

# Federal Laws that Protect Bald Eagles

## Bald and Golden Eagle Protection Act

The bald eagle will continue to be protected by the Bald and Golden Eagle Protection Act even though it has been delisted under the Endangered Species Act. This law, originally passed in 1940, provides for the protection of the bald eagle and the golden eagle (as amended in 1962) by



prohibiting the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16 U.S.C. 668(a); 50 CFR 22). "Take" includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb (16 U.S.C. 668c; 50 CFR 22.3). The 1972 amendments increased civil penalties for violating provisions of the Act to a maximum fine of \$5,000 or one year imprisonment with \$10,000 or not more than two years in prison for a second conviction. Felony convictions carry a maximum fine of \$250,000 or two years of imprisonment. The fine doubles

for an organization. Rewards are provided for information leading to arrest and conviction for violation of the Act.

[Go here for more information about the Bald and Golden Eagle Protection Act and permits issued under that Act.](#)

## Migratory Bird Treaty Act

The Migratory Bird Treaty Act is a Federal law that carries out the United States' commitment to four international conventions with Canada, Japan, Mexico and Russia. Those conventions protect birds that migrate across international borders.



The take of all migratory birds, including bald eagles, is governed by the Migratory Birds Treaty Act's regulations. The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests **except as authorized under a valid permit** (50 CFR 21.11). Additionally, the MBTA authorizes and directs the Secretary of the Interior to determine if, and by what means, the take of migratory birds should be allowed and to adopt suitable regulations permitting and governing take (for example, hunting seasons for ducks and geese).

Penalties under the MBTA include a maximum of two years imprisonment and \$250,000 fine for a felony conviction and six months imprisonment or \$5,000 fine for a misdemeanor conviction. Fines double if the violator is an organization rather than an individual.

The MBTA and its implementing regulations provide authority for the conservation of bald

eagles and protect against take if the Endangered Species Act protections are removed.

## **Lacey Act**

The Lacey Act was passed in 1900, and protects bald eagles by making it a Federal offense to take, possess, transport, sell, import, or export their nests, eggs and parts that are taken in violation of any state, tribal or U.S. law. It also prohibits false records, labels, or identification of wildlife shipped, prohibits importation of injurious species and prohibits shipment of fish or wildlife in an inhumane manner. Penalties include a maximum of five years and \$250,000 fine for felony convictions and a maximum \$10,000 fine for civil violations and \$250 for marking violations. Fines double for organizations. Rewards are provided for information leading to arrest and conviction in violation of the Act. [For more information on the Lacey Act](#)

<https://www.fws.gov/midwest/eagle/protect/laws.html>. Last updated: April 20, 2015

## **Migratory Bird Treaty Act of 1918**

(16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755) as amended by: Chapter 634; June 20, 1936; 49 Stat. 1556; P.L. 86-732; September 8, 1960; 74 Stat. 866; P.L. 90-578; October 17, 1968; 82 Stat. 1118; P.L. 91-135; December 5, 1969; 83 Stat. 282; P.L. 93-300; June 1, 1974; 88 Stat. 190; P.L. 95-616; November 8, 1978; 92 Stat. 3111; P.L. 99-645; November 10, 1986; 100 Stat. 3590 and P.L. 105-312; October 30, 1998; 112 Stat. 2956

The original 1918 statute implemented the 1916 Convention between the U.S. and Great Britain (for Canada) for the protection of migratory birds. Later amendments implemented treaties between the U.S. and Mexico, the U.S. and Japan, and the U.S. and the Soviet Union (now Russia).

Specific provisions in the statute include:

- Establishment of a Federal prohibition, unless permitted by regulations, to “pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, including in the terms of this Convention... for the protection of migratory birds... or any part, nest, or egg of any such bird.” (16 U.S.C. 703)

This prohibition applies to birds included in the respective international conventions between the U.S. and Great Britain, the U.S. and Mexico, the U.S. and Japan, and the U.S. and Russia.

