

1971 Assembly Bill 924

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CHAPTER 275, Laws of 1971

AN ACT to create 29.415 of the statutes, relating to prohibiting the sale, processing and distribution of endangered species of fish and wildlife, granting rule-making authority and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

29.415 of the statutes is created to read:

29.415 ENDANGERED SPECIES PROTECTED. (1) PURPOSE. The legislature finds that certain fish and wildlife are endangered and are entitled to preservation and protection as a matter of general

state concern. The federal endangered species act of 1969 and the Lacey act together provide for the protection of fish and wildlife threatened with world-wide extinction by prohibiting the importation of endangered fish and wildlife and by restricting and regulating interstate and foreign commerce in fish and wildlife taken in violation of state, federal and foreign laws. The states, however, must also assume their responsibility for conserving these fish and wildlife and for restricting the taking, possession, transportation, processing or sale of endangered fish and wildlife within their respective jurisdictions to assure their continued survival and propagation for the aesthetic, recreational and scientific purposes of future generations. The legislature finds that by eliminating the taking, possession or marketing of endangered species in this state and by establishing a program for conservation and restoration of these endangered species, their potential for continued existence will be strengthened. The legislature further finds that the activities of both individual persons and governmental agencies are tending to destroy the few remaining whole plant-animal communities in this state. Since these communities represent the only standard against which the effects of change can be measured, their preservation is of highest importance, and the legislature urges all persons and agencies to fully consider all decisions in this light.

(2) DEFINITION. For purposes of this section, "fish and wildlife" means any species or subspecies of any mammal, fish, wild bird, amphibian, reptile, mollusk or crustacean, any part, products, egg or offspring thereof or the dead body or parts thereof.

(3) ENDANGERED SPECIES LIST. (a) No later than 180 days from the effective date of this section (1971), the department shall by rule establish an endangered species list. The list shall consist of 3 parts: fish and wildlife on the U.S. list of endangered foreign species; fish and wildlife on the U.S. list of endangered domestic species; and a list of endangered Wisconsin species. The list of Wisconsin endangered species shall be compiled by issuing a proposed list of species threatened by state-wide extirpation, followed by solicitation of comments and public hearing. Fish and wildlife shall be deemed threatened with state-wide extirpation if the department determines, based upon the best scientific and commercial data available to it, after consultation with other state game directors, federal agencies and other interested persons and organizations, that the continued existence of such fish and wildlife in this state is endangered.

(b) The department shall annually review and, following public hearing, may revise its endangered species list and shall submit to the governor a summary report of the scientific data used to support all amendments to the state's endangered species list during that year.

(c) The department shall upon the petition of 3 persons review any fish and wildlife on the state-wide list if such persons present scientific evidence to warrant such a review, after which the department may by hearing and order amend the state-wide list. This order shall be effective immediately upon issuance.

(4) PROHIBITION. (a) Except as permitted by departmental rule or permit, no person may take, transport, possess, process or sell within this state any fish and wildlife specified by the department's list of endangered fish and wildlife.

(5) ENFORCEMENT. (a) Whoever violates this section or any rules promulgated thereunder may be fined not less than \$100 nor more than \$1,000 or imprisoned one year or both.

(b) Any officer employed and authorized by the department, or any police officer of this state or of any municipality or county

within this state, shall have the authority to execute a warrant to search for and seize any goods, business records, merchandise or fish and wildlife taken, employed, used or possessed in violation of this section. Any such officer or agent may, without a warrant and upon probable cause arrest any person suspected of violating this section. An officer or agent who has made an arrest of a person in connection with any such violation may search such person or business records at the time of arrest and seize any fish and wildlife, records, or property taken, used or employed in connection with any such violation.

(c) Goods, merchandise, fish, wildlife or records seized under par. (b) shall be held by an officer or agent of the department pending disposition of court proceedings and thereafter be forfeited to the state for destruction or disposition as the department deems appropriate. Prior to forfeiture, the department may direct the transfer of fish and wildlife so seized to a qualified zoological, educational or scientific institution for safekeeping with costs assessable to the defendant.

(6) PERMITS. The department may permit, under such terms and conditions as it may prescribe by rule, the taking, exportation, transportation or possession of any fish and wildlife on the list of endangered species for zoological, educational or scientific purposes and for propagation of such fish and wildlife in captivity for preservation purposes, unless such exportation, possession, transportation or taking is prohibited or permitted by any federal law or regulation, or any other law of this state.

(7) CONSERVATION. The department shall conduct research on the endangered species of this state and shall review its existing programs to ensure that they are directed at conserving, protecting, restoring and propagating selected state-endangered species to the maximum extent practicable.

(8) EXEMPTIONS. This section shall not apply to zoological societies, municipal zoos, or officers or employees thereof.
