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State Endangered Species Act Statutes:

Illinois



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Illinois Endangered Species Protection Act (520 ILCS 10/) §§ 10/1 – 10/11

Current through P.A. 101-650 of the 2020 Session of the 101st Legislature.

§ 10/1. Short title

This Act shall be known and may be cited as the "Illinois Endangered Species Protection Act".

§ 10/2 Definitions

As used in this Act the following words have the following meanings:

"Board" means the Endangered Species Protection Board created by this Act.

"Conservation" means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation and transplantation.

"Department" means the Department of Natural Resources and "Director" means the Director of that Department.

"Endangered Species" means any species of plant or animal classified as endangered under the Federal Endangered Species Act of 1973, P.L. 93-205, and amendments thereto, plus such other species which the Board may list as in danger of extinction in the wild in Illinois due to one or more causes including but not limited to, the destruction, diminution or disturbance of habitat, overexploitation, predation, pollution, disease, or other natural or manmade factors affecting its prospects of survival.

"Threatened Species" means any species of plant or animal classified as threatened under the Federal Endangered Species Act of 1973, P.L. 93-205, and amendments thereto, plus such other species which the Board may list as likely to become endangered in the wild in Illinois within the foreseeable future.

"Animal" means those organisms commonly included in the science of zoology and generally distinguished from plants by possession of a nervous system and the ability to move from place to place, including all invertebrates such as sponges and mollusks as well as vertebrates such as fishes, amphibians, reptiles, birds, and mammals.



"Animal Product" means the fur, hide, skin, teeth, feathers, tusks, claws, eggs, nests or the body or any portion thereof whether in a green or raw state or as a product manufactured or refined from an animal protected under this Act or under rules issued pursuant to this Act.

"Plant" means any organism not considered to be an animal, and shall include such organisms as algae, fungi, bryophytes, and ferns, as well as flowering plants and conifers.

"Plant Product" means any plant body or part thereof removed from natural habitat, including seeds, fruits, roots, stems, flowers, leaves, or products made from any of these, including extracts or powders.

"Essential Habitat" means the specific ecological conditions required by an endangered or threatened species for its survival and propagation, or physical examples of these conditions.

"Take" means, in reference to animals and animal products, to harm, hunt, shoot, pursue, lure, wound, kill, destroy, harass, gig, spear, ensnare, trap, capture, collect, or to attempt to engage in such conduct.

"Take" means, in reference to plants and plant products, to collect, pick, cut, dig up, kill, destroy, bury, crush, or harm in any manner.

"Illinois List" means a list of species of animals and plants listed by the Board as endangered or threatened.

"Person" means any individual, firm, corporation, partnership, trust, association, private entity, government agency, or their agents, and representatives.

§ 10/3. Possession, transportation, sale or disposition of animal or animal product unlawful

It is unlawful for any person:

(1) to possess, take, transport, sell, offer for sale, give or otherwise dispose of any animal or the product thereof of any animal species which occurs on the Illinois List;

(2) to deliver, receive, carry, transport or ship in interstate or foreign commerce plants listed as endangered by the federal government without a permit therefor issued by the Department as provided in Section 4 of this Act;

(3) to take plants on the Illinois List without the express written permission of the landowner; or

(4) to sell or offer for sale plants or plant products of endangered species on the Illinois List.



§ 10/4. Permit—Issuance—Revocation

Upon receipt of proper application and approval of the same, the Department may issue to any qualified person a permit which allows the taking, possession, transport, purchase, or disposal of specimens or products of an endangered or threatened species of animal or federal endangered plant after the effective date of this Act for justified purposes, that will enhance the survival of the affected species by zoological, botanical or educational or for scientific purposes only. Section 5-20 of the Herptiles-Herps Act¹ has provisions for permits to acquire, breed, and sell captive, legally obtained endangered and threatened amphibians and reptiles. Rules for the issuance and maintenance of permits shall be promulgated by the Department after consultation with and written approval of the Board. The Department shall, upon notice and hearing, revoke the permit of any holder thereof upon finding that the person is not complying with the terms of the permit, the person is knowingly providing incorrect or inadequate information, the activity covered by the permit is placing the species in undue jeopardy, or for other cause.

