

23:2A-3 - 23:2A-7

LEGISLATIVE HISTORY CHECKLIST

NJSA 23:2A-3 - 23:2A-7 (Animals--non game & endangered species -- inspection of facilities)

LAWS 1981 CHAPTER 281

Bill No. A1945

Sponsor(s) McConnell and Stewart

Date Introduced July 28, 1980

Committee: Assembly Agriculture and Environment

Senate Natural Resources & agriculture

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly November 10, 1980

Senate June 25, 1981

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Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly No

Senate Yes

Fiscal Note No

Veto Message No

Message on signing No

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Reports No

Hearings No

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ASSEMBLY, No. 1945

STATE OF NEW JERSEY

INTRODUCED JULY 28, 1980

By Assemblywoman McCONNELL and Assemblyman STEWART

Referred to Committee on Agriculture and Environment

AN ACT to amend "The Endangered and Nongame Species Conservation Act," approved December 14, 1973 (P. L. 1973, c. 309).

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. Section 3 of P. L. 1973, c. 309 (C. 23:2A-3) is amended to read
2 as follows:

3 3. For the purposes of this act, unless the context clearly requires
4 a different meaning:

5 a. "Commissioner" means the Commissioner of the Department
6 of Environmental Protection;

7 b. "Department" means the Department of Environmental
8 Protection;

9 ***[c.** "Director" means the Director of Fish, Game and **[Shell-**
10 **fisheries]** *Wildlife*;

11 d. "Division" means the Division of Fish, Game and **[Shell-**
12 **fisheries]** *Wildlife;*]*

13 ***[e.]** **c.* "Endangered species" means any species or subspecies
14 of wildlife whose prospects of survival or recruitment are in jeop-
15 ardy or are likely within the foreseeable future to become so due to
16 any of the following factors: (1) the destruction, drastic modifica-
17 tion, or severe curtailment of its habitat, or (2) its over-utilization
18 for scientific, commercial or sporting purposes, or (3) the effect on
19 it of disease, pollution, or predation, or (4) other natural or man-
20 made factors affecting its prospects of survival or recruitment
21 within the State, or (5) any combination of the foregoing factors.
22 The term shall also be deemed to include any species or subspecies
23 of wildlife appearing on any Federal endangered species list;

24 ***[f.]** **d.* "Nongame species" means any wildlife for which a
25 legal hunting or trapping season has not been established or which
26 has not been classified as an endangered species by statute or regula-
27 tion of this State;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

28 ***[g.** "Person" means and shall include corporations, companies,
 29 associations, societies, firms, partnerships, and joint stock com-
 30 panies as well as individuals;]*****

31 ***[h.]** **e.* "Take" means to harass, hunt, capture, kill, or attempt
 32 to harass, hunt, capture, or kill, wildlife;

33 ***[i.]** **f.* "Wildlife" means any wild mammal, bird, reptile,
 34 amphibian, fish, mollusk, crustacean or other wild animal or any
 35 part, product, egg or offspring or the dead body or parts thereof.

1 2. Section 5 of P. L. 1973, c. 309 (C. 23:2A-5) is amended to
 2 read as follows:

3 5. *a.* The ***[director, subject to the approval of the]*** commis-
 4 sioner ***[,]*** shall have the power to formulate and promulgate,
 5 adopt, amend and repeal rules and regulations, limiting, controlling
 6 and prohibiting the taking, possession, transportation, exportation,
 7 sale or offer for sale, or shipment of any nongame species or any
 8 wildlife on the endangered species list. Such rules and regulations
 9 shall be designed to promote the public health, safety and welfare
 10 and shall be adopted in accordance with the "Administrative Pro-
 11 cedure Act" (P. L. 1968, c. 410, C. 52:14B-1 et seq.).

12 *b.* The ***[director]*** **commissioner** is authorized to conduct
 13 periodic inspections in order to determine compliance with the rules
 14 and regulations adopted pursuant to this section, and, to that end,
 15 is authorized to charge and collect fees in an amount sufficient to
 16 cover the costs of the inspections *and services performed pursuant
 17 to this amendatory act. Such fees shall be devoted entirely and
 18 exclusively to carrying out the purposes and provisions of this
 19 amendatory act*. Inspection fees shall be established in accordance
 20 with a fee schedule adopted by the department as a rule and regula-
 21 tion pursuant to the provisions of the aforesaid "Administrative
 22 Procedure Act."

