CHAPTER 16

Importation of Wildlife

**SECTION 50‑16‑10.** “Wildlife” defined.

 For the purpose of this chapter, “wildlife” means a member of the animal kingdom including without limitation a mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1.

CROSS REFERENCES

Definition of wildlife for purposes of nongame and endangered species conservation, see Section 50‑15‑10.

**SECTION 50‑16‑20.** Importation of wildlife for certain purposes prohibited; investigation; permit.

 (A) It is unlawful for a person to import, possess, or transport for the purpose of release or to introduce or bring into this State any live wildlife of the following types without a permit from the department:

 (1) a furbearer, a member of the family Cervidae, a nondomestic member of the families Suidae (pigs), Tayassuidae (peccaries), Bovidae (bison, mountain goat, mountain sheep), coyote, bear, or turkey (genus Meleagris). Furbearer includes, but is not limited to, red and gray fox, raccoon, opossum, muskrat, mink, skunk, otter, bobcat, weasel, and beaver;

 (2) a species of marine or estuarine fish, crustacean, mollusk, or other marine invertebrate not already found in the wild, or not native to this State.

 (3) a species of freshwater fish, crustacean, mollusk, or other freshwater invertebrate not already found in the wild or not native to this State.

 (B) A permit may be granted only after the investigations and inspections of the wildlife have been made as the department considers necessary and the department approves the possession, transportation, or importation into the State. The department may not issue a permit unless it finds:

 (1) the wildlife was taken lawfully in the jurisdiction in which it originated;

 (2) the importation, release, or possession of the wildlife is not reasonably expected to adversely impact the natural resources of the State or its wildlife populations.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1; 1992 Act No. 458, Section 1.

CROSS REFERENCES

Additional restrictions regarding importation of animals on endangered species list, see Section 50‑15‑90.

Exceptions to permit requirements of this section, see Section 50‑16‑40.

Library References

Environmental Law 534.

Westlaw Topic No. 149E.

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

RESEARCH REFERENCES

Encyclopedias

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

S.C. Jur. Game and Fish Section 23, Transportation, Importation, or Exportation of Game or Fish.

S.C. Jur. Game and Fish Section 24, Sale or Possession of Game or Fish.

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1. Validity

Commerce clause of Federal Constitution limits power of states to erect barriers against interstate trade, but such limitation is not absolute and states retain authority under general police powers to regulate matters of legitimate local concern even though interstate commerce may be affected; fact, standing alone, that state law prohibiting importation of live baitfish restricts interstate trade in most direct manner possible, i.e. by blocking all inward shipments at the state’s border, does not render law unconstitutional. Moreover, state has legitimate interest in guarding against imperfectly understood environmental risks despite possibility that risks may ultimately prove negligible, and impediments to complete success cannot be a ground for preventing state from using best efforts to limit environmental risk; therefore validity, under commerce clause, of state law prohibiting importation of live baitfish to prevent accidental introduction of parasites and other nonnative fish, is not undermined by lack of certainty as to effect such parasites or fish might have on state fisheries, or by fact that nonnative fish could swim in from other states. Maine v. Taylor, U.S.Me.1986, 106 S.Ct. 2440, 477 U.S. 131, 91 L.Ed.2d 110, on remand 802 F.2d 441.

2. In general

The permit requirements for the importation and possession of certain species of non‑native shrimp, as established by the Wildlife and Marine Resources Commission, were not required to comport with the notice and comment requirements of the Administrative Procedures Act, Section 1‑23‑10 et seq., since the general assembly had given the commission the discretion to condition the approval of permits without issuing a regulation; although it would have been in the state’s best interest to issue a regulation, the commission did not exceed its authority or violate the Act when it failed to do so. Edisto Aquaculture Corp. v. South Carolina Wildlife and Marine Resources Dept. (S.C. 1993) 311 S.C. 37, 426 S.E.2d 753. Administrative Law And Procedure 392.1; Customs Duties 53

3. Shrimp import permit

The Wildlife and Marine Resources Commission did not unlawfully delegate its power and authority when it conditioned the issuance of a shrimp import permit to a shrimp farm operator on his securing certification from the Department of Agriculture that all other necessary permits required to operate as an aquaculture business were obtained, since the condition was the equivalent of requiring compliance with all legalities prior to the issuance of the license. Edisto Aquaculture Corp. v. South Carolina Wildlife and Marine Resources Dept. (S.C. 1993) 311 S.C. 37, 426 S.E.2d 753. Administrative Law And Procedure 322.1; Customs Duties 53