- Authority for the Secretary of the Interior to determine, periodically, when, consistent with the Conventions, “hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any... bird, or any part, nest or egg” could be undertaken and to adopt regulations for this purpose. These determinations are to be made

based on “due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times of migratory flight.” (16 U.S.C. 704)

- A decree that domestic interstate and international transportation of migratory birds which are taken in violation of this law is unlawful, as well as importation of any migratory birds which are taken in violation of Canadian laws. (16 U.S.C. 705)
- Authority of Interior officials to enforce the provisions of this law, including seizure of birds illegally taken which can be forfeited to the U.S. and disposed of as directed by the courts. ((16 U.S.C. 706)
- Establishment of fines for violation of this law, including misdemeanor charges. (16 U.S.C. 707)
- Authority for States to enact and implement laws or regulations to allow for greater protection of migratory birds, provided that such laws are consistent with the respective Conventions and that open seasons do not extend beyond those established at the national level. (16 U.S.C. 708)
- A repeal of all laws inconsistent with the provisions of this Act. (16 U.S.C. 710)
- Authority for the continued breeding and sale of migratory game birds on farms and preservers for the purpose of increasing the food supply. (16 U.S.C. 711)



The 1936 statute implemented the Convention between the U.S. and Mexico for the Protection of Migratory Birds and Game Mammals. Migratory bird import and export restrictions between Mexico and the U.S. were also authorized, and in issuing any regulations to implement this section, the Secretary of Agriculture was required to consider U.S. laws forbidding importation of certain mammals injurious to agricultural and horticultural interests. Monies for the Secretary of Agriculture to implement these provisions were also authorized.

The 1960 statute (P.L. 86-732) amended the MBTA by altering earlier penalty provisions. The new provisions stipulated that violations of this Act would constitute a misdemeanor and conviction would result in a fine of not more than \$500 or imprisonment of not more than six months. Activities aimed at selling migratory birds in violation of this law would be subject to fine of not more than \$2000 and imprisonment could not exceed two years. Guilty offenses would constitute a felony. Equipment used for sale purchases was authorized to be seized and held, by the Secretary of Interior, pending prosecution, and, upon conviction, be treated as a penalty.

Section 10 of the 1969 amendments to the Lacey Act (P.L. 91-135) repealed the provisions of the MBTA prohibiting the shipment of wild game mammals or parts to and from the U.S. or Mexico

unless permitted by the Secretary of the Interior. The definition of “wildlife” under these amendments does not include migratory birds, however, which are protected under the MBTA.

The 1974 statute (P.L. 93-300) amended the MBTA to include the provisions of the 1972 Convention between the U.S. and Japan for the Protection of Migratory Birds and Birds in Danger of Extinction. This law also amended the title of the MBTA to read: “An Act to give effect to the conventions between the U.S. and other nations for the protection of migratory birds, birds in danger of extinction, game mammals, and their environment.”

Section 3(h) of the Fish and Wildlife Improvement Act of 1978 (P.L. 95-616) amended the MBTA to authorize forfeiture of the U.S. of birds and their parts illegally taken, for disposal by the Secretary of the Interior as he deems appropriate. These amendments also authorized the Secretary to issue regulations to permit Alaskan natives to take migratory birds for their subsistence needs during established seasons. The Secretary was required to consider the related migratory bird conventions with Great Britain, Mexico, Japan, and the Soviet Union in establishing these regulations and to establish seasons to provide for the preservation and maintenance of migratory bird stocks.

Public Law 95-616 also ratified a treaty with the Soviet Union specifying that both nations will take measures to protect identified ecosystems of special importance to migratory birds against pollution, detrimental alterations, and other environmental degradations. (See entry for the Convention Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment; T.I.A.S. 9073; signed on November 19, 1976, and approved by the Senate on July 12, 1978; 92 Stat. 3110.)

Public Law 99-645, the 1986 Emergency Wetlands Resources Act, amended the Act to require that felony violations under the MBTA must be “knowingly” committed.

P.L. 105-312, Migratory Bird Treaty Reform Act of 1998, amended the law to make it unlawful to take migratory game birds by the aid of bait if the person knows or reasonably should know that the area is baited. This provision eliminates the “strict liability” standard that was used to enforce Federal baiting regulations and replaces it with a “know or should have known” standard. These amendments also make it unlawful to place or direct the placement of bait on or adjacent to an area for the purpose of taking or attempting to take migratory game birds, and makes these violations punishable under title 18 United States Code, (with fines up to \$100,000 for individuals and \$200,000 for organizations), imprisonment for not more than 1 year, or both. The new amendments require the Secretary of Interior to submit to the Senate Committee on Environment and Public Works and the House Committee on Resources a report analyzing the effect of these amendments and the practice of baiting on migratory bird conservation and law enforcement. The report to Congress is due no later than five years after enactment of the new law.

P.L. 105-312 also amends the law to allow the fine for misdemeanor convictions under the Migratory Bird Treaty Act to be up to \$15,000 rather than \$5000.

