CHAPTER 15

Nongame and Endangered Species

ARTICLE 1

Nongame and Endangered Wildlife Species

**SECTION 50‑15‑10.** Definitions.

 As used in this article:

 (1) “Ecosystem” means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

 (2) “Endangered species” means any species or subspecies of wildlife whose prospects of survival or recruitment within the State are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:

 (a) the destruction, drastic modification, or severe curtailment of its habitat, or

 (b) its over‑utilization for scientific, commercial, or sporting purposes, or

 (c) the effect on it of disease, pollution, or predation, or

 (d) other natural or manmade factors affecting its prospects of survival or recruitment within the State, or

 (e) any combination of the foregoing factors. The term shall also be deemed to include any species or subspecies of fish or wildlife appearing on the United States’ List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D) as well as any species or subspecies of fish and wildlife appearing on the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A), as such list may be modified hereafter.

 (3) “Management” means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

 (4) “Nongame species” means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species.

 (5) “Optimum carrying capacity” means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

 (6) “Person” means any individual, firm, corporation, association, or partnership.

 (7) “Take” means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

 (8) “Wildlife” means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg or offspring, or the dead body or parts thereof.

HISTORY: 1962 Code Section 28‑726; 1974 (58) 2384; 1993 Act No. 181, Section 1264; former 1976 Code Section 50‑15‑20; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Editor’s Note

Prior Laws: Former Section 50‑12‑10 was titled Short title, and had the following history: 1962 Code Section 28‑725; 1974 (58) 2384; 1993 Act No. 181, Section 1264.

Effect of Amendment

2014 Act No. 159, Section 1, substituted “article” for “chapter” in the introductory paragraph, and made other nonsubstantive changes.

CROSS REFERENCES

Definition of wildlife for purposes of regulation of importation of wildlife, see Section 50‑16‑10.

RESEARCH REFERENCES

ALR Library

44 ALR 6th 325 , Construction and Application of State Endangered Species Acts.

**SECTION 50‑15‑20.** Investigations on nongame wildlife by department; regulations; management programs; public hearings; prohibited acts.

 (A) The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat, needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the department shall issue proposed regulations and develop management programs designed to ensure the continued ability of nongame wildlife to perpetuate themselves successfully. Such proposed regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to this section, giving their common and scientific names by species or subspecies. The department shall conduct ongoing investigations of nongame wildlife and may from time to time amend such regulations by adding or deleting therefrom species or subspecies of nongame wildlife.

 (B) The department shall by such regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife.

 Such regulation shall become effective sixty days after being proposed during which period public comment shall be solicited and received. The board may hold a public hearing if deemed appropriate. On the basis of public comments received or the testimony at any such hearing the department may make such changes in the proposed regulation as are consistent with effective management of nongame wildlife.

 (C) Except as provided in regulations issued by the department, it shall be unlawful for any person to take, possess, transport, export, process, sell, or offer for sale or ship nongame wildlife deemed by the department to be in need of management pursuant to this section. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife deemed by the department to be in need of management pursuant to this section.

HISTORY: 1962 Code Section 28‑728; 1974 (58) 2384; 1993 Act No. 181, Section 1264; former 1976 Code Section 50‑15‑30; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

2014 Act No. 159, Section 1, changed the paragraph designators to upper case, and in subsection (C), added a comma after “sell” in the first sentence.

CROSS REFERENCES

Endangered species listed, review and amendment of list, unlawful to take, deal in, or transport species on lists, see Section 50‑15‑30.

Establishing and carrying out programs for management of nongame and endangered wildlife, removal, capture, or destruction of wildlife, see Section 50‑15‑40.

Penalties, searches and seizures, power to arrest, disposition of confiscated property, see Section 50‑15‑80.

Regulations promulgated under authority of this section, see SC Code of Regulations R. 123‑1 et seq.

Library References

Environmental Law 526, 538.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 130, 133, 136, 140, 165.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 7, Interaction With Federal Government.

S.C. Jur. Game and Fish Section 25, Endangered Species.