§ 10/5. Limited permit

(a) Upon receipt of proper application and approval of same, the Department may issue a limited permit authorizing the possession, purchase or disposition of animals or animal products of an endangered or threatened species, or federal endangered plants to any person which had in its possession prior to the effective date of this Act such an item or which obtained such an item legally out-of-state. Such permit shall specifically name and describe each pertinent item possessed by the permit holder and shall be valid only for possession, purchase or disposition of the items so named. The Department may require proof that acquisition of such items was made before the effective date of this Act. The Department may also issue a limited permit authorizing the possession, purchase or disposition of live animals or such item to any person to whom a holder of a valid permit issued pursuant to this section gives, sells, or otherwise transfers the item named in the permit. Section 5-20 of the Herptiles-Herps Act¹ has provisions for permits to acquire, breed, and sell captive, legally obtained endangered and threatened amphibians and reptiles. Limited permits issued pursuant to this section shall be valid only as long as the item remains in the possession of the person to whom the permit was issued.

(b) The limited permit shall be revoked by the Department if it finds that the holder has received it on the basis of false information, is not complying with its terms, or for other cause.

§ 10/5.5. Incidental taking

(a) The Department may authorize, under prescribed terms and conditions, any taking otherwise prohibited by Section 3 if that taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. No taking under this Section shall be authorized by the Department unless the applicant submits to the Department a conservation plan.

(b) The conservation plan shall include but not be limited to the following:

(1) a description of the impact that the proposed taking is likely to have on one or more species on the Illinois list;



(2) the steps the applicant or other parties will take to minimize and mitigate that impact and the funding that will be available to implement those steps, including but not limited to bonds, insurance, or escrow;

(3) what alternative actions to the taking the applicant considered and the reasons why those alternatives will not be used;

(4) data and information to assure that the proposed taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois;

(5) an implementing agreement that specifically names, and describes the obligations and responsibilities of, all the parties that will be involved in the taking as authorized by the permit; and

(6) any other measures that the Department may require as being necessary or appropriate for purposes of the plan.

(c) After reviewing the application for incidental taking and the conservation plan, the Department may authorize the incidental taking if the Department finds, in a written decision explaining its conclusions, that the taking will meet all of the following requirements:

(1) the taking will not be the purpose of, but will be only incidental to, the carrying out of an otherwise lawful activity;

(2) the parties to the conservation plan will, to the maximum extent practicable, minimize and mitigate the impact caused by the taking;

(3) the parties to the conservation plan will ensure that adequate funding for the conservation plan will be provided;

(4) based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois;

(5) any measures required under paragraph (6) of subsection (b) of this Section will be performed; and

(6) the public has received notice of the application and has had the opportunity to comment before the Department made any decision regarding the application.

(d) The Department may require that a party to the conservation plan make additional assurances that the requirements under items (b)(1) through (b)(6) of this Section will be met before authorizing incidental taking.

(e) The Department shall impose on the authorization for incidental taking any terms or conditions that the Department finds necessary to ensure that the requirements under



items (b)(1) through (b)(6) of this Section will be met. These terms or conditions may include but are not limited to reporting or monitoring requirements.

(f) If an applicant is party to a Habitat Conservation Plan approved by the U.S. Fish and Wildlife Service pursuant to Section 10 of the Endangered Species Act of 1973, P.L. 93-205, [FN1] and amendments thereto, the Department may authorize taking that is incidental to the carrying out of an otherwise lawful activity. Authorization shall be issued only if the provisions of the Habitat Conservation Plan are found to meet the requirements set forth in subsection (c) of this Section.

(g) If an applicant has been authorized to take an endangered or threatened species under the terms of a biological opinion issued by the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act of 1973, P.L. 93-205, [FN2] and amendments thereto or regulations implementing Section 7 (50 CFR Part 402), the Department may authorize taking that is incidental to the carrying out of an otherwise lawful activity. Authorization shall be issued only if the Department finds that the taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

§ 10/6. Endangered Species Protection Board—Duties—Members—Meetings—Compensation—Staff

There is created the Endangered Species Protection Board whose duties include listing, delisting, or change of listing status of species for the Illinois List, in consultation with and written approval by the Department, in accordance with the Illinois Administrative Procedure Act, [FN1] on rules for listing species of animals or plants as endangered or threatened and delisting species of animals or plants as endangered or threatened, or changing their status.

The Board shall also advise the Department on methods of assistance, protection, conservation and management of endangered and threatened species and their habitats, and on related matters.

The Board shall be composed of 9 persons appointed by the Governor, and the Director as a non-voting member. Of the 9 appointed members at least 6 shall be persons who are recognized as naturalists by training, avocation or vocation. At least two of these shall be zoologists, at least one a botanist, and at least two ecologists. In making Board appointments, the Governor shall give consideration to recommendations of conservation groups.

Initially, 3 members shall be appointed for terms of 3 years, 3 for 2 years and 3 for 1 year. Thereafter, the terms of all appointive members shall be 3 years. Members shall serve until their successors are appointed. Any vacancy occurring in the position of an appointive member shall be filled by the Governor for the unexpired term.

