

SENATE BILL 946

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5lr2357
CF HB 894

By: **Senators Carozza, Hester, and McKay**

Introduced and read first time: January 28, 2025

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2025

CHAPTER _____

1 AN ACT concerning

2 **Endangered and Threatened Species – Incidental Taking – Bats**

3 FOR the purpose of authorizing the Secretary of Natural Resources to issue an incidental
4 taking permit for certain species of bats if an applicant submits a certain plan and
5 the Secretary makes certain findings; and generally relating to the establishment of
6 an incidental taking permit for certain species of bats.

7 BY repealing and reenacting, with amendments,

8 Article – Natural Resources

9 Section 10–2A–05

10 Annotated Code of Maryland

11 (2023 Replacement Volume and 2024 Supplement)

12 BY repealing and reenacting, without amendments,

13 Article – Natural Resources

14 Section 10–2A–05.2

15 Annotated Code of Maryland

16 (2023 Replacement Volume and 2024 Supplement)

17 BY adding to

18 Article – Natural Resources

19 Section 10–2A–05.3

20 Annotated Code of Maryland

21 (2023 Replacement Volume and 2024 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Natural Resources

10–2A–05.

(a) (1) Except with respect to species of wildlife or plants determined to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, upon the petition of an interested person that meets the requirements of paragraph (2) of this subsection, shall conduct a review of any listed or unlisted species proposed to be removed from or added to the lists published pursuant to § 10–2A–04(f) of this subtitle, if the Secretary publishes public notice that the person has presented substantial evidence which warrants a review.

(2) A petition submitted by an interested person under paragraph (1) of this subsection shall include:

(i) A description of the biological distribution of the species in the State;

(ii) The life needs and habitat requirements of the species;

(iii) Evidence:

1. Of the species' decline, if the species is an unlisted species;
or

2. That the species is more common than previously believed and documented, if the species is a listed species;

(iv) All known threats that jeopardize the continued existence of the species;

(v) Any other relevant biological and ecological data or other life history information pertinent to the status of the species;

(vi) Evidence that the species is recognized as a valid species, or infraspecific taxa of regional or national significance; and

(vii) Adequate documentation that the species occurs naturally and is permanently established in the State.

(b) (1) When any species of wildlife or plant is listed as a threatened species pursuant to § 10–2A–04(f) of this subtitle, the Secretary shall adopt regulations necessary and advisable to provide for the conservation of the species.

(2) The Secretary, by regulations, may prohibit with respect to any threatened species of wildlife or plant any act prohibited under subsection (c) of this section.

(c) Except as provided in subsection (f) of this section and [§ 10-2A-05.1] §§ 10-2A-05.1, 10-2A-05.2, AND 10-2A-05.3 of this subtitle, with respect to any endangered species of wildlife, a person may not:

(1) Export the species from the State;

(2) Take the species within the State;

(3) Possess, process, sell or offer for sale, deliver, carry, transport, or ship the species by any means; or

(4) Violate any regulation pertaining to the conservation of the species or to any threatened species of wildlife listed pursuant to this subsection and adopted by the Secretary pursuant to authority provided by this section.

(d) Except as provided in subsection (f) of this section, with respect to any endangered species of plant, a person may not:

(1) Export the species from the State;

(2) Possess, process, sell, offer for sale, deliver, carry, transport, or ship the species by any means; or

(3) Violate any regulation pertaining to the species or to any threatened species of plant listed pursuant to § 10-2A-04(f) of this subtitle and adopted by the Secretary.

(e) Any endangered species of wildlife or plant which enters the State from another state or from a point outside the territorial limits of the United States and which is transported to a point within or beyond the State may enter and be transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(f) The Secretary may permit, under the terms and conditions that the Secretary prescribes, any act otherwise prohibited by subsections (c) and (d) of this section for scientific purposes or to enhance the propagation or survival of the affected species.

10-2A-05.2.

(a) The Secretary may issue a permit to an applicant that authorizes an incidental taking of the endangered Delmarva fox squirrel if:

(1) The applicant submits a conservation plan to the Department that specifies:

- 1 (i) The impact that will likely result from the incidental taking;
- 2 (ii) The steps that the applicant will take to minimize and mitigate
3 the impact;
- 4 (iii) The funding that will be available to implement the steps;
- 5 (iv) The alternative actions to the incidental taking that the
6 applicant considered and the reasons that the alternatives were not used; and
- 7 (v) Any other measures that the Secretary requires as being
8 necessary or appropriate for the purposes of the plan; and

9 (2) The Secretary finds that:

- 10 (i) The incidental taking will not appreciably reduce the likelihood
11 of the survival or recovery of the Delmarva fox squirrel in the wild;
- 12 (ii) The applicant will, to the extent practicable, minimize and
13 mitigate the impacts of the incidental taking;
- 14 (iii) Adequate funding for the conservation plan is available and the
15 plan will be implemented; and
- 16 (iv) The applicant has obtained the required federal authorization for
17 the incidental taking of the Delmarva fox squirrel.

18 (b) The Secretary may adopt regulations to implement and enforce this section.

19 **10-2A-05.3.**

20 (A) THE SECRETARY MAY ISSUE A PERMIT TO AN APPLICANT THAT
21 AUTHORIZES AN INCIDENTAL TAKING OF THE INDIANA BAT, THE EASTERN
22 SMALL-FOOTED BAT, THE NORTHERN LONG-EARED BAT, OR THE ~~TRICOLOR~~
23 TRICOLORED BAT IF:

24 (1) THE APPLICANT SUBMITS A CONSERVATION PLAN TO THE
25 DEPARTMENT THAT SPECIFIES:

26 (I) THE IMPACT THAT WILL LIKELY RESULT FROM THE
27 INCIDENTAL TAKING;

28 (II) THE STEPS THAT THE APPLICANT WILL TAKE TO MINIMIZE
29 AND MITIGATE THE IMPACT;

(III) THE FUNDING THAT WILL BE AVAILABLE TO IMPLEMENT THE STEPS;

(IV) THE ALTERNATIVE ACTIONS TO THE INCIDENTAL TAKING THAT THE APPLICANT CONSIDERED AND THE REASONS THAT THE ALTERNATIVES WERE NOT USED; AND

(V) ANY OTHER MEASURES THAT THE SECRETARY REQUIRES AS BEING NECESSARY OR APPROPRIATE FOR THE PURPOSES OF THE PLAN; AND

(2) THE SECRETARY FINDS THAT:

(I) THE INCIDENTAL TAKING WILL NOT APPRECIABLY REDUCE THE LIKELIHOOD OF THE SURVIVAL OR RECOVERY OF THE INDIANA BAT, THE EASTERN SMALL-FOOTED BAT, THE NORTHERN LONG-EARED BAT, OR THE ~~TRICOLOR~~ TRICOLORED BAT IN THE WILD;

(II) THE APPLICANT WILL, TO THE EXTENT PRACTICABLE, MINIMIZE AND MITIGATE THE IMPACTS OF THE INCIDENTAL TAKING;

(III) ADEQUATE FUNDING FOR THE CONSERVATION PLAN IS AVAILABLE AND THE PLAN WILL BE IMPLEMENTED; AND

(IV) THE APPLICANT HAS OBTAINED THE REQUIRED FEDERAL AUTHORIZATION FOR THE INCIDENTAL TAKING OF THE INDIANA BAT, THE EASTERN SMALL-FOOTED BAT, THE NORTHERN LONG-EARED BAT, OR THE ~~TRICOLOR~~ TRICOLORED BAT.

(B) THE SECRETARY MAY ADOPT REGULATIONS TO IMPLEMENT AND ENFORCE THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.