**SECTION 50‑16‑25.** Unlawful release of pigs; permit exceptions.

 (A) It is unlawful to possess, buy, sell, offer for sale, transfer, release, or transport for the purpose of release a member of the family Suidae (pig) into the wild. A person who holds a valid permit, issued by the Department of Natural Resources, for the taking, transporting, and releasing of a pig from a free roaming population or his agent may capture and release a free roaming pig so long as: (1) the permit holder has express permission from the landowner to capture and transport free roaming pigs from the tract on which the free roaming pig is to be captured, (2) the free roaming pig is captured, transported, and released pursuant to a permit issued by the Department of Natural Resources, and (3) the pig is released on the same tract on which the pig was captured or into a permitted pig enclosure utilized for hunting purposes. Under no circumstances may a free roaming pig be released in a county other than the county in which the pig was captured.

 (B) All free roaming pigs captured pursuant to a permit must be tagged at the point of capture as prescribed by the department and the tags must remain affixed to the pigs. Pig hunting enclosures must be permitted by the department at a cost of fifty dollars annually.

 (C) It is unlawful to transport a live pig captured in the wild except as permitted by this section.

HISTORY: 2005 Act No. 13, Section 1; 2010 Act No. 211, Section 1, eff upon approval (became law without the Governor’s signature on June 8, 2010).

Effect of Amendment

The 2010 amendment rewrote the section.

Library References

Environmental Law 527.

Westlaw Topic No. 149E.

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

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 23, Transportation, Importation, or Exportation of Game or Fish.

**SECTION 50‑16‑30.** Importation of diseased animals prohibited.

 It is unlawful for a person to possess, transport, or otherwise bring into the State or release or introduce into the State any diseased wildlife or other animal that reasonably might be expected to pose a public health or safety hazard as determined by the South Carolina Department of Health and Environmental Control after consultation with the department.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1.

Library References

Environmental Law 531, 534.

Westlaw Topic No. 149E.

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

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Game and Fish Section 24, Sale or Possession of Game or Fish.

**SECTION 50‑16‑40.** Exception to permit requirement for wildlife imported for exhibition purposes.

 Wildlife imported for exhibition purposes only by state wildlife departments, municipal zoos or parks, public museums, public zoological parks, and public scientific or educational institutions operated not for profit, and transient circuses are not required to procure a permit under Section 50‑16‑20. Nothing in this chapter prohibits the department or its duly authorized agents from possessing, importing, or releasing wildlife.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1.

Library References

Environmental Law 531, 534.

Westlaw Topic No. 149E.

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

**SECTION 50‑16‑50.** Authority to promulgate regulations.

 The department may promulgate regulations to effectuate the provisions of this chapter.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1.

Library References

Environmental Law 540.

Westlaw Topic No. 149E.

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

**SECTION 50‑16‑60.** Exception to permit requirement for certain wildlife imported for sale as pets.

 The importation of the following wildlife for sale in the pet trade does not require a permit:

 1. tropical fishes

 2. rats and mice

 3. rabbits

 4. canaries

 5. gerbils

 6. shell parakeets

 7. love birds

 8. cockatiels

 9. parrots

 10. toucans

 11. mynah birds

 12. finches

 13. hamsters

 14. guinea pigs

 15. reptiles

 16. amphibians.

 The provisions of this section do not privilege the import or possession of a species otherwise protected or regulated by other provisions of this title.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1.

Library References

Environmental Law 531, 534.

Westlaw Topic No. 149E.

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

**SECTION 50‑16‑70.** Penalties.

 (A) A person violating the provisions of this chapter, or any condition of a permit issued pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both. The department must suspend the hunting privileges of a person convicted of violating this chapter for one year from the date of the conviction.

 (B) In addition to any other penalties provided by law, a person convicted of a violation of subsection (A) is also subject to the confiscation, forfeiture, and sale provisions contained in Section 50‑11‑740 for any property, vehicle, trailer, or other means of conveyance utilized to import, possess, or transport the animal.

 (C) For the purposes of this section, each animal imported in violation of subsection (A) constitutes a separate offense.

 (D) Notwithstanding Chapter 3, Title 22, magistrates court shall have jurisdiction over actions arising under this section.

HISTORY: 1979 Act No. 172, Section 1; 1989 Act No. 41, Section 1; 2010 Act No. 211, Section 3, eff upon approval (became law without the Governor’s signature on June 8, 2010); 2012 Act No. 228, Section 3, eff June 18, 2012.

Effect of Amendment

The 2010 amendment inserted the text relating to conditions of permits issued.

The 2012 amendment rewrote the section.

Library References

Environmental Law 545.

Westlaw Topic No. 149E.

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