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Indicates New Matter

AMENDED

February 5, 2020

**H. 4831**

Introduced by Reps. Hixon, Ligon, B. Newton, Forrest, R. Williams and Jefferson

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Read the first time January 14, 2020.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑15‑15 SO AS TO PROHIBIT CERTAIN ACTIVITIES RELATED TO THIS STATE’S NATIVE REPTILE AND AMPHIBIAN SPECIES AND TO REQUIRE THE ESTABLISHMENT OF POSSESSION LIMITS; BY ADDING SECTION 50‑15‑55 SO AS TO PROHIBIT THE RELEASE OF NONNATIVE CAPTIVE WILDLIFE IN THIS STATE; TO AMEND SECTION 50‑15‑10, RELATING TO DEFINITIONS, SO AS TO DEFINE NEW TERMS AND EXPAND THE TERM “NONGAME SPECIES” TO INCLUDE ANIMAL PARTS, PRODUCTS, EGGS, AND OFFSPRING; TO AMEND SECTION 50‑15‑30, RELATING TO THE LISTING OF ENDANGERED SPECIES, SO AS TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO CONDUCT THE REVIEW OF THE STATE LIST OF ENDANGERED SPECIES; TO AMEND SECTION 50‑15‑40, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT PROGRAMS, SO AS TO AUTHORIZE THE DEPARTMENT TO ESTABLISH WILDLIFE MANAGEMENT PROGRAMS; TO AMEND SECTION 50‑15‑80, RELATING TO PENALTIES FOR VIOLATIONS OF CERTAIN PROVISIONS, SO AS TO GRANT CONCURRENT JURISDICTION OVER THESE VIOLATIONS TO MAGISTRATES COURTS, TO INCREASE MONETARY PENALTIES, AND TO PROVIDE FOR THE REVOCATION OF PERMITS GRANTED TO A PERSON WHO VIOLATES CERTAIN PROVISIONS; AND TO AMEND SECTION 50‑15‑310, RELATING TO DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA CAPTIVE ALLIGATOR PROPAGATION ACT, SO AS TO ALTER THE DEFINITIONS OF THE TERMS “ALLIGATOR PROPAGATION FACILITY” AND “COMMERCIAL PURPOSES”.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

“Section 50‑15‑15. (A) Except as otherwise provided in this title, it is unlawful for a person to sell, purchase, trade, exchange, barter, export, ship, transfer the possession of, rehome, remove, or attempt to remove from this State any native reptile or amphibian species, including parts, products, eggs, offspring, and derivatives thereof. The department may provide exceptions by regulation.

(B) The department may establish possession limits for reptile and amphibian species by regulation in order to protect designated species from commercial exploitation and other pressures on the populations of designated species.”

SECTION 2. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

“Section 50‑15‑55. (A) Except as otherwise provided in this title, it is unlawful for a person to release wildlife that is not native to this State from captivity in this State. Sanitary and safe disposal of dead wildlife is not a violation of this section.

(B) The department may promulgate regulations to prohibit or otherwise restrict certain species of nonnative wildlife in this State, including species that:

(1) have the potential to become established in this State in sufficient numbers so as to become a nuisance; and

(2) pose a demonstrable deleterious and widespread threat to wildlife, agriculture, or human health and safety.”

SECTION 3. Section 50‑15‑10 of the 1976 Code is amended to read:

“Section 50‑15‑10. As used in this article:

(1) ‘Captivity’ means the condition in which an animal is contained in an enclosed cage, carrier, aquarium, or similar device, yard, or enclosure that prohibits the natural movement of the animal.

(2) ‘Ecosystem’ means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

~~(2)~~(3) ‘Endangered species’ means any species or subspecies of wildlife whose prospects of survival or recruitment within the State are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:

(a) the destruction, drastic modification, or severe curtailment of its habitat, or

(b) its over‑utilization for scientific, commercial, or sporting purposes, or

(c) the effect on it of disease, pollution, or predation, or

(d) other natural or manmade factors affecting its prospects of survival or recruitment within the State, or

(e) any combination of the foregoing factors. The term shall also be deemed to include any species or subspecies of fish or wildlife appearing on the United States’ List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D) as well as any species or subspecies of fish and wildlife appearing on the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A), as such list may be modified hereafter.

