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State Endangered Species Act Statutes: *Pennsylvania*



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Wild Resource Conservation Act § 2167; § 2924; §§ 5301 – 5314

Current through 2020 Regular Session Act 77

Chapter 29. Special Licenses and Permits. Subchapter B. Specific Classes of Permits.

§ 2167. Endangered or threatened species

(a) Changes to list. --The commission may, by regulation, add or remove any wild bird or wild animal native to this Commonwealth to or from the Pennsylvania native list of endangered or threatened species.

(b) Possession, transportation, capturing or killing.--Except as otherwise provided in this title, it is unlawful for any person, acting either for himself or as the representative of another, to bring into or remove from this Commonwealth, or to possess, transport, capture or kill, or attempt, aid, abet or conspire to capture or kill, any wild bird or wild animal, or any part thereof, or the eggs of any wild bird, which are endangered or threatened species. It is the duty of every officer having authority to enforce this title to seize all wild birds or wild animals, or any part thereof, or the eggs of any wild bird, which have been declared endangered or threatened.

(c) Purchase, sale, barter or exchange.--Except as otherwise provided in this title, it is unlawful for any person, acting either for himself or as a representative of another, at any time to buy, sell, barter or exchange, or to offer for sale or barter, or to have in possession for sale or barter, or to aid, abet or conspire in the possession, sale, barter or exchange, or to give away any endangered or threatened species or subspecies of wild birds or wild animals, or parts thereof. It is the duty of every officer having authority to enforce this title to seize all endangered or threatened wild birds or wild animals, or any part thereof. This subsection shall not be construed to permit any individual or agency other than the commission to sell the skins or parts of game or wildlife or the plumage or parts of birds killed as a protection to crops or accidentally killed upon the highways or seized as contraband.

(d) Penalties. --A violation of this section shall be graded as follows:

(1) A first violation is a misdemeanor of the second degree and may result in forfeiture of the privilege to hunt or take wildlife anywhere within this Commonwealth for a period of seven years.

(2) A second violation within a seven-year period or during the same criminal episode as the first violation is a misdemeanor of the first degree and may result in the forfeiture of the privilege to hunt or take wildlife anywhere within this Commonwealth for a period of ten years.



(3) A third or subsequent violation within a seven-year period or during the same criminal episode as the first or second violation is a felony of the third degree and may result in the forfeiture of the privilege to hunt or take wildlife anywhere within this Commonwealth for a period of 15 years.

§ 2924. Endangered or threatened species permits

(a) Issuance. -- The commission may issue permits for the importation, exportation, sale, exchange, taking or possession of any birds or animals classified as endangered or threatened, living or dead, or any parts thereof, including eggs.

(b) Species native to Commonwealth. -- The commission may issue permits for birds or animals native to this Commonwealth which are taken from the wild in this Commonwealth and which are classified by the commission as endangered or threatened in Title 58 of the Pennsylvania Code.

(c) Species not native to Commonwealth. -- The commission may join with the appropriate Federal agency in issuing joint permits for any birds or animals not native to this Commonwealth which are classified as endangered or threatened in the Code of Federal Regulations. An endorsement by the director on a copy of a Federal permit with an addendum of any further restrictions will be considered a joint permit if no formal joint permit is issued.

(d) Unlawful acts.-- It is unlawful for any person to import, export, transport, sell, resell, exchange, take or possess or conspire, aid, abet, assist or attempt to import, export, transport, sell, resell, buy, exchange, take or possess any birds or animals of any endangered or threatened species, living or dead, or any parts thereof, including eggs, or to violate any regulations pertaining to such wildlife or this section.

(e) Penalties. --

(1) A violation of subsection (b) or (c) relating to permit violations is a summary offense of the first degree.

(2) The penalty for a violation of any other provision of this section is the same as set forth in section 2167(b) and (c) (relating to endangered or threatened species).

(3) A person who proves possession of any of the items prohibited by this section on or before March 28, 1974, shall be exempt from the penalties and forfeitures for mere possession.

§ 5301. Short title

This act shall be known and may be cited as the "Wild Resource Conservation Act."

§ 5302. Legislative finding; declaration of policy

It is hereby determined and declared as a matter of legislative finding that there are numerous flora and fauna, including those rare or endangered, which are not commonly pursued, killed or consumed either for sport or profit, that such species are in need of more active management and that it is in the public interest to preserve and enhance such species for the benefit of all. Therefore, it is the purpose of this act to:



- (1) Further provide for such species so as to enhance the constitutional rights guaranteed in section 27, Article 1 of the Constitution of the Commonwealth of Pennsylvania.
- (2) Provide a means for the citizens of the Commonwealth to support the management of our wild resource by establishing a voluntary contribution system on State income tax return forms.
- (3) Promote the cooperation of the Department of Environmental Resources, Pennsylvania Fish Commission and Pennsylvania Game Commission in the management of our wild resource.
- (4) Establish an interagency Wild Resource Conservation Board to channel that cooperation, promote the voluntary contribution system and administer the program.
- (5) Establish and promote a cooperative Statewide system of private wild plant sanctuaries in order to maintain, protect and, to the extent possible, enhance wild plant numbers.
- (6) Conserve and protect wild plant species recognized as endangered, threatened or vulnerable.
- (7) Conduct an investigation to determine the status of wild plants, classify wild plants indigenous to or found in the Commonwealth and provide for their protection.
- (8) Create a permit procedure for persons interested in wild plant management and a commercial license procedure for persons who purchase vulnerable plants with the intent to sell all or any part thereof.