Board meetings shall be called at regular intervals set by the Board, on the request of the Department, or upon written notice signed by at least 5 members of the Board, but in no event less than once quarterly. The place of the meeting shall be determined at the convenience of the Board and the Department. A quorum shall consist of 5 appointed



members.

Members of the Board shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

The Board may without regard to the Personnel Code, [FN2] employ and fix the compensation of necessary staff.

The Board shall select from its membership a chairman and such other officers as it considers necessary, and may name an Executive Committee to which it may grant specific powers.

The Board shall review and revise the Illinois List as warranted but in no case less frequently than every 5 years. It shall prepare and make available a report of its accomplishments biennially.

§ 10/7. Listing of endangered or threatened species—Delisting

Any species or subspecies of animal or plant designated as endangered or threatened by the Secretary of the Interior of the United States pursuant to the Endangered Species Act of 1973, P.L. 93-205, as amended, [FN1] shall be automatically listed as an endangered or threatened species under this Act and thereby placed on the Illinois List by the Board without notice or public hearing. The Board may list, as endangered or threatened, species of animals or plants which have reproduced in or otherwise significantly used, as in migration or overwintering, the area which is now the State of Illinois, if there is scientific evidence that the species qualify as endangered or threatened as these terms are defined in this Act. The Board may delist any non-federally-listed species for which it finds satisfactory scientific evidence that its wild or natural populations are no longer endangered or threatened. Listing, delisting or change of listing status shall be made only after a public hearing.

Notice of such hearing shall be published at least 7 days before the hearing in a newspaper of general circulation throughout the state and shall be mailed to any person who has, in writing requested such notice from the agency holding the hearing. All persons heard or represented at a hearing and all persons who requested from the responsible agency notice of such hearing, shall be given a written summary of any action taken by the Board or Department relative to the hearing subject.

Upon listing or delisting or change of listing status by the Board, the Director shall file a certified copy of the names of the species so listed, delisted or changed with the Secretary of State as provided in "The Illinois Administrative Procedure Act", approved September 22, 1975, as amended. [FN2]

§ 10/8. Search and seizure—Forfeiture of goods, merchandise or wildlife

Any officer or agent authorized by the Department or any police officer of the State or of any unit of local government within the State of Illinois, may execute any warrant to search for and seize any goods, merchandise or animals, plants, or animal or plant products sold or



offered for sale in violation of this Act, or any property or item used in connection with a violation of this Act, or to examine premises for determination of actions in violation of this Act. Seized goods, merchandise, animals, plants or their products shall be held pending proceedings in the circuit court. Upon conviction, such seized goods, merchandise or animals, plants, or their products shall be forfeited and, upon forfeiture, either offered to a recognized institution for scientific or educational purposes, or if a suitable depository is not located for such items, they shall be destroyed.

§ 10/9. Penalties for violations

Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor.

§ 10/10. Program located in department of conservation—Disposition of fines

The Endangered and Threatened Species Program shall be located within the Department of Conservation. All fines collected under this Act shall be paid to the State Treasurer and deposited in the Nongame Wildlife Conservation Fund.

§ 10/11. Conservation program; public policy; rules

Conservation program; public policy; rules.

(a) The Department, with the advice of the Board, shall actively plan and implement a program for the conservation of endangered and threatened species, by means which should include published data search, research, management, cooperative agreements with other agencies, identification, protection and acquisition of essential habitat, support of beneficial legislation, issuance of grants from appropriated funds, and education of the public.

(b) It is the public policy of all agencies of State and local governments to utilize their authorities in furtherance of the purposes of this Act by evaluating through a consultation process with the Department whether actions authorized, funded, or carried out by them are likely to jeopardize the continued existence of Illinois listed endangered and threatened species or are likely to result in the destruction or adverse modification of the designated essential habitat of such species, which policy shall be enforceable only by writ of mandamus; and where a State or local agency does so consult in furtherance of this public policy, such State or local agency shall be deemed to have complied with its obligations under the "Illinois Endangered Species Act", [FN1] provided the agency action shall not result in the killing or injuring of any Illinois listed animal species, or provided that authorization for taking a listed species has been issued under Section 4, 5, or 5.5 of this Act. This paragraph (b) shall not apply to any project of a State agency on which a biological opinion has been issued (in accordance with Section 7 of the Federal Endangered Species Act [FN2]) prior to the effective date of this amendatory Act of 1985 stating that the action proposed by said project will not jeopardize the continued existence of any federal listed endangered or threatened species.



(c) The Department shall have the authority to adopt such rules as are reasonable and necessary to implement the provisions of this Act.

