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## State Endangered Species Act Statutes: *South Dakota*



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# A National Agricultural Law Center Research Publication

## State Endangered Species Act Statutes: South Dakota

### Chapter 34A-8. Endangered and Threatened Species §§ 34A-8-1 – 34A-8-13

*Current through act received as of May 29<sup>th</sup> of the 2020 General Session of the 95<sup>th</sup> South Dakota Legislative Assembly and Supreme Court Rule 20-03*

#### **§ 34A-8-1 Definition of terms.**

Terms as used in this chapter, unless the context otherwise requires, mean:

- (1) “Endangered species,” any species of wildlife or plants which is in danger of extinction throughout all or a significant part of its range other than a species of insects determined by the Game, Fish and Parks Commission or the secretary of the United States Department of Interior to constitute a pest whose protection under this chapter would present an overwhelming and overriding risk to man;
- (2) “Nongame species,” any wildlife species not legally classified a game species, fur-bearer, threatened species, or as endangered by statute or regulations of this state;
- (3) “Threatened species,” any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range;
- (4) “Wildlife,” any nondomesticated animal, whether reared in captivity or not, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

#### **§ 34A-8-2 Investigation of wildlife by secretary -- Information developed.**

The game, fish and parks secretary shall conduct investigation on nongame, endangered or threatened wildlife to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary to ensure their perpetuation as viable components of their ecosystem and for human enjoyment.

#### **§ 34A-8-3 Lists of endangered and threatened species promulgated -- Basis for determination.**

On the basis of determinations pursuant to § 34A-8-2 the game, fish and parks commission shall promulgate a list of those species of wildlife which are determined to be endangered or threatened within the state. The game, fish and parks commission shall make these determinations on the basis of the best scientific, commercial and other data available to them and after consultation, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations.



#### **§ 34A-8-4 Biennial review of lists of endangered and threatened species -- Amendments.**

The game, fish and parks commission shall conduct a review of the state list of endangered and threatened species within the period ending July 3, 1979 and every two years thereafter and may amend the list by appropriate additions or deletions.

#### **§ 34A-8-5 Notice by commission of proposed actions -- Time allowed for comment.**

The game, fish and parks commission may not add a species to nor remove a species from any list pursuant to § 34A-8-3 or § 34A-8-4, until it has:

- (1) Published a public notice of such proposed action;
- (2) Notified the Governor of any state sharing a common border with this state and in which the subject species is known to exist that such action is being proposed;
- (3) Allowed at least thirty days following publication for comment from public and other interested parties.

#### **§ 34A-8-6 Departments to manage, protect and restore endangered and threatened species.**

The department of game, fish and parks and the department of agriculture shall perform those acts necessary for the conservation, management, protection, restoration and propagation of endangered, threatened and nongame species of wildlife.

#### **§ 34A-8-7 Programs and agreements for management of endangered species -- Prairie dog control on private lands.**

The secretary of agriculture and the secretary of game, fish and parks shall establish programs, with legislative approval and may enter into co-operative agreements with federal and state agencies or with private persons as deemed necessary for the management of nongame, endangered or threatened species. The secretaries shall establish and conduct control programs at state expense on private lands that are encroached upon by prairie dogs from contiguous public lands.

#### **§ 34A-8-8 Permitting capture of endangered and threatened species -- Authorized purposes.**

The secretary of agriculture and the secretary of game, fish and parks may permit the taking, possession, purchase, sale, transportation, exportation, or shipment of species of plants or wildlife which appear on the state list of endangered or threatened species for scientific, zoological, or educational purposes, for propagation in captivity of such fish or wildlife to insure their survival.

#### **§ 34A-8-9 Possession, transportation and sale of endangered and threatened species prohibited -- Violation as misdemeanor.**



Except as otherwise provided in this chapter, no person may take, possess, transport, import, export, process, sell or offer for sale, buy or offer to buy, nor may a common or contract carrier transport or receive for shipment, any species of wildlife or plants appearing on the following lists:

- (1) The list of wildlife and plants indigenous to the state determined to be endangered or threatened within the state pursuant to §§ 34A-8-3 and 34A- 8-4.
- (2) The United States list of endangered or threatened native wildlife effective on January 1, 1977.
- (3) The United States list of endangered or threatened foreign wildlife effective on January 1, 1977.
- (4) The United States list of endangered or threatened plants effective on January 1, 1977. A violation of this section is a Class 2 misdemeanor.

**§ 34A-8-10 Importation, possession, sale, or purchase of endangered or threatened species under permit, license, or other documentation--Violation as misdemeanor**

A species of wildlife appearing on any of the lists enumerated in § 34A-8-9 may enter South Dakota from another state or from a point outside the territorial limits of the United States and may be transported, possessed, sold, and purchased in accordance with the terms of a permit issued pursuant to rules promulgated by the Game, Fish and Parks Commission pursuant to chapter 1- 26. However, a person may transport into South Dakota or otherwise possess, sell, or purchase within the state any animal or parts thereof appearing on any of the lists enumerated in § 34A-8-9 that were lawfully taken or acquired in another state or lawfully taken or acquired from a point outside the territorial limits of the United States if the items are accompanied by the appropriate license, documentation, Convention on International Trade in Endangered Species (CITES) permit, or CITES tag. It is a Class 2 misdemeanor to transport, possess, sell or purchase a species of wildlife appearing on any of the lists enumerated in § 34A-8-9 in violation of the conditions of a permit, or to transport, possess, sell, or purchase any part thereof, in violation of the provisions of this section. The provisions of this section do not apply to any captive nondomestic animal of the mammalia class and the products thereof regulated by the Animal Industry Board under Title 40.

**§ 34A-8-11 Permits for capture or destruction of, wildlife to protect life or property -- Violation of permit -- Emergency protection of human life.**

Upon good cause shown and where necessary to alleviate damage to property or to protect human health, endangered or threatened species found on the state list may be removed, captured, or destroyed pursuant to a permit issued by the secretary of game, fish and parks. A violation of the terms of the permit is a Class 2 misdemeanor. Carnivorous animals found on the state list may be removed, captured, or destroyed by any person in emergency situations involving an immediate threat to human life, provided that the removal, capture, or destruction shall be reported to the secretary or his representative within twenty-four hours of the act.

**§ 34A-8-13 Legislative approval required for reintroduction of species.**



No species that is currently extinct in this state and that has been placed on the threatened or endangered species list pursuant to the federal "Endangered Species Act of 1973," as amended to January 1, 1995, may be reintroduced into this state through action by any federal, state, or local governmental entity, unless the Legislature has specifically enacted legislation naming the species and specifying the manner of reintroduction.

