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**ACT POPULARLY KNOWN AS THE DUCK STAMP ACT  
(ACT OF MARCH 16, 1934)**

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March 2, 2004

**ACT POPULARLY KNOWN AS THE DUCK STAMP ACT**  
**(ACT OF MARCH 16, 1934<sup>1</sup>)**

[As Amended Through P.L. 108–204, March 2, 2004]

[Amended through Public Law 105–269, Oct. 19, 1998]

AN ACT To supplement and support the Migratory Bird Conservation Act by providing funds for the acquisition of areas for use as migratory-bird sanctuaries, refuges, and breeding grounds, for developing and administering such areas, for the protection of certain migratory birds, for the enforcement of the Migratory Bird Treaty Act and regulations thereunder, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* [16 U.S.C. 718a] no person who has attained the age of sixteen years shall take any migratory waterfowl unless at the time of such taking he carries on his person an unexpired Federal migratory-bird hunting and conservation stamp validated by his signature written by himself in ink across the face of the stamp prior to his taking such birds; except that no such stamp shall be required for the taking of migratory waterfowl by Federal or State institutions or official agencies, or for propagation, or by the resident owner, tenant, or share cropper of the property or officially designated agencies of the Department of Agriculture<sup>2</sup> for the killing, under such restrictions as the Secretary of Agriculture<sup>2</sup> may by regulation prescribe, of such waterfowl when found injuring crops or other property. Any person to whom a stamp has been sold under this Act shall upon request exhibit such stamp for inspection to any officer or employee of the Department of Agriculture<sup>2</sup> authorized to enforce the provisions of this Act or to any officer of any State or any political subdivision thereof authorized to enforce game laws.

SEC. 2. [16 U.S.C. 718b] (a) The stamps required by section 1 of this Act shall be issued and sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations prescribed jointly by the Postal Service and the Secretary of the Interior, at (1) each post office of the first- and second-class, and (2) any establishment, facility, or location as the Postal Service and the Secretary of the Interior shall direct or authorize. The funds received from the sale of such stamps by the Department of the Interior shall be deposited in the migratory bird conservation fund in accordance with the provisions of section 4 of this Act. Except as provided in subsection (b), for each stamp sold under the provisions of this section for any hunting year there shall be collected by the

<sup>1</sup>This Act is popularly known as the “Migratory Bird Hunting Stamp Act” and also as the “Duck Stamp Act”.

<sup>2</sup>Section 4(f) of Reorg. Plan No. II of 1939 (5 U.S.C. App.) transferred functions of the Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to the Secretary of the Interior.

Postal Service a sum of not less than \$3 and not more than \$5 as determined by the Secretary of the Interior after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds. No such stamp shall be valid under any circumstances to authorize the taking of migratory waterfowl except in compliance with Federal and State laws and regulations and then only when the person so taking such waterfowl shall himself have written his signature in ink across the face of the stamp prior to such taking. Such stamps shall be usable as migratory-bird hunting stamps only during the year for which issued. The Postal Service, pursuant to regulations prescribed by it, shall provide for the redemption, on or before the 30th day of June of each year, of blocks composed of two or more attached unused stamps issued for such year (A) that were sold on consignment to any person, including, but not limited to, retail dealers for resale to their customers, and (B) that have not been resold by any such person. As used in this section, the term "retail dealers" means persons regularly engaged in the business of retailing hunting or fishing equipment, and persons duly authorized to act as agents of a State or political subdivision thereof for the sale of State or county hunting or fishing licenses.

(b) The Postal Service shall collect \$10.00 for each stamp sold under the provisions of this section for hunting years 1987 and 1988, \$12.50 for hunting years 1989 and 1990, and \$15.00 for each hunting year thereafter, if the Secretary of the Interior determines, at any time before February 1 of the calendar year in which such hunting year begins, that all sums in the migratory bird conservation fund available for obligation and<sup>1</sup> attributable to—

(1) amounts appropriated pursuant to the Act for the fiscal year ending in the immediately preceding calendar year; and

(2) the sale of stamps under this section during such fiscal year have been obligated for expenditure. For purposes of this section, the term "hunting year" means the 12-month period beginning on July 1 of any such year.

SEC. 3. [16 U.S.C. 718c] Nothing in this Act shall be construed to authorize any person to take any migratory waterfowl otherwise than in accordance with regulations adopted and approved pursuant to any treaty or convention heretofore or hereafter entered into between the United States and any other country for the protection of migratory birds, nor to exempt any person from complying with the game laws of the several States.

SEC. 4. [16 U.S.C. 718d] All moneys received for such stamps shall be accounted for by the Postal Service or the Department of the Interior, whichever is appropriate, and paid into the Treasury of the United States, and shall be reserved and set aside as a special fund to be known as the migratory bird conservation fund, to be administered by the Secretary of Agriculture<sup>2</sup>. All moneys received into such fund are hereby appropriated for the following objects and shall be available therefor until expended:

<sup>1</sup>Section 3 of Public Law 99-625 (100 Stat. 3502) and section 202(3) of Public Law 99-645 (100 Stat. 3586) both amended the first sentence of this subsection by inserting "available for obligation and" before "attributable to".

<sup>2</sup>See footnote 2 to first section.

(a) So much as may be necessary shall be used by the Secretary of the Interior to make advance allotments to the Postal Service at such times and in such amounts as may be mutually agreed upon by the Secretary of the Interior and the Postal Service for direct expenditure by the Postal Service for engraving, printing, issuing, selling, and accounting for migratory bird hunting stamps and moneys received from the sale thereof, in addition to expenses for personal services in the District of Columbia and elsewhere, and such other expenses as may be necessary in executing the duties and functions required of the postal service<sup>1</sup>.