The preceding text was taken directly from the on-line Digest of Federal Resource Laws of Interest to the U.S. Fish and Wildlife Service

<http://laws.fws.gov/lawsdigest/migtrea.html>, accessed on 01/28/2018

## Bald Eagle Protection Act of 1940

(16 U.S.C. 668-668d), 54 Stat. 250) as amended – Approved June 8, 1940, and amended by P.L. 86-70 (73 Stat. 143) June 25, 1959; P.L. 87-884 (76 Stat. 1346) October 24, 1962; P.L. 92-535 (86 Stat. 1064) October 23, 1972; and P.L. 95-616 (92 Stat. 3114) November 8, 1978.

This law provides for the protection of the bald eagle (the national emblem) and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession and commerce of such birds. The 1972 amendments increased penalties for violating provisions of the Act or regulations issued pursuant thereto and strengthened other enforcement measures. Rewards are provided for information leading to the arrest and conviction for violation of the Act.

The 1978 amendment authorized the Secretary of the Interior to permit the taking of golden eagle nests that interfere with resource development or recovery operations. (See also the Migratory Treaty Act and the Endangered Species Act.)

A 1994 Memorandum (59 F.R. 22953, April 29, 1994) from President William J. Clinton to the heads of Executive Agencies and Departments sets out the policy concerning collection and distribution of eagle feathers for Native American religious purposes.

<http://laws.fws.gov/lawsdigest/baldegl.html>, accessed on 01/28/2018

## Recovery

On August 9, 2007, the bald eagle was removed from the federal list of threatened and endangered species. After nearly disappearing from most of the United States decades ago, the bald eagle is now flourishing across the nation and no longer needs the protection of the Endangered Species Act.



The two main factors that led to the recovery of the bald eagle were the banning of the [pesticide DDT](#) and habitat protection afforded by the Endangered Species Act for nesting sites and important feeding and roost sites. This recovery could not have been accomplished without the support and cooperation of many private and public landowners. [Go here for more information about the recovery and delisting of the Bald Eagle.](#)

## Bald & Golden Eagle Information

The U.S. Fish and Wildlife Service manages populations of bald and golden eagles, which are protected under both the [Migratory Bird Treaty Act \(MBTA\)](#) and the [Bald and Golden Eagle Protection Act \(Eagle Act\)](#). Information about eagle management and permitting is available on the Service's [Eagle Management webpage](#).

The recovery of bald and golden eagles is a conservation success story. Forty years ago, the bald eagle, our national symbol was in danger of extinction throughout most of its range. Habitat destruction and degradation, illegal shooting, and the contamination of its food source, largely as a consequence of [DDT](#), decimated the eagle population. Habitat protection afforded by the Endangered Species Act, the federal government's banning of DDT, and conservation actions taken by the American public have helped Bald Eagles make a remarkable recovery.

Bald Eagles were removed from the endangered species list in August 2007 because their populations recovered sufficiently.

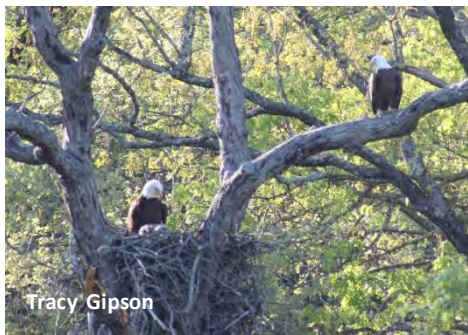
Eagle Biology

### Bald Eagles

Distinguished by a white head and white tail feathers, bald eagles are powerful, brown birds that may weigh 14 pounds and have a wingspan of 8 feet. Male eagles are smaller, weighing as much as 10 pounds and have a wingspan of 6 feet. Sometimes confused with Golden Eagles, Bald Eagles are mostly dark brown until they are four to five years old and acquire their characteristic coloring.

Bald Eagles live near rivers, lakes, and marshes where they can find fish, their staple food. Bald Eagles will also feed on waterfowl, turtles, rabbits, snakes, and other small animals and carrion. Bald Eagles require a good food base, perching areas, and nesting sites. Their habitat includes estuaries, large lakes, reservoirs, rivers, and some seacoasts. In winter, the birds congregate near open water in tall trees for spotting prey and night roosts for sheltering.

Eagles mate for life, choosing the tops of large trees to build nests, which they typically use and enlarge each year. Nests may reach 10 feet across and weigh a half ton. They may also have one or more alternate nests within their breeding territory. In treeless regions, they may also nest in



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cliffs or on the ground. The birds travel great distances but usually return to breeding grounds within 100 miles of the place where they were raised. Bald Eagles may live 15 to 25 years in the wild, longer in captivity. Breeding Bald Eagles typically lay one to three eggs once a year, and they hatch after about 35 days. The young eagles are flying within three months and are on their own about a month later.