

1 C. That the state should assist in the protection of species of wildlife ~~which~~
2 that are determined to be "threatened" or "endangered" elsewhere pursuant to the
3 ~~Federal~~ federal Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., as
4 concurred in by the Louisiana Wildlife and Fisheries Commission, by prohibiting the
5 taking, possession, transportation, exportation from the state, processing, sale or
6 offer for sale or shipment within this state of such endangered species, or by
7 carefully regulating such activities with regard to such species. Exceptions to such
8 prohibitions, for the purpose of enhancing the conservation of such species, may be
9 permitted as set forth elsewhere in this Part; ~~and~~ .

10 D. That funding for the conservation of threatened or endangered species and
11 native plants may be made available to the Louisiana Department of Wildlife and
12 Fisheries annually by appropriations from the general fund of the state. Additionally,
13 sources other than those normally used by the department to support its present
14 wildlife programs may be utilized, including but not limited to federal funding
15 through Section 6 of the federal Endangered Species Act of 1973 and to that extent
16 the department may enter into cooperative agreements with the proper authorities of
17 the government of the United States, issue and promote the sale of "Endangered
18 Species" stamps or utilize such other methods as are deemed appropriate to
19 accomplish the purposes of this Part.

20 §1902. Definitions

21 For the purpose of this Part:

22 (1) "Threatened or endangered species" shall mean any species of wildlife
23 or native plant determined by the secretary of the Department of Wildlife and
24 Fisheries or by the secretary of the Interior of the United States with concurrence by
25 the Wildlife and Fisheries Commission to be of a class that requires protective
26 regulation to prevent its extinction or the destruction or deterioration of its economic
27 usefulness within this state, presently or in the foreseeable future.

28 (2) "Wildlife" shall mean all species of wild vertebrates, and invertebrates.

1 species pursuant to the Federal Endangered Species Act shall be deemed to be an
2 endangered or threatened species under the provisions of this Part.

3 B. In addition to the species deemed to be endangered or threatened pursuant
4 to the Federal Endangered Species Act, the commission may by regulation determine
5 whether any species of wildlife or native plant occurring within this state is an
6 endangered or threatened species because of any of the following factors:

7 * * *

8 C. The secretary may make determinations required by Subsection B of this
9 Section on the basis of the best scientific, commercial, and other data available to it
10 and after consultation, as appropriate, with federal agencies, other interested state
11 agencies, other states having a common interest in the species, and interested persons
12 and organizations. The secretary may not add a species to nor remove a species from
13 any list published pursuant to Subsection D of this Section unless he has first:

14 * * *

15 (2) Allowed at least thirty days following publication for comment from the
16 public and other interested parties; however, that in cases where the department
17 determines that an emergency situation exists involving the continued existence of
18 such species as a viable component of the state's wildlife and native plants the
19 department may add species to such lists provided it has published a public notice
20 that such an emergency situation exists together with a summary of facts which
21 support such determination.

22 (3) In determining whether any species of wildlife or native plant is an
23 endangered species or a threatened species, the department shall take into
24 consideration those actions, if any, being carried out or about to be carried out by the
25 federal government, by other states, by other agencies of this state or political
26 subdivisions thereof, or by any other person which may affect the species under
27 consideration.

28 D.(1) The commission may issue regulations containing a list of all species
29 of wildlife and native plants occurring within this state which are determined in

1 accordance with Subsections A through C of this Section to be an endangered or
2 threatened species. Each list shall refer to the species contained therein by scientific
3 and common name or names, if any, and shall specify with respect to each such
4 species over what portion of its range it is endangered or threatened.

5 (2) Except with respect to species of wildlife and native plants determined
6 to be endangered or threatened pursuant to the Federal Endangered Species Act, the
7 commission may upon the petition of an interested person conduct a review of any
8 listed or unlisted species proposed to be removed from or added to the lists published
9 pursuant to this Subsection, but only if it makes and publishes a public notice that
10 such person has presented substantial evidence which warrants such a review.

11 E. Whenever any species of wildlife or native plant is listed as a threatened
12 or endangered species pursuant to Subsection D of this ~~section~~ Section, the
13 commission shall issue such regulations as it deems necessary and advisable to
14 provide for the conservation of such species. The commission may, by regulation,
15 prohibit with respect to any threatened or endangered species of wildlife any act
16 prohibited under Subsection F of this ~~section~~ Section and with respect to any
17 threatened or endangered species of native plant any act prohibited under Subsection
18 H of this Section.