1 *3. Section 4 of P. L. 1973, c. 309 (C. 23:2A-4) is amended to
 1A read as follows:

1B 4. *a.* The **[director]** *commissioner* shall conduct investigations
 2 concerning wildlife in order to develop information relating to
 3 populations, distribution, habitat needs, limiting factors and other
 4 biological and ecological data to determine management measures
 5 necessary for their continued ability to sustain themselves success-
 6 fully. On the basis of such determinations the **[director]** *commis-*
 7 *sioner* shall develop management programs which shall be designed
 8 to insure the continued ability of wildlife to perpetuate themselves
 9 successfully.

10 *b.* On the basis of such investigations of wildlife and other
 11 available scientific and commercial data the **[director may]** *com-*

12 *missioner* by regulation promulgate a list of those species and sub-
 13 species of wildlife indigenous to the State which are determined to
 14 be endangered, giving their common and scientific names by species
 15 and subspecies. The **[director]** *commissioner* shall periodically re-
 16 view the State list of endangered species and may by regulation
 17 amend the list making such additions or deletions as are deemed
 18 appropriate.

1 4. Section 6 of P. L. 1973, c. 309 (C. 23:2A-6) is amended to read
 2 as follows:

3 6. Except as otherwise provided in this act or regulations adopted
 4 thereunder, no person shall take, possess, transport, export,
 5 process, sell or offer for sale, or ship, and no common or contract
 6 carrier shall knowingly transport or receive for shipment any
 7 species or subspecies of wildlife appearing on the following lists:
 8 (1) the list of wildlife determined to be endangered by the **[di-**
 9 **rector]** *commissioner* pursuant to this act; (2) the list of nongame
 10 species regulated pursuant to this act; and (3) any Federal list
 11 of endangered species. Any species or subspecies of wildlife appear-
 12 ing on any of the foregoing lists which enters the State from
 13 another state or from and repeal rules and regulations, limiting,
 14 controlling and prohibiting the taking, possession, transportation,
 15 exportation, sale or offer for sale, or shipment of any nongame
 16 species or any wildlife on the endangered species list. Such rules
 17 and regulations shall be designed to promote the public health,
 18 safety and welfare and shall be adopted in accordance with the
 19 Administrative Procedure Act (C. 52:14B-1 et seq.).

1 5. Section 7 of P. L. 1975, c. 309 (23:2A-7) is amended to read
 2 as follows:

3 7. a. The **[director]** *commissioner* shall establish such programs,
 4 including acquisition of land or aquatic habitat, as are deemed
 5 necessary for the conservation and management of nongame and
 6 endangered species of wildlife.

7 b. In carrying out programs authorized by this act, the **[director]**
 8 *commissioner* may enter into agreements with Federal agencies,
 9 political subdivisions of the State, or with private persons for
 10 administration and management of any area established under
 11 this section or utilized for management of nongame or endangered
 12 species of wildlife.

13 c. With the approval of the Governor, the **[director]** *commis-*
 14 *sioner* may cooperate with and receive money from the Federal
 15 Government, or any county or municipal government or from pri-
 16 vate sources for the purposes of this act. The **[director]** *commis-*
 17 *sioner* may establish a separate fund from these contributions for
 18 the support of nongame and endangered species programs.

19 d. The **[**director, subject to the approval of the **]** commissioner**[,]**
20 may authorize, under such terms and conditions as may be pre-
21 scribed by regulation, the taking, possession, transportation, ex-
22 portation or shipment of nongame species and wildlife which
23 appear on the State list of endangered species for scientific,
24 zoological, or educational purposes, for propagation in captivity
25 of such wildlife, or for other special purposes.

26 e. The commissioner shall appoint a committee of experts to
27 advise and assist the **[**director**]** *commissioner* in carrying out the
28 intent of this act. Said experts shall include persons actively in-
29 volved in the conservation of wildlife.*

1 ***[3.]*** *6.* This act shall take effect immediately.