~~(3)~~(4) ‘Management’ means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

~~(4)~~(5) ‘Native’ means any species or subspecies considered to be indigenous and naturally occurring in this State.

(6) ‘Nongame species’ means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species.

~~(5)~~(7) ‘Optimum carrying capacity’ means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

~~(6)~~(8) ‘Person’ means any individual, firm, corporation, association, or partnership.

~~(7)~~(9) ‘Take’ means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

~~(8)~~(10) ‘Wildlife’ means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg or offspring, or the dead body or parts thereof.”

SECTION 4. Section 50‑15‑30(B) and (C) of the 1976 Code is amended to read:

“(B) The ~~board~~ department shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The ~~board~~ department shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

(C) Except as otherwise provided in this ~~article~~ chapter, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(1) the list of wildlife indigenous to the State determined to be endangered within the State pursuant to subsection (A);

(2) the United States’ List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D); and

(3) the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Appendix A), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from a point outside the territorial limits of the United States and which is transported across the State destined for a point beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.”

SECTION 5. Section 50‑15‑40(A) of the 1976 Code is amended to read:

“(A) The ~~board~~ department shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The ~~board~~ department shall utilize all authority vested in the department to carry out the purposes of this section.”

SECTION 6. Section 50‑15‑80 of the 1976 Code is amended to read:

“Section 50‑15‑80. (A) A person who violates Section 50‑15‑15, Section 50‑15‑20, or a person who fails to procure or violates the terms of a permit issued under the regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days ~~and ordered to pay restitution~~, or both.

(B) A person who violates Section 50‑15‑30(C), Section 50‑15‑55, or regulations promulgated pursuant to ~~it~~ these sections or a person who fails to procure or violates the terms of a permit issued pursuant to Section 50‑15‑40(D) and (E) is guilty of a misdemeanor and, upon conviction, must be fined ~~one thousand~~ not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(C)(1) The magistrates court has concurrent jurisdiction over violations of Sections 50‑15‑15, 50‑15‑20, 50‑15‑30, 50‑15‑40(D) and (E), 50‑15‑55, and regulations promulgated pursuant to these sections.

(2) Each individual animal not covered by a legal exemption or authorization by the department is considered a separate violation. The court may order restitution for a violation of these sections.

(3) Upon conviction of the violator, the department must revoke any permits issued pursuant to this chapter and the violator is prohibited from applying to obtain another permit from the department directly or indirectly for a period of two years following the conviction.

(D) An enforcement officer employed and authorized by the department or a police officer of the State or a municipality or county within the State may conduct searches as provided by law and execute a warrant to search for and seize equipment, business records, merchandise, or wildlife taken, used, or possessed in connection with a violation of this article. The officer or agency, without a warrant, may arrest a person who the officer or agent has probable cause to believe is violating, in his presence or view, the article or a regulation or permit provided for by it. An officer or agent who has made an arrest of a person in connection with a violation may search the person or business records at the time of arrest and seize wildlife, records, or property taken or used in connection with the violation.

~~(D)~~(E) Equipment, merchandise, wildlife, or records seized under subsection ~~(C)~~(D) must be held by an officer or agent of the department pending disposition of court proceedings and forfeited to the State for destruction or disposition as the ~~board~~ department considers appropriate. Before forfeiture, the ~~board~~ department may direct the transfer of wildlife seized to a qualified zoological, educational, or scientific institution for safekeeping. The costs of ~~the transfer~~ holding the confiscated wildlife and items are assessable to the defendant upon conviction. The department may promulgate regulations to implement this subsection.”

SECTION 7. Section 50‑15‑310(2) and (5) of the 1976 Code is amended to read:

“(2) ‘Alligator propagation facility’ means an enclosed area not located on public lands or waters, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters where alligators are bred or raised as captive animals generally for the purpose of the sale, barter, or trade of alligators, alligator parts, alligator meat, or alligator hides.

(5) ‘Commercial purposes’ means to derive income or other consideration of value or operating with the intent to derive income or other consideration of value.”

SECTION 8. This act takes effect upon approval by the Governor.

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