19 * * *

20 H. With respect to any threatened or endangered species of native plant, it
21 is unlawful, except as provided in Subsection I of this Section, for any person subject
22 to the jurisdiction of this state to:

23 (1) Willfully destroy or harvest any such species growing on the private land
24 of another without first obtaining the written permission of the landowner or legal
25 representative of the landowner.

26 (2) Willfully destroy or harvest any such species on any public land without
27 a permit from the Louisiana Department of Wildlife and Fisheries and written
28 permission from the agency owning the land. However, permits issued for species

1 listed on the federal Endangered Species List under the federal Endangered Species
2 Act of 1973, as amended, must be consistent with federal standards.

3 I. With respect to native plant species, no provision of this Part shall apply
4 to the following:

5 (1) The clearing or other disturbance of land for agricultural or silvicultural
6 purposes.

7 (2) The clearing or removal of threatened or endangered plants by the
8 landowner or his agent.

9 (3) The clearing of land by a public agency or a publicly or privately owned
10 public utility when acting in the performance of its obligation to provide service to
11 the public.

12 (4) The propagation and sale of legally harvested threatened or endangered
13 plant species by entities of the horticultural and nursery industry that are licensed or
14 permitted to operate under the Horticulture Commission Law, R.S. 3:3801 et seq.

15 J. Any law, regulation or ordinance of any political subdivision of this state
16 which applies with respect to the taking, importation, exportation, possession, sale
17 or offer for sale, processing, delivery, carrying, transportation or shipment of wildlife
18 species determined to be endangered species or threatened species pursuant to this
19 Part is void to the extent that it may effectively do either of the following:

20 (1) Permit ~~permit~~ what is prohibited by this Part or by any regulation which
21 implements this Part, ~~or~~ .

22 (2) Prohibit ~~prohibit~~ what is authorized pursuant to an exemption or permit
23 provided for in this Part or in any regulation which implements this Part.

24 K. This Part shall not otherwise be construed to void any law, regulation or
25 ordinance of any political subdivision of this state which is intended to conserve
26 wildlife.

27 * * *

28 §1907. Penalties and enforcement

1 ~~A. Violation of the provisions of R.S. 56:1904(C) or any regulations issued~~
2 ~~pursuant thereto constitutes a class four violation.~~

3 ~~B. Violation of the provisions of R.S. 56:1904(F), or any regulations issued~~
4 ~~pursuant to R.S. 56:1904(E), or failure to procure any permit required by R.S.~~
5 ~~56:1904(G), or violation of the terms of any such permit constitutes a class six~~
6 ~~violation. Any violation of the provisions of this Part or any regulation adopted~~
7 ~~pursuant to the provisions of this Part shall constitute a class six violation punishable~~
8 ~~under the provisions of R.S. 56:36.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 608 Original

2017 Regular Session

White

Abstract: Includes native plants in the species to be conserved by the Dept. of Wildlife and Fisheries under the endangered species laws.

Present law charges the Dept. of Wildlife and Fisheries and the Wildlife and Fisheries Commission with conservation of species of wildlife and the protection of species of wildlife determined to be "threatened" or "endangered" under the federal Endangered Species Act.

Proposed law adds native plants to the species to be conserved and protected by the department and commission. Authorizes the use of federal funds for these purposes. Defines "native plants" to be nonvascular or vascular plants occurring outside of cultivation. Requires the commission to adopt regulations to assist in conservation of native plants. Provides that it is unlawful to willfully destroy or harvest any endangered or threatened species of native plant on private land without written permission of the landowner or his representative. To destroy or harvest on public land a permit from the department must be obtained and written permission from the public entity holding title to the land. Requires any permit issued to be consistent with the federal Endangered Species Act.

Proposed law specifically excludes the clearing of land for agricultural purposes, clearing of land by a landowner or his agent, a public entity when acting in performance of its obligation to provide service to the public, and propagation of legally harvested species by licensed entities of the horticultural and nursery industry.

Proposed law provides for violations to be class six violations punishable with a fine of between \$900 and \$950 or imprisonment for less than 120 days or both and forfeiture of anything seized.

(Amends R.S. 56:1901, 1902, 1903, 1904(A), (B)(intro. para.), (C)(intro. para.) and (2), (D), (E), and (H) and 1907; Adds R.S. 56:1904(C)(3), (I), (J), (K))