ASSEMBLY, No. 1945

STATE OF NEW JERSEY

INTRODUCED JULY 28, 1980

By Assemblywoman McCONNELL and Assemblyman STEWART

Referred to Committee on Agriculture and Environment

AN ACT to amend "The Endangered and Nongame Species Conservation Act," approved December 14, 1973 (P. L. 1973, c. 309).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1973, c. 309 (C. 23:2A-3) is amended to read
2 as follows:

3 3. For the purposes of this act, unless the context clearly requires
4 a different meaning:

5 a. "Commissioner" means the Commissioner of the Department
6 of Environmental Protection;

7 b. "Department" means the Department of Environmental
8 Protection;

9 c. "Director" means the Director of Fish, Game and [Shell-
10 fisheries] *Wildlife*;

11 d. "Division" means the Division of Fish, Game and [Shell-
12 fisheries] *Wildlife*;

13 e. "Endangered species" means any species or subspecies of
14 wildlife whose prospects of survival or recruitment are in jeopardy
15 or are likely within the foreseeable future to become so due to any
16 of the following factors: (1) the destruction, drastic modification,
17 or severe curtailment of its habitat, or (2) its over-utilization for
18 scientific, commercial or sporting purposes, or (3) the effect on it
19 of disease, pollution, or predation, or (4) other natural or man-
20 made factors affecting its prospects of survival or recruitment
21 within the State, or (5) any combination of the foregoing factors.
22 The term shall also be deemed to include any species or subspecies
23 of wildlife appearing on any Federal endangered species list;

24 f. "Nongame species" means any wildlife for which a legal
25 hunting or trapping season has not been established or which has
26 not been classified as an endangered species by statute or regula-
27 tion of this State;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

28 g. "Person" means and shall include corporations, companies,
29 associations, societies, firms, partnerships, and joint stock com-
30 panies as well as individuals;

31 h. "Take" means to harass, hunt, capture, kill, or attempt to
32 harass, hunt, capture, or kill, wildlife;

33 i. "Wildlife" means any wild mammal, bird, reptile, amphibian,
34 fish, mollusk, crustacean or other wild animal or any part, product,
35 egg or offspring or the dead body or parts thereof.

1 2. Section 5 of P. L. 1973, c. 309 (C. 23:2A-5) is amended to
2 read as follows:

3 5. a. The director, subject to the approval of the commissioner,
4 shall have the power to formulate and promulgate, adopt, amend
5 and repeal rules and regulations, limiting, controlling and pro-
6 hibiting the taking, possession, transportation, exportation, sale
7 or offer for sale, or shipment of any nongame species or any wild-
8 life on the endangered species list. Such rules and regulations shall
9 be designed to promote the public health, safety and welfare and
10 shall be adopted in accordance with the "Administrative Procedure
11 Act" (P. L. 1968, c. 410, C. 52:14B-1 et seq.).

12 b. *The director is authorized to conduct periodic inspections in*
13 *order to determine compliance with the rules and regulations*
14 *adopted pursuant to this section, and, to that end, is authorized to*
15 *charge and collect fees in an amount sufficient to cover the costs of*
16 *the inspections. Inspection fees shall be established in accordance*
17 *with a fee schedule adopted by the department as a rule and*
18 *regulation pursuant to the provisions of the aforesaid "Admin-*
19 *istrative Procedure Act."*

1 3. This act shall take effect immediately.

STATEMENT

This bill authorizes the Division of Fish, Game and Wildlife to conduct regular inspections of facilities housing nongame species or wildlife on the endangered list to determine compliance with the rules and regulations adopted to protect the public health, safety, and welfare and to charge fees for such inspections. The Endangered Nongame Species Program is currently so understaffed and underfunded that inspections are not carried out as often as desirable, or as thoroughly as necessary. Over the past several years, many people have been severely injured by dangerous animals improperly housed and tended. Public health and safety require more scrupulous monitoring.

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 1945

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 29, 1980

Amend page 1, section 1, lines 9-12, omit entirely.

Amend page 1, section 1, line 13, omit "e.", insert "c."

Amend page 1, section 1, line 24, omit "f.", insert "d."

Amend page 2, section 1, lines 28-30, omit entirely.

Amend page 2, section 1, line 31, omit "h.", insert "e."

Amend page 2, section 1, line 33, omit "i.", insert "f."

Amend page 2, section 2, line 3, omit "director, subject to the approval of the"; after "commissioner", omit ",".

Amend page 2, section 2, line 12, omit "director", insert "commissioner".

Amend page 2, section 2, line 16, after "inspections", insert "and services performed pursuant to this amendatory act. Such fees shall be devoted entirely and exclusively to carrying out the purposes and provisions of this amendatory act".