NOTES OF DECISIONS

In general 1

1. In general

Ordinance regulating keeping of animals within town limits, and specifically restricting possession of endangered wolves, was not preempted by Federal Endangered Species Act (FESA) or state Nongame and Endangered Species Conservation Act, absent any conflict between ordinance and statutes or any obstacles created by ordinance to fulfillment of federal or state objectives; stated purpose of FESA was to preserve habitat of endangered species and provide program for their conservation, whereas stated purpose of ordinance was to regulate care and control of animals within town to protect safety, health, and general welfare of community. Peoples Program for Endangered Species v. Sexton (S.C. 1996) 323 S.C. 526, 476 S.E.2d 477. Animals 3.5(2); Municipal Corporations 53; Municipal Corporations 592(1)

**SECTION 50‑15‑30.** Endangered species listed; review and amendment of list; unlawful to take, deal in, or transport species on lists.

 (A) On the basis of investigations on nongame wildlife provided for in Section 50‑15‑20 and other available scientific and commercial data, and after consultation with other state agencies, appropriate federal agencies, and other interested persons and organizations, but not later than one year after July 2, 1974, the department shall by regulation propose a list of those species or subspecies of wildlife indigenous to the State which are determined to be endangered within this State, giving their common and scientific names by species and subspecies. Such regulation shall become effective sixty days after being proposed during which period public comment shall be solicited and received. The board may hold a public hearing if deemed appropriate. On the basis of public comments received or the testimony at any such hearing, the department may add to such proposed list additional species or subspecies which are determined to be endangered within the State or delete therefrom such species or subspecies which are determined not to be endangered within the State.

 (B) The board shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The board shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

 (C) Except as otherwise provided in this article, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

 (1) the list of wildlife indigenous to the State determined to be endangered within the State pursuant to subsection (A);

 (2) the United States’ List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D); and

 (3) the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Appendix A), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from a point outside the territorial limits of the United States and which is transported across the State destined for a point beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

 (D) In the event the United States’ List of Endangered Native Fish and Wildlife is modified subsequent to July 2, 1974, by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the State may be accepted as binding under subsection (C) if, after the type of scientific determination described in subsection (A), the department by regulation accepts such modification for the State. Any such regulation shall be effective upon promulgation.

HISTORY: 1962 Code Section 28‑729; 1974 (58) 2384; 1993 Act No. 181, Section 1264; former 1976 Code Section 50‑15‑40; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

2014 Act No. 159, Section 1, changed the paragraph designators to upper case; in subsection (A), substituted “50‑15‑20” for “50‑15‑30”; in subsection (C), substituted “article” for “chapter”, and added a comma after “sale”; and in subsection (D), added a comma following “1974”.

CROSS REFERENCES

ARTICLE not retroactive, certain importation not prohibited, see Section 50‑15‑90.

Establishing and carrying out programs for management of nongame and endangered wildlife, removal, capture, or destruction of wildlife, see Section 50‑15‑40.

Penalties, searches and seizures, power to arrest, disposition of confiscated property, see Section 50‑15‑80.

Library References

Environmental Law 528, 529, 532.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 165.

**SECTION 50‑15‑40.** Establishing and carrying out programs for management of nongame and endangered wildlife; removal, capture, or destruction of wildlife.

 (A) The board shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The board shall utilize all authority vested in the department to carry out the purposes of this section.

 (B) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies, political subdivisions of the State, or with private persons for administration and management of any area established under this section or utilized for management of nongame or endangered wildlife.

 (C) The Governor shall encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section.

 (D) The department may permit the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife which appear on the state list of endangered species, or species in need of management on the United States’ List of Threatened or Endangered Native Fish and Wildlife, as amended and accepted in accordance with Section 50‑15‑30(D), or on the United States’ List of Threatened or Endangered Foreign Fish and Wildlife, as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

 (E) Upon good cause shown, and where necessary to alleviate damage to property or to protect human health, endangered species may be removed, captured, or destroyed but only pursuant to permit issued by the department and, where possible, by or under the supervision of an agent of the department; provided, that threatened or endangered species or species in need of management may be removed, captured, or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the department pursuant to Section 50‑15‑20(A).

HISTORY: 1962 Code Section 28‑730; 1974 (58) 2384; 1993 Act No. 181, Section 1264; 2004 Act No. 246, Section 2; 2008 Act No. 179, Section 1, eff February 19, 2008; former 1976 Code Section 50‑15‑50; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

The 2008 amendment deleted the text of subsection (F).

2014 Act No. 159, Section 1, in subsection (D), substituted “50‑15‑30(D)” for “50‑15‑40(d)”; in subsection (E), substituted “50‑15‑20(A)” for “50‑15‑30(a)”; and deleted former subsection (F), which read “[Deleted]”.

