

2017 Regular Session

HOUSE BILL NO. 608

BY REPRESENTATIVE WHITE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WILDLIFE & FISHERIES: Allows the Department of Wildlife and Fisheries to manage, regulate, and conserve flora in addition to fauna

1 AN ACT

2 To amend and reenact R.S. 56:1901, 1902(1) 1903, 1904(A), (B)(introductory paragraph),  
3 (C)(2), (D), (E), and (H), and 1907 and to enact R.S. 56:1902(3) and 1904(C)(3), (I),  
4 (J), and (K), relative to threatened and endangered species conservation; to include  
5 native plants in the species to be conserved by the Wildlife and Fisheries  
6 Commission and the Department of Wildlife and Fisheries; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 56:1901, 1902(1), 1903, 1904(A), (B)(introductory paragraph),  
10 (C)(2), (D), (E), and (H), and 1907 are hereby amended and reenacted and R.S. 56:1902(3)  
11 and 1904(C)(3), (I), (J), and (K) are hereby enacted to read as follows:

12 §1901. Legislative findings and declarations

13 The Louisiana Legislature finds:

14 A. That it is the policy of this state to conserve species of wildlife and native  
15 plants for human enjoyment, for scientific purposes, and to insure their perpetuation  
16 as viable components of this state's economic and ~~ecologic~~ ecological systems;.

17 B. That species of wildlife and native plants normally occurring within this  
18 state which may be found to be threatened or endangered within the state should be  
19 accorded such protection as is necessary to maintain and to enhance their numbers;.

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 \* \* \*

1           (3) "Native plant" shall mean any nonvascular or vascular plant occurring  
2           outside of cultivation, excluding species that are known to have escaped cultivation  
3           or to have been intentionally or unintentionally introduced from outside of Louisiana  
4           since European colonization.

5           §1903. Conservation, study, regulation; authority

6           A. The Louisiana Department of Wildlife and Fisheries is authorized to  
7           conserve resident species of wildlife or native plants, and those species determined  
8           to be threatened or endangered by the secretary and the secretary of the Interior of  
9           the United States, and to formulate conservation programs and plans, to be submitted  
10          to the secretary of Interior for review.

11          B. The Louisiana Department of Wildlife and Fisheries is authorized to  
12          conduct investigations on resident wildlife or native plants in order to develop  
13          information relating to populations, distribution, habitat needs, limiting factors and  
14          other biological, economic, and ecological data to determine conservation measures  
15          necessary for their continued ability to sustain themselves successfully. On the basis  
16          of such determinations the commission may issue regulations designed to assist the  
17          continued ability of wildlife or native plants deemed in need of conservation to  
18          perpetuate themselves successfully. The department may conduct ongoing  
19          investigations of wildlife or native plants and the commission may from time to time  
20          amend such regulations.

21          C. The commission may establish such programs, including acquisition of  
22          land or aquatic habitat or interests therein, as are deemed necessary for the  
23          conservation of threatened or endangered species of wildlife or native plants. The  
24          commission may utilize all vested authority except the power of expropriation to  
25          carry out the purposes of this Part.

26          §1904. Threatened or endangered species, determination; notice; lists; regulations

27          A. Any species of wildlife or native plant determined by the secretary of the  
28          Louisiana Department of Wildlife and Fisheries to be an endangered or threatened

1 species pursuant to the ~~Federal~~ federal Endangered Species Act shall be deemed to  
2 be an 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~~ federal Endangered Species Act, the commission may by regulation  
5 determine whether any species of wildlife or native plant occurring within this state  
6 is an 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~~ federal Endangered Species  
7 Act, the commission may upon the petition of an interested person conduct a review  
8 of any listed or unlisted species proposed to be removed from or added to the lists  
9 published pursuant to this Subsection, but only if it makes and publishes a public  
10 notice that such person has presented substantial evidence which warrants such a  
11 review.

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

20 \* \* \*

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

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

27 (2) Willfully destroy or harvest any such species on any public land without  
28 a permit from the Louisiana Department of Wildlife and Fisheries and written  
29 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. (1) With respect to native plant species, no provision of this Part shall  
4 apply to the following:

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

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

9 (c) 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 (d) 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 (e) Any emission or discharge authorized pursuant to a permit, license,  
16 registration, or variance by the Department of Environmental Quality or any water  
17 intake for a facility that holds such permit, license, registration or variance.

18 (2) The provisions of this Part shall not be interpreted to authorize the  
19 department to designate critical habitat on private property.

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

25 (1) Permit ~~permit~~ what is prohibited by this Part or by any regulation which  
26 implements this Part, ~~or,~~

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



permitted by the Department of Environmental Quality, or any water intake for a facility that holds such permit.

Proposed law provides that proposed law does not authorize the department to designate critical habitat on private property.

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(1), 1903, 1904(A), (B)(intro. para.), (C)(2), (D), (E), and (H), and 1907; Adds R.S. 56:1902(3), 1904(C)(3), (I), (J), and (K))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Exclude any emission or discharge permitted by the Dept. of Environmental Quality or any water intake for a facility that holds such permit.
2. Provide that proposed law does not authorize the department to designate critical habitat on private property.
3. Make technical changes.