

Law of the People's Republic of China on the Protection of Wildlife (2004 Revision)

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LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON THE PROTECTION OF WILDLIFE

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CONTENTS

CHAPTER I GENERAL PROVISIONS

CHAPTER II PROTECTION OF WILDLIFE

CHAPTER III ADMINISTRATION OF WILDLIFE

CHAPTER IV LEGAL RESPONSIBILITY

CHAPTER V SUPPLEMENTARY PROVISIONS

CHAPTER I GENERAL PROVISIONS

Article 1. This Law is formulated for the purpose of protecting and saving the species of wildlife which are rare or near extinction, protecting, developing and rationally utilizing wildlife resources and maintaining ecological balances.

Article 2. All activities within the territory of the People's Republic of China concerning the protection, domestication, breeding, development and utilization of species of wildlife must be conducted in conformity with this Law.

The wildlife protected under this Law refers to the species of terrestrial and aquatic wildlife which are rare or near extinction and the species of terrestrial wildlife which are beneficial or of important economic or scientific value.

The wildlife referred to in the provisions of this Law means the wildlife which shall enjoy protection as prescribed in the preceding paragraph.

As regards the protection of the species of aquatic wildlife other than those which are rare or near extinction, the provisions of the Fisheries Law shall apply.

Article 3. Wildlife resources shall be owned by the state.

The state protects the lawful rights and interests of units and individuals engaged in the development or utilization of wildlife resources according to law.

Article 4. The state shall pursue a policy of strengthening the protection of wildlife resources, actively domesticating and breeding the species of wildlife, and rationally developing and utilizing wildlife resources, and encourage scientific research on wildlife. Units and individuals that have

made outstanding achievements in the protection of wildlife resources, in scientific research on wildlife, or in the domestication and breeding of wildlife shall be awarded by the state.

Article 5. Citizens of the People's Republic of China shall have the duty to protect wildlife resources and the right to inform the authorities of or file charges against acts of seizure or destruction of wildlife resources.

Article 6. The governments at various levels shall strengthen the administration of wildlife resources and formulate plans and measures for the protection, development and rational utilization of wildlife resources.

Article 7. The departments of forestry and fisheries administration under the State Council shall be respectively responsible for the nationwide administration of terrestrial and aquatic wildlife.

The departments of forestry administration under the governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administration of terrestrial wildlife in their respective areas. The departments in charge of the administration of terrestrial wildlife under the governments of autonomous prefectures, counties and municipalities shall be designated by the governments of provinces, autonomous regions or municipalities directly under the Central Government.

The departments of fishery administration under the local governments at or above the county level shall be responsible for the administration of aquatic wildlife in their respective areas.

CHAPTER II PROTECTION OF WILDLIFE

Article 8. The state shall protect wildlife and the environment for its survival, and shall prohibit the illegal hunting, catching or destruction of wildlife by any unit or individual.

Article 9. The state shall give special protection to the species of wildlife which are rare or near extinction. The wildlife under special state protection shall consist of two classes: wildlife under first class protection and wildlife under second class protection. Lists or revised lists of wildlife under special state protection shall be drawn up by the department of wildlife administration under the State Council and announced after being submitted to and approved by the State Council.

The wildlife under special local protection, being different from the wildlife under special state protection, refers to the wildlife specially protected by provinces, autonomous regions or municipalities directly under the Central Government. Lists of wildlife under special local protection shall be drawn up and announced by the governments of provinces, autonomous regions or municipalities directly under the Central Government and shall be submitted to the State Council for the record.

Lists or revised lists of terrestrial wildlife under state protection, which are beneficial or of important economic or scientific value, shall be drawn up and announced by the department of wildlife administration under the State Council.

Article 10. The department of wildlife administration under the State Council and governments of provinces, autonomous regions and municipalities directly under the Central Government shall, in the main districts and water areas where wildlife under special state or local protection lives and breeds, designate nature reserves and strengthen the protection and administration of wildlife under special state or local protection and the environment for its survival.

The designation and administration of nature reserves shall be effected in accordance with the relevant provisions of the State Council.

Article 11. Departments of wildlife administration at various levels shall keep watch on and monitor the impact of the environment on wildlife. If the environmental impact causes harm to wildlife, the departments of wildlife administration shall conduct investigation and deal with the matter jointly with the departments concerned.

Article 12. If a construction project produces adverse effects on the environment for the survival of wildlife under special state or local protection, the construction unit shall submit a report on the environmental impact. The department of environmental protection shall, in examining and approving the report, seek the opinion of the department of wildlife administration at the same level.

Article 13. If natural disasters present threats to wildlife under special state or local protection, the local governments shall take timely measures to rescue them.

Article 14. If the protection of wildlife under special state or local protection causes losses to crops or other losses, the local governments shall make compensation for them. Measures for such compensation shall be formulated by the governments of provinces, autonomous regions and municipalities directly under the Central Government.