§ 5303. Definitions

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section: "Board." The Wild Resource Conservation Board. "Department." The Department of Environmental Resources of the Commonwealth of Pennsylvania. "Fund." The Wild Resource Conservation Fund. "Management." The entire range of activities that constitute a modern scientific resource program including, but not limited to, the collection and application of biological data through research, census, habitat acquisition, habitat improvement and education. "Wild plant." Any and all naturally occurring native flora, except those commonly considered an agricultural commodity, including green and nongreen species or subspecies or any part, product, seed or offspring thereof. "Wild resource." All fauna not commonly pursued, killed or consumed either for sport or profit, but not including any domestic fauna or any domestic fauna that has reverted to a feral existence, and all flora not commonly considered an agricultural commodity.

§ 5305. Wild Resource Conservation Fund

(a) In order to carry out the purposes of this act, there is hereby created a special fund, which shall be known as the "Wild Resource Conservation Fund," of the treasury of the Commonwealth.

(b) All moneys received from the voluntary contribution system established in section 4 [FN1] and by the sale of any item authorized by section 6, [FN2] by the issuance of



permits authorized by section 8, [FN3] by the issuance of licenses authorized by section 9 [FN4] and from all penalties and fines imposed under section 11 [FN5] shall be deposited in said fund.

(c) The Legislature may, from time to time, appropriate funds into the special fund for the purposes of this act.

§ 5306. Wild Resource Conservation Board

(a) There is hereby created a Wild Resource Conservation Board, the members of which shall consist of the Secretary of the Department of Environmental Resources or his designee, the Executive Director of the Pennsylvania Fish and Boat Commission or his designee, the Executive Director of the Pennsylvania Game Commission or his designee, the chairman and minority chairman of the House Conservation Committee or their designees and the chairman and minority chairman of the Senate Environmental Resources and Energy Committee or their designees. The chairmanship of said board shall rotate on an annual basis among the members thereof.

(b) The board shall have the power and its duty shall be to:

(1) Meet annually to determine and prioritize the management objectives deemed necessary to preserve and enhance the wild resource.

(2) Conduct a public hearing not less than 60 days prior to each annual meeting of the board, providing 30 days advance notice thereof by publication in the Pennsylvania Bulletin to which all interested persons shall be invited to make recommendations to the board.

§ 5307. Wild plant management

(a) In addition to the powers and duties granted to it by the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929," [FN1] the Department of Environmental Resources shall, with cooperation from taxonomists, biologists, botanists and other interested persons conduct investigations on wild plants in order to ascertain information relating to population, distribution, habitat needs, limiting factors and other biological and ecological data to classify plants and to determine management measures necessary for their continued ability to sustain themselves successfully.

(b) The department shall establish a classification procedure that should include but may not be limited to the following categories:

(1) Extirpated. Species which once occurred in Pennsylvania, but no longer are known to exist.

(2) Endangered. Species in danger of extinction throughout all or most of its range if critical habitat is not maintained, or it is greatly exploited by man.

(3) Threatened. Species likely to become endangered throughout all or most of its range if critical habitat is not maintained or it is greatly exploited by man.

(4) Disjunct. Species which are significantly separated from the main area of distribution.



- (5) Endemic. Species confined to a specialized habitat and with limited ranges.
- (6) Restricted. Species with epidemic distribution but found in specialized habitats or habitats infrequent in Pennsylvania.
- (7) Limit of range. Species which are uncommon or rare in Pennsylvania because they are at or near the peripheral of their distribution. Within the main body of their distribution, these species may or may not be common.
- (8) Vulnerable. Species which are in danger of loss because of their beauty, economic value, use as cultivar or other factors which make them prime targets for being removed from native habitats.
- (9) Undetermined. Species suggested as needing protection because of their infrequent occurrence, but their status in Pennsylvania is unclear.
- (c) On the basis of such determinations, the Environmental Quality Board shall issue regulations not later than two years from the effective date of this act, after public notice, after receiving data from interested persons and after holding public hearings. Such regulations so established shall set limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage wild plants. The Environmental Quality Board may add or delete species as conditions change and may modify regulations to reflect the changing environment.
- (d) The department shall establish criteria for and promote a cooperative Statewide system of private wild plant sanctuaries.
- (e) Each landowner desiring "private wild plant sanctuary" designation under this act shall make application to the department on a form prepared and provided by the department.
- (f) No portion of this section shall be construed to restrict withdrawal of said designation at the request of the landowner.
- (g) The department may suspend or revoke any designation for violation of this act, the regulations thereunder or for other good cause.
- (h) No portion of this section shall be construed to restrict entry into such sanctuaries for the purpose of hiking, hunting, fishing or any other beneficial nonmotorized outdoor activity.
- (i) Except as provided in this section, it shall be unlawful for any person exclusive of the owner of the land or any person having a bona fide property interest therein, to willfully adversely alter or destroy the local ecosystem of such private wild plant sanctuary.

