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State Endangered Species Act Statutes:

Maine



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State Endangered Species Act Statutes: Maine

Note: The State of Maine has two different state Endangered Species Acts. The first of these statutes deals with terrestrial and freshwater species while the second deals with marine species

Maine's Endangered Species Act § 12801 – 12810

Current with the Second Regular Session of the 129th Maine Legislature.

§ 12801. Declaration of purpose

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish or wildlife found in the State, as well as the ecosystems upon which they depend.

This subchapter and chapter 631 are established to carry out the purposes of this section.

§ 12802. Commissioner's authority, investigations and programs

1. Investigations. The commissioner may conduct investigations in order to develop information relating to population size, distribution, habitat needs, limiting factors and other biological and ecological data relating to the status and requirements for survival of any species of fish or wildlife occurring in the State, whether endangered or not.
2. Programs. The commissioner may develop programs to enhance or maintain the populations described in subsection 1.

§ 12803. Designation of endangered species

1. Standards. The commissioner shall recommend a species to be listed as endangered or threatened whenever the commissioner finds one of the following to exist:
 - A. The present or threatened destruction, modification or curtailment of its habitat or range;
 - B. Overutilization for commercial, sporting, scientific, educational or other purposes;
 - C. Disease or predation;
 - D. Inadequacy of existing regulatory mechanisms; or
 - E. Other natural or manmade factors affecting its continued existence within the State.



2. Commissioner's duties. In recommending a species to be listed as endangered or threatened, the commissioner shall:

- A. Make use of the best scientific, commercial and other data available;
- B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and
- C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened.

3. Legislative authority. The Legislature, as sole authority, shall designate a species as a state endangered or state threatened species. The list of state endangered or state threatened species by common name, scientific name and status is as follows:

- A. Least tern, *Sterna antillarum*, endangered;
- B. Golden eagle, *Aquila chrysaetos*, endangered;
- C. Piping plover, *Charadrius melodus*, endangered;
- D. Sedge wren, *Cistothorus platensis*, endangered;
- E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- F. Box turtle, *Terrapene carolina*, endangered;
- G. Black racer, *Coluber constrictor*, endangered;
- H. Roseate tern, *Sterna dougallii*, endangered;
- I. Northern bog lemming, *Synaptomys borealis*, threatened;
- J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- K. Black tern, *Chlidonias niger*, endangered;
- L. American pipit, *Anthus rubescens* (breeding population only), endangered;
- M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered;
- N. Roaring Brook mayfly, *Epeorus frisoni*, threatened;
- O. Ringed boghaunter, *Williamsonia lintneri*, threatened;
- P. Clayton's copper, *Lycaena dorcas claytoni*, threatened;



Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered;

R. Hessel's hairstreak, *Callophrys hesseli*, endangered;

S. Katahdin arctic, *Oenis polixenes katahdin*, endangered;

T. Spotted turtle, *Clemmys guttata*, threatened;

U. Repealed. Laws 2009, c. 60, § 1.

V. Razorbill, *Alca torda*, threatened;

W. Atlantic puffin, *Fratercula arctica*, threatened;

X. Harlequin duck, *Histrionicus histrionicus*, threatened;

Y. Arctic tern, *Sterna paradisaea*, threatened;

Z. Upland sandpiper, *Bartramia longicauda*, threatened;

AA. Swamp darter, *Etheostoma fusiforme*, threatened;

BB. Tidewater mucket, *Leptodea ochracea*, threatened;

CC. Yellow lampmussel, *Lampsilis cariosa*, threatened;

DD. Tomah mayfly, *Siphonisca aerodromia*, threatened;

EE. Deleted. Laws 2007, c. 166, § 1.