CROSS REFERENCES

ARTICLE not retroactive, certain importation not prohibited, see Section 50‑15‑90.

Enticing or feeding alligators not in protective captivity or without a permit issued pursuant to this section, prohibited, see Section 50‑11‑750.

Penalties, searches and seizures, power to arrest, disposition of confiscated property, see Section 50‑15‑80.

Permits and programs for collection of protected wildlife required to be procured in accordance with this section, see Section 50‑11‑1180.

Library References

Environmental Law 531.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 165.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 7, Interaction With Federal Government.

S.C. Jur. Game and Fish Section 25, Endangered Species.

**SECTION 50‑15‑50.** Criteria of designating land as certified management area for endangered species; review and revision.

 (A) The department shall promulgate regulations addressing criteria for designating land as certified management area for endangered species or of species in need of management in order to qualify a taxpayer for the income tax credit provided for in Section 12‑6‑3520.

 (B) Every five years the department may review the population status of species subject to certified management agreements and shall revise the regulations accordingly. The department may revise criteria at that time as necessary for lands to retain their designation as certified management areas.

HISTORY: 1999 Act No. 100, Part II, Section 95; former 1976 Code Section 50‑15‑55; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

2014 Act No. 159, Section 1, reenacted the section with no apparent change.

Library References

Environmental Law 526, 528, 538.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 130, 133, 136, 140, 165.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 16, Miscellaneous Licenses and Permits.

S.C. Jur. Game and Fish Section 25, Endangered Species.

**SECTION 50‑15‑55.** Omitted by 2014 Act No. 159, Section 1, eff April 14, 2014.

Editor’s Note

Former Section 50‑15‑55 was titled Criteria of designating land as certified management area for endangered species; review and revision and was derived from 1999 Act No. 100, Part II, Section 95.

See, now, Section 50‑15‑50.

**SECTION 50‑15‑60.** Promulgation of regulations.

 The department shall promulgate such regulations as are necessary to carry out the purposes of this article.

HISTORY: 1962 Code Section 28‑731; 1974 (58) 2384; 1993 Act No. 181, Section 1264; former 1976 Code Section 50‑15‑70; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Editor’s Note

Prior Laws: Former Section 50‑15‑60 was titled Costs of programs; alligator products permits, and had the following history: 1962 Code Section 28‑734; 1974 (58) 2384; 1988 Act No. 460, Section 1; 1993 Act No. 181, Section 1264; 1994 Act No. 386, Section 2; repealed by 2008 Act. No. 179, Section 4, eff February 19, 2008.

Effect of Amendment

2014 Act No. 159, Section 1, substituted “article” for “chapter”.

CROSS REFERENCES

Regulations promulgated under authority of this section, see SC Code of Regulations R. 123‑1 et seq.

Library References

Environmental Law 526, 540.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 130, 133, 165.

**SECTION 50‑15‑65.** Omitted by 2014 Act No. 159, Section 1, eff April 14, 2014.

Editor’s Note

Former Section 50‑15‑65 was titled Alligator hunting, control and management and was derived from 2008 Act No. 179, Section 2, eff February 19, 2008; 2010 Act No. 183, Section 1, eff May 28, 2010; 2013 Act No. 3, Section 1, eff March 1, 2013; 2013 Act No. 94, Section 16, eff July 1, 2013.

**SECTION 50‑15‑70.** Removal of certain turtles from state; exceptions; penalties.

 (A) It is unlawful for a person, or a group of individuals traveling in one vehicle, to remove, or attempt to remove from this State more than ten, either in one species or a combination of species, of the named species of turtles at one time with a maximum of twenty turtles of these species, either individually or in combination in any one year: yellowbelly turtle (Trachemys scripta), Florida cooter (Pseudemys floridana), river cooter (Pseudemys concinna), chicken turtle (Deirochelys reticularia), eastern box turtle (Terrapene carolina), eastern painted turtle (Chrysemys picta), spiny softshell turtle (Apalone spinifera), Florida softshell turtle (Apalone ferox), and common snapping turtle (Chelydra serpentina).

 (B) The provisions of this section do not prohibit the sale, offer for sale, or purchase of the yellowbelly turtle (Trachemys scripta) species and the common snapping turtle (Chelydra serpentina) species if these turtles were taken from a permitted aquaculture facility or a private pond pursuant to a permit issued by the department at the request of the owner or owner’s agent. Any person transporting more than ten yellowbelly turtle (Trachemys scripta) species or common snapping turtle (Chelydra serpentina) species must be in possession of a permit pursuant to which the turtles were taken or acquired and, upon request, must provide it to authorized agents of the department. A person selling, offering to sell, or purchasing these species must have documentation from the aquaculture facility as to the origin of the turtles. The department may charge twenty‑five dollars for a permit.