CHAPTER III ADMINISTRATION OF WILDLIFE

Article 15. The departments of wildlife administration shall regularly carry out surveys of wildlife resources and keep records of them.

Article 16. The hunting, catching or killing of wildlife under special state protection shall be prohibited. Where the catching or fishing for wildlife under first class state protection is necessary for scientific research, domestication and breeding, exhibition or other special purposes, the unit concerned must apply to the department of wildlife administration under the State Council for a special hunting and catching license; where the catching or hunting of wildlife under second class state protection is intended, the unit concerned must apply to the relevant department of wildlife administration under the government of a province, an autonomous region or a municipality directly under the Central Government for a special hunting and catching license.

Article 17. The state shall encourage the domestication and breeding of wildlife.

Anyone who intends to domesticate and breed wildlife under special state protection shall obtain a license. Administrative measures for such licenses shall be formulated by the department of wildlife administration under the State Council.

Article 18. Anyone who intends to hunt or catch wildlife that is not under special state protection must obtain a hunting license and observe the hunting quota assigned.

Anyone who intends to hunt with a gun must obtain a gun license from the public security organ of the county or municipality concerned.

Article 19. Anyone engaged in the hunting or catching of wildlife shall observe the prescriptions in his special hunting and catching license or his hunting license with respect to the species, quantity, area and time limit.

Article 20. In nature reserves and areas closed to hunting, and during seasons closed to hunting, the hunting and catching of wildlife and other activities which are harmful to the living and breeding of wildlife shall be prohibited.

The areas and seasons closed to hunting as well as the prohibited hunting gear and methods shall be specified by governments at or above the county level or by the departments of wildlife administration under them.

Article 21. The hunting or catching of wildlife by the use of military weapons, poison or explosives shall be prohibited.

Measures for the control of the production, sale and use of hunting rifles and bullets shall be formulated by the department of forestry administration under the State Council jointly with the public security department, and shall enter into force after being submitted to and approved by the State Council.

Article 22. The sale and purchase of wildlife under special state protection or the products thereof shall be prohibited. Where the sale, purchase or utilization of wildlife under first class state protection or the products thereof is necessary for scientific research, domestication and breeding, exhibition or other special purposes, the unit concerned must apply for approval by the department of wildlife administration under the State Council or by a unit authorized by the same department. Where the sale, purchase or utilization of wildlife under second class state protection or the products thereof is necessary, the unit concerned must apply for approval by the department of wildlife administration under the government of the relevant province, autonomous region or municipality directly under the Central Government or by a unit authorized by the same department.

Units and individuals that domesticate and breed wildlife under special state protection may, by presenting their domestication and breeding licenses, sell wildlife under special state protection or the products thereof, in accordance with the relevant regulations, to purchasing units designated by the government.

The administrative authority for industry and commerce shall exercise supervision and control over wildlife or the products thereof that are placed on the market.

Article 23. The transportation or carrying of wildlife under special state protection or the products thereof out of any county must be approved by the department of wildlife administration under the government of the relevant province, autonomous region or municipality directly under the Central Government, or by a unit authorized by the same department.

Article 24. The export of wildlife under special state protection or the products thereof, and the import or export of wildlife or the products thereof, whose import or export is restricted by international conventions to which China is a party, must be approved by the department of wildlife administration under the State Council or by the State Council, and an import or export permit must be obtained from the state administrative organ in charge of the import and export of the species which are near extinction. The Customs shall clear the imports or exports after examining the import or export permit.

The export of the species of wildlife involving scientific and technological secrets shall be dealt with in accordance with relevant provisions of the State Council.

Article 25. The forgery, sale or resale or transfer of special hunting and catching licenses, hunting licenses, domestication and breeding licenses, and import and export permits shall be prohibited.

Article 26. Where any foreigner intends, in the territory of China, to make surveys of or to film or videotape wildlife under special state protection in the field, he must apply for approval by the department of wildlife administration under the State Council or by a unit authorized by the same department.

The establishment of a hunting area open for foreigners shall be reported to the administrative department of wild animals of the State Council for archival purposes.

Article 27. Anyone engaged in the utilization of wildlife or the products thereof shall pay a fee for the protection and administration of wildlife resources. The schedule of the fee and the procedure for collecting it shall be formulated by the department of wildlife administration under the State Council jointly with the financial and pricing authorities and shall enter into force after being submitted to and approved by the State Council.

Article 28. Anyone who has caused losses to crops or other losses while hunting or catching wildlife shall be held responsible for compensation.

Article 29. The local governments concerned shall take measures to prevent and control the harm caused by wildlife so as to guarantee the safety of human beings and livestock and ensure agricultural and forestry production.

Article 30. The administrative measures for wildlife under special local protection and for other wildlife that is not under special state protection shall be formulated by the standing committees of the people's congresses of provinces, autonomous regions and municipalities directly under the Central Government.