§ 5308. Wild plant management permits

- (a) In carrying out the purposes of this act, the department shall upon application issue permits authorizing the removal, collection or transplanting of endangered or threatened plant species pursuant to regulations established by the Environmental Quality Board.



(b) Any person desiring a wild plant management permit as herein provided, shall make application to the department on a form provided by the department.

(c) It shall be lawful for a person holding a valid wild plant management permit, with the expressed permission of landowners, to transplant wild plants into private and public plant sanctuaries for the purpose of insuring their perpetuation as members of ecosystems, to enhance their numbers or to restore their natural range. All such transplants shall be in accordance with the provisions of this act.

(d) Persons holding valid wild plant management permits should make every effort possible to transplant valuable species from land areas threatened by future land development, surface mining or agricultural encroachment to public or private plant sanctuaries.

(e) The department may also grant certain permittees, for taxonomical and botanical purposes, the right to collect threatened or endangered plants defined herein subject to the rules and regulations pursuant to this act, with the expressed permission of the landowner, as long as such collections would be deemed by the department to be consistent with the intent of this act.

(f) The department may suspend or revoke any plant management permit for violation of this act or regulations thereunder, the terms or conditions of the permit or for other good cause.

(g) Any person aggrieved by a decision of the department may appeal such decisions to the Environmental Hearing Board pursuant to Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

§ 5309. Vulnerable species

(a) Species classified as vulnerable shall be subject to the following restrictions:

(1) The Environmental Quality Board upon designation of vulnerable species shall establish regulations over the digging, harvesting, sale and exploitation of said species.

(2) The regulations shall:

(i) consider the distribution, abundance, economic value, growing and reproduction cycle;

(ii) establish seasons for the digging and harvesting of plants or plant parts; and

(iii) provide for the commercial licensing of persons who buy with the intent to sell vulnerable plants within the Commonwealth or export said plants therefrom and to require the licensees to maintain records of their transactions.

(3) The Environmental Quality Board shall establish the license fee.

§ 5310. Public wild plant sanctuaries



(a) The department may, when deemed necessary to protect wild plant species afforded consideration under this act, acquire natural areas of land or aquatic habitat, or designate such areas on land previously acquired for the establishment of public wild plant sanctuaries.

(b) The department may, when deemed necessary to protect a species afforded protection under this act, acquire natural areas of land or aquatic habitat.

(c) The secretary shall utilize all existing authority vested in the department to carry out the purposes of this section.

(d) The department may allow, under such terms and conditions as may be prescribed by regulation, individuals or groups to assist in the management of designated areas for the purpose of promoting wild plants.

(e) Such areas established under this section shall be utilized whenever feasible, for scientific or educational purposes.

§ 5311. Enforcement

(a) Except as otherwise provided it shall be unlawful for any person, exclusive of the owner of the land or any person having a bona fide property interest therein to disturb, pick, take or possess vulnerable, threatened or endangered wild plants. It shall be unlawful for any person to transport with the intent to sell, sell or export threatened or endangered wild plants. It shall be unlawful for any person to disturb, pick or take wild plants from State parks and forest lands except as provided by rules and regulations.

(b) In order to aid the department in the enforcement of this act, the following penalties shall apply:

(1) Any person who violates the provisions of this act relating to commercial licensing or regulations issued thereunder shall be sentenced to pay a fine of not more than \$200 or have the license revoked or both.

(2) Any person found to be illegally in possession of any wild plant species or part thereof protected hereunder, or any person who willfully destroys or mutilates an endangered plant species protected hereunder shall be sentenced to pay a fine of up to \$100 for each plant taken or destroyed.

(3) Any person who violates any other provision of this act or regulation issued hereunder shall, for violation, be sentenced to pay a fine of not more than \$100.

(c) Any enforcement officer employed or designated by the department or any police officer of the Commonwealth or any municipality within the Commonwealth shall have authority to enforce the provisions of this section.

(d) Any person aggrieved by any order or other action of the department shall have the right of appeal to the Environmental Hearing Board, in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) and such further right of appeal as is provided by law in such cases.



§ 5312. Limitation; termination

The check-off system created by section 4 of this act [FN1] shall be the only such check-off allowed on Pennsylvania State income tax return forms seeking voluntary contributions from tax refunds. In the event the wild resource conservation fund shows a net loss, after the deduction of administrative cost by the Department of Revenue, for two consecutive years, and the Secretary of the Budget and the State Treasurer certify to the General Assembly that such loss has in fact occurred then the board and all of its powers and duties shall terminate and go out of existence within 60 days of the certification.

§ 5313. Limitation on General Fund money

Except to complete any transfer required by section 4, [FN1] no moneys from the General Fund shall be used for the purposes of this act.

§ 5314. Repeal

All acts or parts of acts inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency.