Amend page 2, section 2, after line 19, insert new sections 3, 4, and 5 as follows:

"3. Section 4 of P. L. 1973, c. 309 (C. 23:2A-4) is amended to read as follows:

4. a. The **[director]** *commissioner* shall conduct investigations concerning wildlife in order to develop information relating to populations, distribution, habitat needs, limiting factors and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the **[director]** *commissioner* shall develop management programs which shall be designed to insure the continued ability of wildlife to perpetuate themselves successfully.

b. On the basis of such investigations of wildlife and other available scientific and commercial data the **[director may]** *commissioner* by regulation promulgate a list of those species and subspecies of wildlife indigenous to the State which are determined to be endangered, giving their common and scientific names by species and subspecies. The **[director]** *commissioner* shall periodically review the State list of endangered species and may by regulation amend the list making such additions or deletions as are deemed appropriate.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

4. Section 6 of P. L. 1973, c. 309 (C. 23:2A-6) is amended to read as follows:

6. Except as otherwise provided in this act or regulations adopted thereunder, no person shall take, possess, transport, export, process, sell or offer for sale, or ship, and no common or contract carrier shall knowingly transport or receive for shipment any species or subspecies of wildlife appearing on the following lists: (1) the list of wildlife determined to be endangered by the **[director]** *commissioner* pursuant to this act; (2) the list of nongame species regulated pursuant to this act; and (3) any Federal list of endangered species. Any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from and repeal rules and regulations, limiting, controlling and prohibiting the taking, possession, transportation, exportation, sale or offer for sale, or shipment of any nongame species or any wildlife on the endangered species list. Such rules and regulations shall be designed to promote the public health, safety and welfare and shall be adopted in accordance with the Administrative Procedure Act (C. 52:14B-1 et seq.).

5. Section 7 of P. L. 1975, c. 309 (23:2A-7) is amended to read as follows:

7. a. The **[director]** *commissioner* shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for the conservation and management of nongame and endangered species of wildlife.

b. In carrying out programs authorized by this act, the **[director]** *commissioner* may enter into agreements with Federal agencies, political subdivisions of the State, or with private persons for administration and management of any area established under this section or utilized for management of nongame or endangered species of wildlife.

c. With the approval of the Governor, the **[director]** *commissioner* may cooperate with and receive money from the Federal Government, or any county or municipal government or from private sources for the purposes of this act. The **[director]** *commissioner* may establish a separate fund from these contributions for the support of nongame and endangered species programs.

d. The **[director, subject to the approval of the]** *commissioner* **[,]** may authorize, under such terms and conditions as may be prescribed by regulation, the taking, possession, transportation, exportation or shipment of nongame species and wildlife which appear on the State list of endangered species for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

e. The commissioner shall appoint a committee of experts to advise and assist the **[director]** *commissioner* in carrying out the intent of this act. Said experts shall include persons actively involved in the conservation of wildlife.”.

Amend page 2, section 3, line 1, omit “3.”, insert “6.”.

SENATE NATURAL RESOURCES AND AGRICULTURE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1945

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 1981

This bill authorizes the Commissioner of Environmental Protection to conduct regular inspections of facilities housing nongame species or wildlife on the endangered list to determine compliance with the rules and regulations adopted to protect the public health, safety, and welfare. The Endangered and Nongame Species Program is currently so understaffed and underfunded that inspections are not carried out as often as desirable, or as thoroughly as necessary. Over the past several years, many people have been severely injured by dangerous animals improperly housed and tended. Public health and safety require more scrupulous monitoring. To that end the commissioner is specifically authorized to charge and collect fees for periodic inspections and any other services which might be performed relative to the Endangered and Nongame Species Program. The bill also stipulates that the fees collected shall be devoted entirely and exclusively to such an inspection program.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

SEPTEMBER 10, 1981

DAVE DE MAIO

Governor Brendan Byrne today signed into law A-1945, sponsored by Assemblywoman Barbara McConnell (D-Hunterdon), authorizing the Department of Environmental Protection (DEP) to conduct regular inspections of wildlife facilities.

The bill, which amends the existing Endangered and Nongame Species Conservation Act, also authorizes DEP to establish a fee schedule to cover the costs of the inspections.

The Department currently has the authority to regulate the sale and transportation of nongame, exotic and potentially dangerous animals exhibited at zoos, casinos and safari parks, but until now lacked the authority to conduct inspections and charge fees.

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