CHAPTER IV LEGAL RESPONSIBILITY

Article 31. Anyone who illegally catches or kills wildlife under special state protection shall be prosecuted for criminal responsibility in accordance with the supplementary provisions on punishing the crimes of catching or killing the species of wildlife under special state protection which are rare or near extinction.

Article 32. If anyone, in violation of the provisions of this Law, hunts or catches wildlife in an area or during a season closed to hunting or uses prohibited hunting gear or methods for the purpose, his catch, hunting gear and unlawful income shall be confiscated and he shall be fined by the department of wildlife administration; if the circumstances are serious enough to constitute a crime, he shall be prosecuted for criminal responsibility in accordance with the provisions of Article 130 of the Criminal Law.

Article 33. If anyone, in violation of the provisions of this Law, hunts or catches wildlife without a hunting license or in violation of the prescriptions of the hunting license, his catch and unlawful income shall be confiscated and he shall be fined by the department of wildlife administration and, in addition, his hunting gear may be confiscated and his hunting license revoked.

If anyone, in violation of the provisions of this Law, hunts wildlife with a hunting rifle without a license for the rifle, he shall be punished by a public security organ by applying mutatis mutandis the provisions of the Regulations on Administrative Penalties for Public Security.

Article 34. If anyone, in violation of the provisions of this Law, destroys in nature reserves or areas closed to hunting the main places where wildlife under special state or local protection lives and breeds, he shall be ordered by the department of wildlife administration to stop his destructive acts and restore these places to their original state within a prescribed time limit, and shall be fined.

Article 35. If anyone, in violation of the provisions of this Law, sells, purchases, transports or carries wildlife under special state or local protection or the products thereof, such wildlife and products and his unlawful income shall be confiscated by the administrative authority for industry and commerce and he may concurrently be fined.

If anyone, in violation of the provisions of this Law, sells or purchases wildlife under special state protection or the products thereof, and if the circumstances are serious enough to constitute a crime of speculation or smuggling, he shall be prosecuted for criminal responsibility according to the relevant provisions of the Criminal Law.

The wildlife or the products thereof thus confiscated shall, in accordance with the relevant provisions, be disposed of by the relevant department of wildlife administration or by a unit authorized by the same department.

Article 36. If anyone illegally imports or exports wildlife or the products thereof, he shall be punished by the Customs according to the Customs Law; if the circumstances are serious enough to constitute a crime, he shall be prosecuted for criminal responsibility in accordance with the provisions of the Criminal Law on the crimes of smuggling.

Article 37. If anyone forges, sells or resells or transfers a special hunting and catching license, a hunting license, a domestication and breeding license, or an import or export permit, his license or permit shall be revoked and his unlawful income shall be confiscated and he may concurrently be fined by the relevant department of wildlife administration or the administrative authority for industry and commerce.

If anyone who forges or sells or resells a special hunting and catching license or an import or export permit, and if the circumstances are serious enough to constitute a crime, he shall be prosecuted for criminal responsibility by applying mutatis mutandis the provisions of Article 167 of the Criminal Law.

Article 38. Any staff member of a department of wildlife administration who neglects his duty, abuses his power or engages in malpractices for personal gains shall be subject to administrative sanctions by the department to which he belongs or by the competent authority at a higher level; if the circumstances are serious enough to constitute a crime, he shall be prosecuted for criminal responsibility according to law.

Article 39. Any party who is dissatisfied with the decision on an administrative sanction may, within 15 days of receiving the notification on the sanction, make a request for reconsideration to the authority at the level next higher to the one that made the decision on the sanction; if he is dissatisfied with the decision on reconsideration made by the authority at the next higher level, he may, within 15 days of receiving the notification on the decision on reconsideration, institute legal proceedings in the court. The party may also directly institute legal proceedings in the court within 15 days of receiving the notification on the sanction. If the party neither makes a request for reconsideration, nor institutes legal proceedings in the court, nor complies with the decision on the sanction, the authority that made the decision on the sanction shall request the court to effect a compulsory execution of the decision.

If the party is dissatisfied with a customs penalty or a penalty for violation of public security, the matter shall be dealt with in accordance with the provisions of the Customs Law or the Regulations on Administrative Penalties for Public Security.

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 40. If any international treaty concerning the protection of wildlife, concluded or acceded to by the People's Republic of China, contains provisions differing from those of this Law, the provisions of the international treaty shall apply, unless the provisions are ones on which the People's Republic of China has made reservations.

Article 41. The department of wildlife administration under the State Council shall, in accordance with this Law, formulate regulations for its implementation which shall go into effect after being submitted to and approved by the State Council.

The standing committees of the people's congresses of provinces, autonomous regions and municipalities directly under the Central Government may, in accordance with this Law, formulate measures for its implementation.

Article 42. This Law shall come into force as of March 1, 1989.