

SENATE BILL 916

M1, M2

4lr1235
CF HB 345

By: **Senator Brooks**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Fish and Wildlife – Endangered and Threatened Species – Definitions, Petitions,**
3 **and Regulations**

4 FOR the purpose of requiring certain petitions to review the listing or unlisting of
5 endangered or threatened species to contain certain information; requiring the
6 Secretary of Natural Resources to review and, if warranted, update certain
7 regulations listing endangered or threatened species on or before a certain date, and
8 every certain number of years thereafter; defining “fish” and “wildlife” for certain
9 purposes; and generally relating to fish, wildlife, and endangered and threatened
10 species.

11 BY repealing and reenacting, without amendments,
12 Article – Natural Resources
13 Section 4–101(a), 10–101(a), and 10–2A–01(a), (d), (j), (k), and (l)
14 Annotated Code of Maryland
15 (2023 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Natural Resources
18 Section 4–101(j), 4–2A–01, 4–2A–04(f), 4–2A–05(a), 10–101(dd), 10–2A–04, and
19 10–2A–05
20 Annotated Code of Maryland
21 (2023 Replacement Volume and 2023 Supplement)

22 BY adding to
23 Article – Natural Resources
24 Section 10–2A–01(m)
25 Annotated Code of Maryland
26 (2023 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Natural Resources

4–101.

(a) In this title the following words have the meanings indicated.

(j) “Fish” means, **EXCEPT AS PROVIDED IN § 4–2A–01 OF THIS TITLE**, finfish, crustaceans, mollusks, and amphibians and reptiles which spend the majority of their life cycle in water and any part, egg, offspring, or dead body of any of these species.

4–2A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) “Conserve” means to use all methods and procedures for the purpose of increasing the number of individuals within species or populations up to the optimum carrying capacity of their habitat and maintaining these levels. These methods and procedures include all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, including the periodic or total protection of species or populations as well as regulated taking. With respect to endangered and threatened species, the term means to use all methods and procedures including those described above which are necessary to bring any endangered or threatened species to the point at which the measures provided for these species pursuant to this subtitle are no longer necessary except that regulated taking as a method and procedure shall be limited to the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved.

(c) “Ecosystem” means a system of living organisms and their environment, each influencing the existence of the other and necessary for the maintenance of life.

(d) “Endangered species” means any species whose continued existence as a viable component of the State’s fish resources is determined to be in jeopardy including any species of fish determined to be an “endangered species” pursuant to the Endangered Species Act.

(e) “Endangered Species Act” means the Endangered Species Act of 1973, 87 Stat. 884.

(1) “FISH” MEANS FINFISH, CRUSTACEANS, MOLLUSKS, INVERTEBRATES, AMPHIBIANS, AND REPTILES THAT SPEND THE MAJORITY OF THEIR LIFE CYCLE IN WATER.

1 **(2) “FISH” INCLUDES ANY PART, EGG, OFFSPRING, PRODUCT, OR**
2 **DEAD BODY OF ANY FISH.**

3 **(G)** “Optimum carrying capacity” means that point at which a given habitat can
4 support healthy populations of fish species, having regard to the total ecosystem, without
5 diminishing the ability of the habitat to continue that function.

6 **[(g)] (H)** (1) “Species” includes any subspecies of fish and any other group of
7 fish of the same species or smaller taxa in common spatial arrangement that interbreed
8 when mature.

9 (2) “Species” does not include fish which are bred or raised in authorized
10 aquaculture operations in nontidal ponds, lakes, or impoundments.

11 **[(h)] (I)** “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap,
12 capture, or collect, or to attempt to engage in any such conduct.

13 **[(i)] (J)** “Threatened species” means any species of fish which appears likely,
14 within the foreseeable future, to become endangered, including any species of fish
15 determined to be a “threatened species” pursuant to the Endangered Species Act.

16 4–2A–04.

17 (f) **(1)** The Secretary shall adopt rules and regulations containing a list of all
18 species of fish normally occurring within the State determined to be endangered species
19 and a list of all species determined to be threatened species.

20 **(2)** Each list shall refer to the species by scientific and common names and
21 shall specify with respect to each species over what portion of its range it is endangered or
22 threatened.

23 **(3) ON OR BEFORE JULY 1, 2026, AND AT LEAST EVERY 5 YEARS**
24 **THEREAFTER, THE SECRETARY SHALL REVIEW AND, IF WARRANTED, UPDATE THE**
25 **REGULATIONS REQUIRED UNDER THIS SUBSECTION.**

26 4–2A–05.

27 (a) **(1)** Except with respect to species of fish determined to be endangered or
28 threatened pursuant to the Endangered Species Act, the Secretary, upon the petition of an
29 interested person **THAT MEETS THE REQUIREMENTS OF PARAGRAPH (2) OF THIS**
30 **SUBSECTION**, shall conduct a review of any listed or unlisted species proposed to be
31 removed from or added to the lists published pursuant to § 4–2A–04(f) of this subtitle, if
32 **[he] THE SECRETARY** makes and publishes a public notice that the person has presented
33 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 AN INFRASPECIFIC TAXON OF REGIONAL OR NATIONAL SIGNIFICANCE; AND

(VII) ADEQUATE DOCUMENTATION THAT THE SPECIES OCCURS NATURALLY AND IS PERMANENTLY ESTABLISHED IN THE STATE.

10-101.

(a) In this title the following words have the meanings indicated.

(dd) (1) "Wildlife" means, **EXCEPT AS PROVIDED IN § 10-2A-01 OF THIS TITLE**, every living creature, not human, wild by nature, endowed with sensation and power of voluntary motion.