(b) Except as authorized in subsections (c) and (d) of this section, the remainder shall be available for the location, ascertainment, and acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act and for the administrative costs incurred in the acquisition of such areas.

(c) The Secretary of the Interior is authorized to utilize funds made available under subsection (b) of this section for the purposes of such subsection, and such other funds as may be appropriated for the purposes of such subsection, or of this subsection, to acquire, or defray the expense incident to the acquisition by gift, devise, lease, purchase, or exchange of, small wetland and pothole areas, interests therein, and rights-of-way to provide access thereto. Such small areas, to be designated as "Waterfowl Production Areas", may be acquired without regard to the limitations and requirements of the Migratory Bird Conservation Act, but all of the provisions of such Act which govern the administration and protection of lands acquired thereunder, except the inviolate sanctuary provisions of such Act, shall be applicable to areas acquired pursuant to this subsection.

(d) PROMOTION OF STAMP SALES.—(1) The Secretary of the Interior may utilize funds from the sale of migratory bird hunting and conservation stamps, not to exceed \$1,000,000 in each of fiscal years 1999, 2000, 2001, 2002, and 2003, for the promotion of additional sales of those stamps, in accordance with a Migratory Bird Conservation Commission approved annual marketing plan. Such promotion shall include the preparation of reports, brochures, or other appropriate materials to be made available to the public that describe the benefits to wildlife derived from stamp sales.

(2) The Secretary of the Interior shall include in each annual report of the Commission under section 3 of the Migratory Bird Conservation Act (16 U.S.C. 715b) a description of activities conducted under this subsection in the year covered by the report.

SEC. 5. [16 U.S.C. 718e] (a) That no person to whom has been sold a migratory-bird hunting stamp, validated as provided in section 1 of this Act, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

<sup>1</sup> So in law. Probably should be "Postal Service".

(b) Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, United States Code, no person<sup>2</sup> shall alter, mutilate, imitate, or counterfeit any stamp authorized by this Act, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

(c) Notwithstanding the provisions of subsection (b), or the prohibition in section 474 of title 18, United States Code, or other provisions of law, the Secretary of the Interior may authorize, with the concurrence of the Secretary of the Treasury,

(1) the color reproduction, or

(2) the black and white reproduction,

of migratory bird hunting stamps authorized by sections 1 through 4 and 6 through 9 of this Act, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1) of title 18, United States Code. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary of the Interior by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be paid<sup>1</sup> into the migratory bird conservation fund established under section 4 of this Act.

SEC. 6. [16 U.S.C. 718f] For the efficient execution of this Act, the judges of the several courts, established under the laws of the United States, United States commissioners, and persons appointed by the Secretary of Agriculture<sup>2</sup> to enforce the provisions of this Act, shall have, with respect thereto, like powers and duties as are conferred upon said judges, commissioners, and employees of the Department of Agriculture<sup>2</sup> by the Migratory Bird Treaty Act or any other Act to carry into effect any treaty for the protection of migratory birds with respect to that Act. Any bird or part thereof taken or possessed contrary to this Act shall, when seized, be disposed of by the Secretary in accordance with law.

SEC. 7. [16 U.S.C. 718g] Any person who shall violate any provision of this Act or who shall violate or fail to comply with any regulation made pursuant thereto shall be subject to the penalties provided in section 6 of the Migratory Bird Treaty Act.

SEC. 8. [16 U.S.C. 718h] The Secretary of Agriculture<sup>2</sup> is authorized to cooperate with the several States and Territories in the enforcement of the provisions of this Act.

SEC. 9. [16 U.S.C. 718i] (a) Terms defined in the Migratory Bird Treaty Act, or the Migratory Bird Conservation Act, shall, when used in this Act, have the meaning assigned to such terms in such Acts, respectively.

<sup>2</sup>Section 1077(b)(3) of Public Law 98-369 (98 Stat. 1055) provides that subsection (b) is amended by striking "No person" and inserting "Except as provided" through "Code, no person". The amendment was executed to reflect the probable intent of Congress, but probably should have been made to strike "That no person".

<sup>1</sup>Section 302 of Public Law 100-653 (102 Stat. 3827) provides:

**SEC. 302. MIGRATORY BIRD HUNTING STAMP ACT AMENDMENT.**

Section 5 of the Act of March 16, 1934 (commonly known as the Migratory Bird Hunting Stamp Act; 16 U.S.C. 718e(c)) is amended in the second sentence by inserting after "paid" the following: ", after deducting expenses for marketing."

The amendment was not executed because the word "paid" does not appear in the second sentence to section 5.

<sup>2</sup>See footnote 2 to first section.

(b) As used in this Act (1) the term "migratory waterfowl" means the species enumerated in paragraph (a) of subdivision 1 of article I of the treaty between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916; (2) the term "State" includes the several States and Territories of the United States and the District of Columbia; and (3) the term "take" means pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill.

SEC. 10. [16 U.S.C. 718j] Notwithstanding any other provision of law, moneys received by the United States Fish and Wildlife Service in the form of fees for entering the migratory-bird hunting and conservation stamp contest shall be credited first to the appropriation account from which expenditures for the administration of such contest are made, and second, to the extent such moneys exceed the expenditures for administration of the contest, to the migratory-bird conservation fund.