FF. Twilight moth, *Lycia rachelae*, threatened;

GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened;

HH. Redfin pickerel, *Esox americanus americanus*, endangered;

II. Juniper hairstreak, *Callophrys gryneus*, endangered;

JJ. Rapids clubtail, *Gomphus quadricolor*, endangered;

KK. New England cottontail, *Sylvilagus transitionalis*, endangered;

LL. Black-crowned night heron, *Nycticorax nycticorax*, endangered;

MM. Common gallinule, *Gallinula galeata*, threatened;

NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened;



OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened;

PP. Purple lesser fritillary, *Boloria chariclea grandis*, threatened;

QQ. Sleepy duskywing, *Erynnis brizo*, threatened;

RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened;

SS. Brook floater, *Alasmidonta varicosa*, threatened;

TT. Barrow's goldeneye, *Bucephala islandia*, threatened; and

UU. Least bittern, *Ixobrychus exilis*, endangered;

VV. Cobblestone tiger beetle, *Cicindela marginipennis*, endangered;

WW. Frigga fritillary, *Boloria frigga*, endangered;

XX. Little brown bat, *Myotis lucifugus*, endangered;

YY. Northern long-eared bat, *Myotis septentrionalis*, endangered;

ZZ. Eastern small-footed bat, *Myotis leibii*, threatened; and

AAA. Six-whorl vertigo, *Vertigo morsei*, endangered.

4. Process for recommendation; notice and hearings. Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

5. Designation by Legislature. The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

§ 12804. Conservation of endangered species

1. Conservation of nongame and endangered species. The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened, including:

A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat;

B. Propagation;

C. Live trapping;

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction



with the Department of Marine Resources, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

E. In the extraordinary case where population pressures within a given group ecosystem can not be otherwise relieved, regulated taking.

2. Habitat. For species designated as endangered or threatened under this subchapter the commissioner may by rule identify areas currently or historically providing physical or biological features essential to the conservation of the species and that may require special management considerations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Protection guidelines. The commissioner may by rule develop guidelines for the protection of species designated as endangered or threatened under this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Confidential information. Specific information concerning the location of a threatened or endangered species is confidential and not a public record under Title 1, chapter 13 if, in the judgment of the commissioner, disclosure of that information would threaten the continued existence of the threatened or endangered species. If the commissioner determines that information is confidential under this subsection, the commissioner may not disclose the information except to the landowner whose property is the location of the threatened or endangered species.

§ 12805. Cooperative agreements

The commissioner may enter into agreements with federal agencies, other states, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of endangered or threatened species and may receive all federal funds allocated for obligations to the State pursuant to these agreements.

§ 12806. State and local cooperation

1. Review. A state agency or municipal government may not permit, license, fund or carry out projects that will:

A. Significantly alter the habitat identified under section 12804, subsection 2 of any species designated as threatened or endangered under this subchapter; or

B. Violate protection guidelines set forth in section 12804, subsection 3.

The commissioner shall make information under section 12804 available to all other state agencies and municipal governments for the purposes of review.



2. Variance. Notwithstanding subsection 1, state agencies and municipal governments may grant a variance from this section provided that:

A. The commissioner certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the State; and

B. A public hearing is held on the proposed action.

3. Pending applications. Notwithstanding Title 1, section 302, applications pending at the time of adoption of habitats and guidelines under section 12804, subsections 2 and 3 are governed by this section.

§ 12807. Introduction of wolves to State; approval

A person may not release a wolf in the State for the purpose of reintroducing that species into the State without the prior approval of both Houses of the Legislature and the commissioner.

A person who violates this section commits a Class E crime.

§ 12808. Unauthorized activities regarding endangered or threatened species

For the purposes of this section and section 12808-A, “to take,” “take” and “taking” mean the act or omission that results in the death of any endangered or threatened species.

1. Prohibited acts regarding endangered or threatened species; negligence. Except as provided in section 12808-A, a person may not negligently:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class E crime, for which a fine of \$1,000 must be adjudged, none of which may be suspended;

B. Hunt, take, trap, harass or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class E crime, for which a fine of \$1,000 must be adjudged, none of which may be suspended;

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class E crime, for which a fine of \$1,000 must be adjudged, none of which may be suspended; or

D. Feed or set bait for any endangered or threatened species. A person who violates this paragraph commits a Class E crime for which a fine of \$1,000 must be adjudged, none of which may be suspended.