(2) "Wildlife" includes mammals, birds, amphibians, and reptiles which spend a majority of their life cycle on land or any part, egg, offspring, or dead body of any of them.

10-2A-01.

(a) In this subtitle the following words have the meanings indicated.

(d) (1) “Endangered species” means any species whose continued existence as a viable component of the State’s wildlife or plants is determined to be in jeopardy.

(2) “Endangered species” includes any species of wildlife or plant determined to be an “endangered species” pursuant to the Endangered Species Act.

(j) “Species” includes any subspecies of wildlife or plant and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(k) “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(l) “Threatened species” means any species of wildlife or plants which appears likely, within the foreseeable future, to become endangered including any species of wildlife or plant determined to be a “threatened species” pursuant to the Endangered Species Act.

(M) (1) “WILDLIFE” MEANS EVERY LIVING CREATURE, NOT HUMAN, WILD BY NATURE, ENDOWED WITH SENSATION AND POWER OF VOLUNTARY MOTION.

(2) “WILDLIFE” INCLUDES:

(I) MAMMALS, BIRDS, AMPHIBIANS, MOLLUSKS, INVERTEBRATES, CRUSTACEANS, AND REPTILES THAT SPEND A MAJORITY OF THEIR LIFE CYCLE ON LAND; AND

(II) ANY PART, EGG, OFFSPRING, PRODUCT, OR DEAD BODY OF ANY WILDLIFE.

10–2A–04.

(a) (1) Any species of wildlife or plant determined to be endangered species pursuant to the Endangered Species Act shall be deemed to be an endangered species under the provisions of this subtitle and any species of wildlife or plant determined to be a threatened species pursuant to the Endangered Species Act shall be deemed to be a threatened species under the provisions of this subtitle.

(2) The Secretary may determine, in accordance with this section, that any threatened species is an endangered species throughout all or any portion of the range of the species within the State.

(b) In addition to the species deemed to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, by regulation, shall determine whether any

species of wildlife or plant normally occurring within the State is an endangered or threatened species due to any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, educational, or other purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence within the State.

(c) **(1)** The Secretary shall make determinations required by subsection (b) of this section on the basis of the best scientific, commercial, and other data available to 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.

(2) In determining whether any species of wildlife or plant is an endangered species or a threatened species, the Secretary shall take into consideration any actions being carried out or about to be carried out by the federal government, other states, other agencies of this State, or political subdivisions, or by any other person which may affect the species under consideration.

(d) Except with respect to species of wildlife or plants determined to be endangered or threatened species under the provisions of subsection (a) of this section, the Secretary may not add a species to nor remove a species from any list published unless the Secretary first:

(1) Publishes a public notice of the proposed action;

(2) Furnishes notice of the proposed action to the Governor of any state sharing a common border with the State and in which the subject species is known to exist; and

(3) Allows at least 30 days following publication for comment from the public and other interested parties.

(e) Notwithstanding the provisions of subsection (d) of this section, if the Department determines that an emergency situation exists involving the continued existence of the species as a viable component of the State's wildlife or plants, the Department may add the species to the lists if the Department publishes a public notice

1 that an emergency situation exists together with a summary of facts which support this
2 determination.

3 (f) (1) The Secretary shall adopt regulations containing a list of all species of
4 wildlife and plants normally occurring within the State determined to be endangered
5 species and a list of all species determined to be threatened species.

6 (2) Each list shall refer to the species by scientific and common names and
7 shall specify with respect to each species over what portion of its range it is endangered or
8 threatened.

9 (3) ON OR BEFORE JULY 1, 2026, AND AT LEAST EVERY 5 YEARS
10 THEREAFTER, THE SECRETARY SHALL REVIEW AND, IF WARRANTED, UPDATE THE
11 REGULATIONS REQUIRED UNDER THIS SUBSECTION.

12 10-2A-05.

13 (a) (1) Except with respect to species of wildlife or plants determined to be
14 endangered or threatened pursuant to the Endangered Species Act, the Secretary, upon the
15 petition of an interested person **THAT MEETS THE REQUIREMENTS OF PARAGRAPH (2)**
16 **OF THIS SUBSECTION**, shall conduct a review of any listed or unlisted species proposed to
17 be removed from or added to the lists published pursuant to § 10-2A-04(f) of this subtitle,
18 if the Secretary publishes public notice that the person has presented substantial evidence
19 which warrants a review.

20 (2) A PETITION SUBMITTED BY AN INTERESTED PERSON UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

22 (I) A DESCRIPTION OF THE BIOLOGICAL DISTRIBUTION OF THE
23 SPECIES IN THE STATE;

24 (II) THE LIFE NEEDS AND HABITAT REQUIREMENTS OF THE
25 SPECIES;

26 (III) EVIDENCE:

27 1. OF THE SPECIES' DECLINE, IF THE SPECIES IS AN
28 UNLISTED SPECIES; OR

29 2. THAT THE SPECIES IS MORE COMMON THAN
30 PREVIOUSLY BELIEVED AND DOCUMENTED, IF THE SPECIES IS A LISTED SPECIES;

31 (IV) ALL KNOWN THREATS THAT JEOPARDIZE THE CONTINUED
32 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 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

1 restriction in accordance with the terms of any federal permit or permit issued under the
2 laws or regulations of another state.

3 (f) The Secretary may permit, under the terms and conditions [he] **THAT THE**
4 **SECRETARY** prescribes, any act otherwise prohibited by subsections (c) and (d) of this
5 section for scientific purposes or to enhance the propagation or survival of the affected
6 species.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2024.