



# The National Agricultural Law Center

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## State Endangered Species Act Statutes:

*Virginia*



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# A National Agricultural Law Center Research Publication

## State Endangered Species Act Statutes: Virginia

### Endangered Species §§ 29.1-563 – 29.1-570

*Current through 2020 Regular Session*

#### **§ 29.1-563. Definitions.**

For the purposes of this article:

"Conservation plan" means a document developed by the Department and approved by the Director that describes the Department's approach to managing and, if possible, recovering an endangered or threatened species of fish or wildlife.

"Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range.

"Experimental population" means any population of an endangered or threatened species of fish or wildlife, excluding those species appearing on the federal list specified in § 29.1-564, that is (i) established through deliberate introduction by humans; (ii) designated by regulation of the Board; and (iii) explicitly delineated in a conservation plan.

"Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, except for the class Insecta, and includes any part, products, egg, or the dead body or parts thereof.

"Incidental take" means any taking of an endangered or threatened species of fish or wildlife, excluding those species appearing on the federal list specified in § 29.1-564, that otherwise would be prohibited by this article or by regulation, if such taking is incidental to but not the purpose of an otherwise lawful activity allowed in accordance with regulations adopted pursuant to § 29.1-568.

"Person" means any individual, firm, corporation, association or partnership.

"Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

#### **§ 29.1-564. Taking, transportation, sale, etc., of endangered species prohibited.**

The taking, transportation, possession, sale, or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568.

#### **§ 29.1-566. Regulations.**

The Board is authorized to adopt the federal list, as well as modifications and amendments thereto by regulations; to declare by regulation, after consideration of recommendations from the Director of the Department of Conservation and Recreation



and from other reliable data sources, that species not appearing on the federal lists are endangered or threatened species in Virginia; and to prohibit by regulation the taking, transportation, processing, sale, or offer for sale within the Commonwealth of any threatened or endangered species of fish or wildlife.

**§ 29.1-567. Penalties; authority of conservation police officers and police officers; disposition of property seized.**

A. Any person who violates the provisions of § 29.1-564 or § 29.1-566, or any regulations issued pursuant to these sections, or whoever violates any regulation or permit issued under § 29.1-568 shall be guilty of a Class 1 misdemeanor; however, the sale, offering for sale, purchasing or offering to purchase within the Commonwealth of any fish or wildlife appearing on a list of threatened or endangered species as prohibited by § 29.1-564 shall be punishable as provided in § 29.1-553.

B. Any judicial officer or other officer authorized to issue criminal warrants shall have authority to issue a warrant for the search and seizure of any goods, business records, merchandise or fish or wildlife taken, employed or used in connection with a violation of any provision of this article. All such search warrants shall be issued and executed pursuant to Chapter 5 (§ 19.2-52 et seq.) of Title 19.2.

C. Goods, merchandise, fish or wildlife or records seized under the provisions of subsection B of this section shall be held by an officer or agent of the Department at the direction of the judge or court pending disposition of court proceedings, and thereafter be forfeited to the Commonwealth for destruction or disposition as the Director may deem appropriate. However, prior to forfeiture, the Director may direct the transfer of fish or wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping, with costs assessable to the defendant. The Board is authorized to issue regulations to implement this section.

**§ 29.1-568. When Board may permit taking of endangered or threatened species; designated experimental populations.**

A. The Board may permit the taking, exportation, transportation, or possession of any fish or wildlife which is listed by the provisions of this article, for zoological, educational, or scientific purposes and for propagation of such fish or wildlife in captivity for preservation purposes. Any person may, in accordance with all applicable federal and state laws, possess, breed, sell, and transport any nonnative wildlife included on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), as amended, when (i) the federal designation does not specifically prohibit such possession, breeding, selling, or transporting and (ii) the nonnative wildlife is not included on the list of predatory or undesirable animals specified by regulations of the Board adopted pursuant to § 29.1-542.

B. The Board may adopt regulations that:

1. Allow the taking, possession, exportation, transportation, or release of fish or wildlife within or among designated experimental populations of a specific species, within the context of an approved conservation plan for the species. Any regulation designating an experimental population shall (i) specify the circumstances under which taking of an individual member of an experimental population will be exempt from the prohibitions and penalties



authorized under this article and (ii) describe the geographic extent of the experimental population, which shall be distinct from naturally occurring populations continuing to be subject to the prohibitions and penalties authorized under this article.

2. Allow incidental take provided such regulations shall (i) describe the allowable circumstances; (ii) include provisions that ensure offsets through the implementation of conservation actions specified by the Department to enhance the long-term survival of the species or population; and (iii) require any actual taking to be at a minimum.

**§ 29.1-569. Keeping of reptiles generally; penalty.**

It shall be unlawful for the owner or keeper of any exotic reptile or type of reptile not native to the Commonwealth of Virginia, including but not limited to the American alligator, to keep the reptile in any manner that will permit its escape or to knowingly permit the reptile to run at large. Any violation of this section shall constitute a Class 2 misdemeanor.

**§ 29.1-570. Cooperation of state agencies.**

All departments, commissions, boards, authorities, agencies, offices and institutions within any branch of the state government shall cooperate with the Board in carrying out the purposes of this article.