1-A. Prohibited acts regarding endangered or threatened species; intentional. Except as provided in section 12808-A, a person may not intentionally:



A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended;

B. Hunt, take, trap, harass or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended;

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended; or

D. Feed or set bait for any endangered or threatened species. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended.

§ 12808-A. Authorized activities regarding endangered or threatened species

Notwithstanding section 12808 and notwithstanding section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may authorize certain activities regarding endangered or threatened species in accordance with the following.

1. Education, research, conservation and transportation. Under such terms and conditions as the commissioner prescribes, the commissioner may:

A. Authorize an act prohibited by section 12808 or by rule for educational or scientific purposes or to enhance the recovery or survival of an endangered or threatened species; and

B. Authorize a person to transport without restriction but in accordance with the terms of any federal or state permit an endangered or threatened species into, within or out of the State.

2. Specific activity; incidental take plan. Under such terms and conditions as the commissioner prescribes, the commissioner may authorize a person to take an endangered or threatened species pursuant to an incidental take plan if:

A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;

B. The taking will not impair the recovery of any endangered or threatened species; and

C. The person develops and implements an incidental take plan in accordance with subsection 5 and that plan is approved by the commissioner. The commissioner may modify or waive the requirement under this paragraph if the commissioner determines the criteria in subsection 5 are substantially addressed in another permit, license or agreement.

The commissioner shall seek input from knowledgeable individuals or groups on each proposed incidental take plan developed under this subsection.



If the person violates any of the terms or conditions of an authorization granted pursuant to this subsection, the authorization must be immediately suspended or revoked and the person is subject to the prohibitions and penalties in section 12808 for that violation.

3. Widespread activity; incidental take plan. Under such terms and conditions as the commissioner prescribes, the commissioner may authorize the taking of an endangered or threatened species pursuant to a widespread activity incidental take plan developed by the commissioner in accordance with subsection 5 if:

A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;

B. The taking will not impair the recovery of any endangered or threatened species; and

C. The commissioner determines that the activity is widespread, is conducted by a reasonably identifiable group of participants and poses a manageable risk of taking an endangered or threatened species.

The commissioner shall hold at least one public hearing and seek input from knowledgeable individuals or groups on each proposed incidental take plan developed under this subsection.

If a person violates any of the terms or conditions of an authorization granted pursuant to this subsection, the authorization must be immediately suspended or revoked for that person and that person is subject to the prohibitions and penalties in section 12808 for that violation.

4. Broad activity exemption. The commissioner may adopt rules to provide an exemption, under such terms and conditions as the commissioner determines necessary, for a specific activity otherwise prohibited by section 12808, if the commissioner determines the exemption:

A. Addresses a specific activity that is widespread in its occurrence but may not have a reasonably identifiable group of participants;

B. Poses little or no risk of taking an endangered or threatened species; and

C. Will not individually or cumulatively impair the recovery of any endangered or threatened species.

The commissioner shall hold at least one public hearing and seek input from knowledgeable individuals or groups on each proposed rule to provide a broad activity exemption.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Incidental take plan criteria. The commissioner may approve or adopt an incidental take plan developed pursuant to subsection 2 or 3 that minimizes the incidental taking of an endangered or threatened species and that provides the following:

A. A description of the specific activities sought to be authorized by the incidental take plan and an analysis of potential alternatives;



B. The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the incidental take plan;

C. The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the incidental take plan;

D. The procedures for monitoring the effectiveness of the recovery measures in the incidental take plan;

E. The anticipated costs of implementing the incidental take plan and the availability of necessary funding for the applicant to implement the plan; and

F. Other modifications to the incidental take plan or additional measures, if any, that the commissioner may require and such other matters as the commissioner determines to be necessary for the recovery of species consistent with this section.

§ 12809. Judicial enforcement

1. General. In the event of a violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, the Attorney General may institute injunctive proceedings to enjoin any further violation, a civil or criminal action, or any appropriate combination of those proceedings without recourse to any other provision of law administered by the department.