 (C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of up to two hundred dollars or up to thirty days in jail, or both. A violator also must have his permit permanently revoked and may never be issued another one. Each turtle removed or in possession of a person attempting to remove them is a separate violation of this section.

HISTORY: 2009 Act No. 6, Section 1, eff May 6, 2009; former 1976 Code Section 50‑15‑75; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

2014 Act No. 159, Section 1, reenacted the section with no apparent change.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 25, Endangered Species.

**SECTION 50‑15‑75.** Omitted by 2014 Act No. 159, Section 1, eff April 14, 2014.

Editor’s Note

Former Section 50‑15‑75 was titled Removal of certain turtles from state; exceptions; penalties and was derived from 2009 Act No. 6, Section 1, eff May 6, 2009.

See, now, Section 50‑15‑70.

**SECTION 50‑15‑80.** Penalties; searches and seizures; power to arrest; disposition of confiscated property.

 (A) A person who violates Section 50‑15‑20 or a person who fails to procure or violates the terms of a permit issued under the regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days and ordered to pay restitution.

 (B) A person who violates Section 50‑15‑30(C) or regulations promulgated pursuant to it or a person who fails to procure or violates the terms of a permit issued pursuant to Section 50‑15‑40(D) and (E) is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars or imprisoned not more than one year, or both.

 (C) An enforcement officer employed and authorized by the department or a police officer of the State or a municipality or county within the State may conduct searches as provided by law and execute a warrant to search for and seize equipment, business records, merchandise, or wildlife taken, used, or possessed in connection with a violation of this article. The officer or agency, without a warrant, may arrest a person who the officer or agent has probable cause to believe is violating, in his presence or view, the article or a regulation or permit provided for by it. An officer or agent who has made an arrest of a person in connection with a violation may search the person or business records at the time of arrest and seize wildlife, records, or property taken or used in connection with the violation.

 (D) Equipment, merchandise, wildlife, or records seized under subsection (C) must be held by an officer or agent of the department pending disposition of court proceedings and forfeited to the State for destruction or disposition as the board considers appropriate. Before forfeiture, the board may direct the transfer of wildlife seized to a qualified zoological, educational, or scientific institution for safekeeping. The costs of the transfer are assessable to the defendant. The department may promulgate regulations to implement this subsection.

HISTORY: 1962 Code Section 28‑732; 1974 (58) 2384; 1985 Act No. 25, Section 1; 1993 Act No. 181, Section 1264; 1994 Act No. 386, Section 3; 2004 Act No. 246, Section 3; 2008 Act No. 179, Section 3, eff February 19, 2008; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

The 2008 amendment, in subsection (A), substituted “A person who violates Section 50‑15‑30” for “A person who violates Section 50‑15‑50(F), Section 50‑15‑30, or regulations promulgated pursuant to Section 50‑15‑30”.

2014 Act No. 159, Section 1, in subsection (A), substituted “50‑15‑20” for “50‑15‑30”; in subsection (B), substituted “50‑15‑30(C)” for “50‑15‑40(c)”, and substituted “pursuant to Section 50‑15‑40(D)” for “under Section 50‑15‑50(D)”; and in subsection (C), twice substituted “article” for “chapter”.

CROSS REFERENCES

Applicability of this section to violations of regulation protecting cheloniidae and dermochelyidae (sea turtles), see S.C. Code of Regulations R. 123‑150.1.

Applicability of this section to violations of regulations for spotted turtle, see S.C. Code of Regulations R. 123‑151.1.

Applicability of this section to violations of regulation protecting vultures, kites, hawks, eagles, ospreys, falcons, and owls, see S.C. Code of Regulations R. 123‑160.

Applicability of this section to violations of South Carolina State Falconry Permit regulations, see S.C. Code of Regulations R. 123‑170.

Promulgation of regulations involving nongame wildlife, see Section 50‑15‑30.

Library References

Environmental Law 544 to 546.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 156, 165.

