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State Endangered Species Act Statutes: *South Carolina*



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Nongame and Endangered Wildlife Species Act §§ 50-15-10 –
50-15-90

Current through chapters 113–142 of the Second Regular Session

§ 50-15-10. Definitions.

As used in this article:

- (1) “Ecosystem” means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.
- (2) “Endangered species” means any species or subspecies of wildlife whose prospects of survival or recruitment within the State are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:
 - (a) the destruction, drastic modification, or severe curtailment of its habitat, or
 - (b) its over-utilization for scientific, commercial, or sporting purposes, or
 - (c) the effect on it of disease, pollution, or predation, or
 - (d) other natural or manmade factors affecting its prospects of survival or recruitment within the State, or
 - (e) any combination of the foregoing factors. The term shall also be deemed to include any species or subspecies of fish or wildlife appearing on the United States' List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D) as well as any species or subspecies of fish and wildlife appearing on the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A), as such list may be modified hereafter.
- (3) “Management” means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.



(4) “Nongame species” means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species.

(5) “Optimum carrying capacity” means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(6) “Person” means any individual, firm, corporation, association, or partnership.

(7) “Take” means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

(8) “Wildlife” means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg or offspring, or the dead body or parts thereof.

§ 50-15-20. Investigations on nongame wildlife by department; rules and regulations; management programs; public hearings; prohibited acts.

(A) The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat, needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the department shall issue proposed regulations and develop management programs designed to ensure the continued ability of nongame wildlife to perpetuate themselves successfully. Such proposed regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to this section, giving their common and scientific names by species or subspecies. The department shall conduct ongoing investigations of nongame wildlife and may from time to time amend such regulations by adding or deleting therefrom species or subspecies of nongame wildlife.

(B) The department shall by such regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife.

Such regulation shall become effective sixty days after being proposed during which period public comment shall be solicited and received. The board may hold a public hearing if deemed appropriate. On the basis of public comments received or the testimony at any such hearing the department may make such changes in the proposed regulation as are consistent with effective management of nongame wildlife.

(C) Except as provided in regulations issued by the department, it shall be unlawful for any person to take, possess, transport, export, process, sell, or offer for sale or ship nongame wildlife deemed by the department to be in need of management pursuant to this section. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife deemed by the department to be in need of management pursuant to this section.



§ 50-15-30. Endangered species shall be listed; review and amendment of list; unlawful to take, deal in, or transport species on lists.

(A) On the basis of investigations on nongame wildlife provided for in Section 50-15-20 and other available scientific and commercial data, and after consultation with other state agencies, appropriate federal agencies, and other interested persons and organizations, but not later than one year after July 2, 1974, the department shall by regulation propose a list of those species or subspecies of wildlife indigenous to the State which are determined to be endangered within this State, giving their common and scientific names by species and subspecies. Such regulation shall become effective sixty days after being proposed during which period public comment shall be solicited and received. The board may hold a public hearing if deemed appropriate. On the basis of public comments received or the testimony at any such hearing, the department may add to such proposed list additional species or subspecies which are determined to be endangered within the State or delete therefrom such species or subspecies which are determined not to be endangered within the State.

(B) The board shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The board shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

(C) Except as otherwise provided in this article, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(1) the list of wildlife indigenous to the State determined to be endangered within the State pursuant to subsection (A);

(2) the United States' List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D); and

(3) the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Appendix A), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from a point outside the territorial limits of the United States and which is transported across the State destined for a point beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(D) In the event the United States' List of Endangered Native Fish and Wildlife is modified subsequent to July 2, 1974, by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the State may be accepted as binding under subsection (C) if, after the type of scientific determination described in subsection (A), the department by regulation accepts such modification for the State. Any such regulation shall be effective upon promulgation.



§ 50-15-40. Establishing and carrying out programs for management of nongame and endangered wildlife; removal, capture, or destruction of wildlife.

(A) The board shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The board shall utilize all authority vested in the department to carry out the purposes of this section.

(B) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies, political subdivisions of the State, or with private persons for administration and management of any area established under this section or utilized for management of nongame or endangered wildlife.

(C) The Governor shall encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section.

(D) The department may permit the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife which appear on the state list of endangered species, or species in need of management on the United States' List of Threatened or Endangered Native Fish and Wildlife, as amended and accepted in accordance with Section 50-15-30(D), or on the United States' List of Threatened or Endangered Foreign Fish and Wildlife, as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

(E) Upon good cause shown, and where necessary to alleviate damage to property or to protect human health, endangered species may be removed, captured, or destroyed but only pursuant to permit issued by the department and, where possible, by or under the supervision of an agent of the department; provided, that threatened or endangered species or species in need of management may be removed, captured, or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the department pursuant to Section 50-15-20(A).

