuance of such an exemption is justified, and any information so received is to be a matter of public record. If the applicant concludes that this will result in the public release of information which he would prefer to remain private, he may of course, decide not to submit his application or to attempt to persuade the Secretary not to require that information.

(c) This paragraph prescribes the circumstances under which the Secretary may grant exemptions under subsections (a) and (b) of this section. It provides overall policy guidance, requiring that the Secretary find and publish his finding that the exemption application was applied for in good faith (and is not for the purpose of stockpiling animals or products), is not to the disadvantage of the species, and will be consistent with the purposes and policies stated in Section 2.

The effect of this subsection is to limit substantially the number of exemptions that may be granted under the act, but given that these exemptions apply to species which are in danger of extinction, the restrictions imposed by this paragraph seem entirely reasonable.

(d) This subsection extends the exception provided in the Marine Mammal Protection Act of 1972 (P.L. 92-522) regarding taking of endangered species by Alaskan natives. Under that Act, certain types of taking of endangered species of animals are permitted subject to the overriding power of the Secretary to intervene and restrict or prohibit further taking in the interests of protecting the species or stocks of those animals. The same powers of intervention are thus preserved by this Act. While any such taking would not be a violation of either the Marine Mammal Protection Act or this Act, the taking would still be subject to whatever stricter state regulations apply to the taking of the animals concerned.

#### PENALTIES AND ENFORCEMENT

Sec. 11. (a) Civil penalties are provided for anyone who violates any provision of the Act, or permits or certificates issued pursuant to the Act, or regulations.