**SECTION 50‑15‑90.** Article not retroactive; certain importation not prohibited.

 None of the provisions of this article shall be construed to apply retroactively or to prohibit importation into the State of wildlife which may be lawfully imported into the United States or lawfully taken or removed from another state or to prohibit entry into the State or possession, transportation, exportation, processing, sale or offer for sale, or shipment of any wildlife whose species or subspecies is deemed to be threatened with statewide extinction in this State but not in the state where originally taken if the person engaging therein demonstrates by substantial evidence that such wildlife was lawfully taken or removed from such state; provided, that this section shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale, or shipment within this State of wildlife on the United States’ List of Endangered Native Fish and Wildlife, as amended and accepted in accordance with Section 50‑15‑30(D), except as permitted in the proviso to Section 50‑15‑30(C) and Section 50‑15‑40(D).

HISTORY: 1962 Code Section 28‑733; 1974 (58) 2384; 1993 Act No. 181, Section 1264; 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

Effect of Amendment

2014 Act No. 159, Section 1, substituted “article” for “chapter”, twice added a comma after “sale or offer for sale”; and substituted “Section 50‑15‑30(D), except as permitted in the proviso to Section 50‑15‑30(C) and Section 50‑15‑40(D)” for “Section 50‑15‑40(d), except as permitted in the proviso to Section 50‑15‑40(c) and Section 50‑15‑50(d)”.

CROSS REFERENCES

Further restrictions on importation of wildlife, see Sections 50‑16‑10 et seq.

Library References

Environmental Law 518.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 165.

ARTICLE 3

South Carolina Captive Alligator Propagation Act

**SECTION 50‑15‑310.** Definitions.

 As contained in this article:

 (1) “Alligator” means the species Alligator mississippiensis.

 (2) “Alligator propagation facility” means an enclosed area not located on public lands or waters, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters where alligators are bred or raised as captive animals.

 (3) “Alligator propagator” means a person who raises captive alligators under controlled conditions which prohibit free movement of the animals onto and off of the facility, and who may harvest alligators under a permit from the department.

 (4) “Alligator part” means any part of an alligator.

 (5) “Commercial purposes” means to derive income or with the intent to derive income.

 (6) “Department” means the South Carolina Department of Natural Resources.

 (7) “Transport” means, in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water or by any manner.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 35, Aquaculture.

**SECTION 50‑15‑320.** Permit to engage in the business of propagating alligators for commercial purposes.

 (A) Any person may apply to the department for a permit to engage in the business of propagating alligators for commercial purposes. A permit allows the purchase of live alligators or alligator eggs from legal sources, the sale of live alligators within the State to other department‑permitted alligator propagators only, the sale of live alligators to other states where the purchase of those animals is lawful, the sale of the carcasses, raw parts, or skins of captive‑raised alligators to any person for resale or processing into finished products, including sale for food, and the exhibition of live alligators.

 (B) The capture, use, purchase, or sale of wild alligators or wild alligator eggs within this State for the purpose of alligator propagation is prohibited.

 (C) Except as provided in subsection (A), the sale of alligator eggs is prohibited.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑330.** Application; issuance of permit; expiration of permit.

 (A) Upon payment of a nonrefundable application fee for applicants seeking a permit for the first time, the department shall investigate the applicant and the proposed facility. The department must prescribe applicant, facility, and operating requirements to applicants and may deny the application in its discretion after review. A person exhibiting alligators in a circus or zoo or in a similar animal, reptile, or wildlife show at a place or location other than on a captive alligator propagation facility is exempt from the permit and fee requirements of this article.

 (B) Upon approval of an application and payment of the permit fee, the department shall issue an alligator propagation facility permit.

 (C) A valid permit shall expire twelve months after the date of issuance and may be renewed not more than forty‑five days prior to expiration upon payment of a renewal fee.

 (D) Alligator propagation facilities located on noncontiguous parcels of land must be permitted separately.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑340.** Tagging and labeling requirements; bond.

 (A) It is unlawful to possess, buy, sell, barter, ship, transport, or offer to buy, sell, barter, ship, or transfer alligator carcasses, skins, or parts unless tagged or labeled according to department regulations.

 (B) A person applying for an alligator propagator permit must first secure a bond to insure faithful performance naming the department as beneficiary in the amount of one hundred thousand dollars. The bond must be renewed as a condition of the permit. In the event the facility is closed, abandoned, or destroyed, or the permit is revoked, the department may use the proceeds of the bond to clean up and close the facility.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑350.** Records; inspection; seizure.

