

No. 49

AN ACT

SB 305

Amending the act of June 3, 1937 (P.L.1225, No.316), entitled "An act concerning game and other wild birds and wild animals; and amending, revising, consolidating, and changing the law relating thereto," defining and regulating endangered species and rare species of wildlife and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 101, act of June 3, 1937 (P.L.1225, No.316), known as "The Game Law," is amended by adding three definitions to read:

Section 101. Definitions.—Whenever used in this act, unless a contrary intention is evident from the context, the word "person" shall include individuals, copartnerships, associations, and corporations; the singular shall include the plural, and the masculine, and feminine and neuter. The word "each" shall include the whole or any substantial part or parts.

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The term "endangered species" shall include all species and subspecies of wild birds and wild animals, except fish, frogs, tadpoles, and turtles, which have been declared threatened with extinction by the Secretary, United States Department of the Interior, and appear on the Endangered Species List or the Native Endangered Species List as published in the Federal Register, or any species or subspecies of wild birds or wild animals, except fish, frogs, tadpoles, and turtles, native to this Commonwealth which may be declared to be threatened with extinction by action of the commission and published in the Pennsylvania Bulletin.

The term "rare species" shall include all species and subspecies of wild birds and wild animals, except fish, frogs, tadpoles, and turtles, which are declared in such small numbers throughout their range by the Secretary, United States Department of the Interior, that they may become endangered if their environment worsens, and appear on a rare species list as published in the Federal Register, or any species or subspecies of wild birds or wild animals, except fish, frogs, tadpoles, and turtles, native to this Commonwealth which may be declared in such small numbers throughout their range by the commission, that they may become endangered if their environment worsens, and published in the Pennsylvania Bulletin.

The term "wild animals" includes all animals other than domestic animals.

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Section 2. The act is amended by adding two sections to read:

Section 418.2. Endangered and Rare Species.—*The commission may issue permits for the importation, exportation, sale, exchange, taking or possession of any birds or animals of any endangered or rare species, living or dead, or any parts thereof, found in the wild state within this Commonwealth or in any other state or nation to any public zoological garden or institution with scientific staff and facilities, solely for the purposes of the protection or propagation of such endangered or rare species.*

Section 723.1. Endangered and Rare Species.—*(a) The commission may by appropriate action, add or remove any wild bird or wild animal native to this Commonwealth to or from the list of endangered or rare species.*

(b) Except as otherwise provided in this act, it shall be unlawful for any person, acting either for himself or as the representative of another, to bring into or remove from this Commonwealth, or to possess, transport, capture, kill, or attempt to capture or kill, any wild bird or wild animal, or any part thereof, or the eggs of any wild bird, which are endangered or rare species of wild birds or wild animals as defined in section 101 of this act. It shall be the duty of every officer having authority to enforce this act to seize all such wild birds or wild animals, or any part thereof, or the eggs of any wild bird which have been declared endangered or rare species. All such wild birds or wild animals, or any part thereof, or the eggs so seized found to be in violation of this subsection shall be declared contraband and forfeited to the Commonwealth and shall be disposed of at the discretion of the director.

Any person violating any of the provisions of this subsection shall, upon summary conviction, for the first offense, be sentenced to pay a fine of two hundred dollars (\$200), and the costs of prosecution.

Any person convicted of subsequent offenses under this subsection, shall be deemed guilty of a misdemeanor, and upon conviction, shall be sentenced to pay a fine of up to four hundred dollars (\$400) and the costs of prosecution, or six months imprisonment, or both.

(c) Except as otherwise provided in this act, it shall be unlawful for any person acting either for himself, or as a representative of another, at any time, to buy, sell, or barter, or exchange, or to offer for sale or barter, or to have in possession for sale or barter, or to give away, any endangered or rare species or subspecies of wild birds or wild animals, or parts thereof, as defined in section 101 of this act.

It shall be the duty of every officer having authority to enforce this act to seize all such endangered or rare species of wild birds or wild animals, or any part thereof. All such wild birds or wild animals, or any part thereof, found to be in violation of this subsection shall be declared contraband and forfeited to the Commonwealth and shall be disposed of at the discretion of the director.

Any person violating any provision of this subsection shall, upon summary conviction for the first offense, be sentenced to pay a fine of four hundred dollars (\$400), and the costs of prosecution.

Any person convicted of subsequent offenses under this provision, shall be deemed guilty of a misdemeanor, and, upon conviction of such offense, shall be sentenced to pay a fine of not less than two thousand dollars (\$2000), nor more than four thousand dollars (\$4000) or imprisonment not exceeding one (1) year, or both.

(d) In order to provide an orderly and just implementation of the several provisions of this section, any person who shall have in his possession on the effective date of this amendatory act, any endangered or rare species of wild birds or wild animals or any part thereof, including the eggs of such birds, as defined in section 101 of this act shall be exempt from the penalties and forfeiture provisions set forth in this section. The burden of proof that such endangered or rare species of wild birds or wild animals, or any part thereof, were legally obtained prior to the effective date of this amendatory act shall be upon the person in whose possession such may be found.

Section 3. This act shall take effect immediately.

APPROVED—The 28th day of March, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 49.



Secretary of the Commonwealth.