2. Restoration. The court may order restoration of any area affected by any activity found to be in violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, to its condition prior to the violation or as near to that condition as possible. When the court finds that the violation was willful, the court shall order restoration under this subchapter, unless the restoration would result in:

A. A threat to public health and safety;

B. Environmental damage; or

C. A substantial injustice.

§ 12810. Delisted species

1. Definition. For purposes of this section, “delisted species” means a species that was listed as a state endangered or threatened species under section 12803 and after 2007 was removed from that list by the Legislature. The following is a delisted species:

A. Bald eagle, *Haliaeetus leucocephalus*.

2. Prohibited acts regarding delisted species. Except as otherwise authorized by the commissioner pursuant to this Part, a person may not intentionally:



A. Import into the State or export out of the State a delisted species. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended;

B. Hunt, trap, harass or possess a delisted species within the State. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended; or

C. Process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, a delisted species or any part of a delisted species. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended.

D. Deleted Laws 2019, c. 267, § 3, eff. Sept.19, 2019.

Maine’s Endangered or Threatened Marine Species Act § 6971 – 6978

Current with the Second Regular Session of the 129th Maine Legislature.

§ 6971. Commissioner's authority over marine endangered and threatened species

In accordance with section 12801, the commissioner has authority as provided in this chapter to carry out the purpose of that section with regard to marine species.

§ 6972. Commissioner's programs

The commissioner may establish such programs as are necessary for the protection of marine species listed pursuant to this chapter in order to achieve compliance with the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

§ 6973. Designation of marine species as state endangered or state threatened

1. Commissioner's authority. The commissioner may recommend a marine species found in the State for designation as a state endangered or state threatened marine species if that species is listed as an endangered or threatened species by the United States Secretary of the Interior, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

2. Modification to list. The commissioner may recommend that a marine species designated as a state endangered or state threatened species be removed from the list in section 6975 or recommend other changes to that list.

3. Public notice and hearings. Prior to recommending an addition, deletion or other change to the list of state endangered and state threatened marine species in section 6975, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

§ 6974. Legislative authority



The Legislature has sole authority to designate a marine species as a state endangered or state threatened species or to remove a species or change the designation of a species listed in section 6975.

§ 6975. List of state endangered and state threatened marine species

The list of state endangered or state threatened marine species by common name, scientific name and status is as follows:

1. Right whale. Right whale, *Eubalaena glacialis*, endangered;
2. Humpback whale. Humpback whale, *Megaptera novaeangliae*, endangered;
3. Finback whale. Finback whale, *Balaenoptera physalus*, endangered;
4. Sperm whale. Sperm whale, *Physeter catodon*, endangered;
5. Sei whale. Sei whale, *Balaenoptera borealis*, endangered;
6. Leatherback turtle. Leatherback turtle, *Dermochelys coriacea*, endangered;
7. Atlantic ridley turtle. Atlantic ridley turtle, *Lepidochelys kempii*, endangered;
8. Loggerhead turtle. Loggerhead turtle, *Caretta caretta*, threatened; and
9. Shortnose sturgeon. Shortnose sturgeon, *Acipenser brevirostrum*, endangered.

§ 6976. Cooperative agreements

The commissioner may enter into agreements with federal agencies, other states, state agencies, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of state endangered or state threatened marine species and may receive all federal funds allocated for obligations to the State pursuant to these agreements. Federal funds received for the conservation of state endangered or state threatened marine species listed pursuant to this chapter must be allocated directly to the department to ensure compliance with any conditions of the listing.

§6978. Endangered or Threatened Marine Species Fund

The Endangered or Threatened Marine Species Fund, referred to in this section as "the fund," is established within the department

1. Sources. The commissioner may receive donations and funding from any source on behalf of the fund.
2. Purpose; use of fund. The purpose of the fund is to support activities related to the management of endangered or threatened marine species. All money received into the fund must be used for the purposes of the fund.
3. Interest and balances credited to fund. Any interest earned on the money in the fund must be credited to the fund. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year and credited to the fund to be used for the purposes of this section.