 (A) Permittees must maintain records related to the possession, source, and disposition of alligators and alligator eggs as prescribed by department regulations. These records must be kept on‑site and are subject to inspection at any time by department personnel during reasonable hours.

 (B) Department personnel may, during reasonable hours, enter and inspect all alligator facilities permitted under provisions of law different from this article and all alligator propagators’ places of business, farm buildings, farm lands, vessels, and motor vehicles that are used or are of a type that could be used in the production, storage, sale, or transportation of any alligators, meat, parts, or skins, and conduct partial or complete inventories to determine whether the permittee is in compliance with applicable laws and regulations.

 (C) Any alligator tags that have been issued to an alligator propagator in excess of the number of harvestable alligators actually present on a farm, as revealed by inventory or records, may be seized by department personnel.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑360.** Retention of records by retailers.

 Any retailer, including retail food businesses, possessing, buying, or selling alligator parts must maintain an invoice or bill of sale for each purchase or sale for a period of six months. These records must be made available for inspection at any and all reasonable hours by the department.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑370.** Unlawful possession of alligator hide or carcass; forfeiture; annual reports.

 (A) It is unlawful to alter or compromise the locking mechanism on any alligator tag. The possession of altered or fraudulent tags is unlawful. The possession of any alligator hide or carcass not tagged as prescribed by the department or any unskinned, untagged, frozen alligator carcass is unlawful and is considered contraband and subject to seizure and forfeiture by the department. Forfeited animals and parts must be disposed of by law and the proceeds deposited according to law.

 (B) All alligator propagators must submit annual reports as prescribed by the department, on forms provided by the department, no later than January thirty‑first of each year. This report must accompany any unused alligator tags from the previous year. No additional permits or tags shall be issued until this report is submitted. It is a violation of this section for any person to possess any unused alligator tags from the previous year after January thirty‑first.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑380.** Shipping of raw alligator skins in state must be tagged; penalties.

 (A) All raw alligator skins shipped within this State must be tagged. The accompanying bill of lading must show the number of skins in the shipment, the consignor, shipping point, consignee, and destination. The department must supply suitable tags to all shippers at a cost of ten dollars per tag requiring them for actual shipments. No alligator skin intended for shipment within this State may be accepted by any post office, express company, or agent, or the agent of any common carrier, unless the shipment complies with this section.

 (B) A person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not more than thirty days, or both.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑390.** Unlawful acts.

 (A) It is unlawful for a person to take or possess the eggs of alligators, alligators, or their parts or skins in this State except as provided for in this article. The provisions of this section do not apply to legal finished products, alligators or their parts legally acquired before the effective date of this article, alligators or their parts legally acquired from other legal sources, or alligators harvested or collected under a permit from the department.

 (B) It is unlawful to release any captive alligator.

 (C) It is unlawful for an alligator propagation facility to offer for barter, sale, or trade the opportunity for a person to hunt or take an alligator at the facility except that a permitted facility may contract with an outside contractor to assist with the normal processing of alligators.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑400.** Construction of permits if endangered species status changes.

 Notwithstanding the provisions of this article to the contrary, in the event federal or state law regulations or designations allowed by law places the alligator in the endangered species status, all permits issued pursuant to this article are null and void.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑410.** Forfeiture.

 (A) Any alligator propagation facility that fails to renew the required permits or ceases operation for any reason shall have a period of three months in which to legally dispose of any remaining alligators in the facility. After three months, any remaining alligators in the facility must be forfeited to the State and disposed of. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law. The owner of the facility is liable for any costs associated with the disposal of the remaining alligators.

 (B) If an alligator propagation facility is abandoned, or the alligator propagator fails to adequately maintain the enclosure after notification by the department, or in the case of wilful neglect of the facility, or the lack of proper care, feeding or humane handling of alligators in the facility, the alligator propagator is considered in violation of this article and any alligators or alligator parts in the facility must be forfeited to the department. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law. The owner of the facility is liable for any costs associated with the disposal of the remaining alligators.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑420.** Penalties.

 (A) Unless otherwise provided for, a person who violates the provisions of this article or implementing regulations is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than five thousand dollars, or imprisoned for not more than thirty days, or both. The magistrates court retains concurrent jurisdiction for offenses contained in this article.

 (B) Any alligator, alligator part, alligator eggs, or alligator skins unlawfully possessed, purchased, sold, bartered, shipped, or transported are contraband and are forfeited to the department. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law.