§ 50-15-50. Criteria of designating land as certified management area for endangered species; review and revision.

(A) The department shall promulgate regulations addressing criteria for designating land as certified management area for endangered species or of species in need of management in order to qualify a taxpayer for the income tax credit provided for in Section 12-6-3520.

(B) Every five years the department may review the population status of species subject to certified management agreements and shall revise the regulations accordingly. The department may revise criteria at that time as necessary for lands to retain their designation as certified management areas.

§ 50-15-60 -Promulgation of regulations.

The department shall promulgate such regulations as are necessary to carry out the purposes of this article.



§ 50-15-70. Removal of certain turtles from state; exceptions; penalties.

(A) It is unlawful for a person, or a group of individuals traveling in one vehicle, to remove, or attempt to remove from this State more than ten, either in one species or a combination of species, of the named species of turtles at one time with a maximum of twenty turtles of these species, either individually or in combination in any one year: yellowbelly turtle (*Trachemys scripta*), Florida cooter (*Pseudemys floridana*), river cooter (*Pseudemys concinna*), chicken turtle (*Deirochelys reticularia*), eastern box turtle (*Terrapene carolina*), eastern painted turtle (*Chrysemys picta*), spiny softshell turtle (*Apalone spinifera*), Florida softshell turtle (*Apalone ferox*), and common snapping turtle (*Chelydra serpentina*).

(B) The provisions of this section do not prohibit the sale, offer for sale, or purchase of the yellowbelly turtle (*Trachemys scripta*) species and the common snapping turtle (*Chelydra serpentina*) species if these turtles were taken from a permitted aquaculture facility or a private pond pursuant to a permit issued by the department at the request of the owner or owner's agent. Any person transporting more than ten yellowbelly turtle (*Trachemys scripta*) species or common snapping turtle (*Chelydra serpentina*) species must be in possession of a permit pursuant to which the turtles were taken or acquired and, upon request, must provide it to authorized agents of the department. A person selling, offering to sell, or purchasing these species must have documentation from the aquaculture facility as to the origin of the turtles. The department may charge twenty-five dollars for a permit.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of up to two hundred dollars or up to thirty days in jail, or both. A violator also must have his permit permanently revoked and may never be issued another one. Each turtle removed or in possession of a person attempting to remove them is a separate violation of this section.

§ 50-15-80. Penalties; searches and seizures; power to arrest; disposition of confiscated property.

(A) A person who violates Section 50-15-20 or a person who fails to procure or violates the terms of a permit issued under the regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days and ordered to pay restitution.

(B) A person who violates Section 50-15-30(C) or regulations promulgated pursuant to it or a person who fails to procure or violates the terms of a permit issued pursuant to Section 50-15-40(D) and (E) is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars or imprisoned not more than one year, or both.

(C) An enforcement officer employed and authorized by the department or a police officer of the State or a municipality or county within the State may conduct searches as provided by law and execute a warrant to search for and seize equipment, business records, merchandise, or wildlife taken, used, or possessed in connection with a violation of this article. The officer or agency, without a warrant, may arrest a person who the officer or agent has probable cause to believe is violating, in his presence or view, the article or a regulation or permit provided for by it. An officer or agent who has made an arrest of a person in connection with a violation



may search the person or business records at the time of arrest and seize wildlife, records, or property taken or used in connection with the violation.

(D) Equipment, merchandise, wildlife, or records seized under subsection (C) must be held by an officer or agent of the department pending disposition of court proceedings and forfeited to the State for destruction or disposition as the board considers appropriate. Before forfeiture, the board may direct the transfer of wildlife seized to a qualified zoological, educational, or scientific institution for safekeeping. The costs of the transfer are assessable to the defendant. The department may promulgate regulations to implement this subsection.

EFFECT OF AMENDMENT

The **2008** amendment, in subsection (A), substituted “A person who violates Section 50-15-30” for “A person who violates Section 50-15-50(F), Section 50-15-30, or regulations promulgated pursuant to Section 50-15-30”.

§ 50-15-90. Chapter not retroactive; certain importation not prohibited.

None of the provisions of this article shall be construed to apply retroactively or to prohibit importation into the State of wildlife which may be lawfully imported into the United States or lawfully taken or removed from another state or to prohibit entry into the State or possession, transportation, exportation, processing, sale or offer for sale, or shipment of any wildlife whose species or subspecies is deemed to be threatened with statewide extinction in this State but not in the state where originally taken if the person engaging therein demonstrates by substantial evidence that such wildlife was lawfully taken or removed from such state; provided, that this section shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale, or shipment within this State of wildlife on the United States' List of Endangered Native Fish and Wildlife, as amended and accepted in accordance with Section 50-15-30(D), except as permitted in the proviso to Section 50-15-30(C) and Section 50-15-40(D).