 (C) Any person permitted as an alligator propagator convicted of violating any of the provisions of this article or regulations related to the unlawful taking, purchasing, selling, or bartering of a wild alligator, wild alligator part, or wild alligator eggs, or the unlawful shipping or transporting of those items, forfeits his permit upon conviction for one year, and all alligators, alligator parts, and alligator skins in his possession are forfeited to the State. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

**SECTION 50‑15‑430.** Regulations.

 (A) To the extent not provided for in other law or by other agency, the department may adopt regulations for the placement, construction, operation, and maintenance of alligator propagation facilities, to include the following:

 (1) the minimum distance among alligator propagation facilities, other alligator propagation facilities, and residences;

 (2) the secure and humane confinement of the alligators; and

 (3) the maximum number of alligators that may be present, in total and for propagation, on an alligator propagation facility at any one time.

 (B) Water quality and waste impacts caused by alligator farms shall be subject to regulations issued by the Department of Health and Environmental Control.

HISTORY: 2014 Act No. 159 (S.714), Section 1, eff April 14, 2014.

ARTICLE 5

Alligator Management Program

**SECTION 50‑15‑500.** Legislative findings; alligator management program.

 (A) The General Assembly finds that the American alligator (Alligator mississippiensis) was reclassified by the United States Fish and Wildlife Service from endangered or threatened to “threatened due to similarity of appearance throughout the remainder of its range” pursuant to the federal Endangered Species Act (16 U.S.C. 1531) and the regulations issued to implement that act. American alligators may now be taken under federal law in compliance with 50 C.F.R. 17.42(a)(2)(ii). Therefore, in order to create more opportunity for hunting and for the controlled harvest of the alligator, the General Assembly finds it in the best interest of the State to allow the taking of the alligator under strictly controlled conditions and circumstances and in compliance with federal law.

 (B)(1) The department must establish an alligator management program that allows for hunting and for selective removal of alligators in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department must set the conditions for taking, including the size, methods of take, areas, times and seasons, disposition of the parts, and other conditions to properly control the harvest of alligators and the disposition of parts. The department may allow alligators to be taken at any time of the year, in any area, including sanctuaries, as part of its alligator management program. All alligators taken under the alligator management program must be taken pursuant to permits and tags and under conditions established by the department in accordance with state and federal law. All alligators taken must be tagged. Except for those persons operating under authority of depredation permits, a person who hunts, takes, or attempts to take an alligator must have a hunting license. It is unlawful for a depredation permit holder or his or her designee to sell, barter, or trade or offer to sell, barter, or trade the privilege to take an alligator under the authority of a depredation permit.

 (2) The department may establish an alligator hunting season. The department may issue alligator permits and tags to allow hunting and taking of alligators in any game zone where alligators occur. A person desiring to hunt and take alligators must apply to the department.

 (3) A landowner or lessee of property on which alligators occur may apply to the department for a permit to participate in the Private Lands Alligator Program. On those private lands, the season for hunting and taking alligators is from September first through May thirty‑first. On those lands in the private lands program only, unsecured alligators may be taken by firearms, provided no alligator may be taken by use of rim fire weapons or shotguns. Unsecured alligators may be taken only by firearms from thirty minutes before sunrise until thirty minutes after sunset. A person who takes an alligator by use of firearms must make a reasonable effort to recover the carcass at the time of taking or for the next ensuing forty‑eight hours. A person using a firearm to take an alligator must have a gaff or grappling hook or other similar device to immediately locate and recover the carcass.

 (4) The department may designate alligator control agents who demonstrate by training and experience that they possess the skills to remove alligators. Those persons designated serve at the discretion of the department. The department may require periodic demonstrations of skill or require periodic training. Alligator control agents function under the general guidance and supervision of the department for the capture and removal of nuisance alligators including the disposition of the alligator or its parts.

 (C) It is unlawful to feed, entice, or molest an alligator except as permitted under state and federal law. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one hundred fifty dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction over this offense.

 (D) A person who hunts or takes an alligator, or allows an alligator to be hunted or taken, or possesses or disposes of alligator parts, except as allowed by this section and the implementing regulations, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction over this offense. In addition, the court may order restitution for any animal or part of an animal taken, possessed, or transferred in violation of this section.

HISTORY: 2014 Act No. 159 (S.714), Section 2, eff April 14, 2014.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 31, Miscellaneous Coastal Fisheries Laws.