**A** **BILL**

TO AMEND ARTICLE 1, CHAPTER 15, TITLE 50 OF THE 1976 CODE, RELATING TO NONGAME AND ENDANGERED WILDLIFE SPECIES, BY ADDING SECTION 50‑15‑15, TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO SELL, PURCHASE, TRADE, EXCHANGE, BARTER, EXPORT, SHIP, TRANSFER THE POSSESSION OF, RE‑HOME, REMOVE, OR ATTEMPT TO REMOVE FROM THIS STATE ANY NATIVE REPTILE OR AMPHIBIAN SPECIES AND TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY ESTABLISH POSSESSION LIMITS FOR REPTILE AND AMPHIBIAN SPECIES BY REGULATION; TO AMEND SECTION 50-15-30(B) AND (C) OF THE 1976 CODE, RELATING TO THE ENDANGERED SPECIES LISTED, TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 50-15-40(A), RELATING TO ESTABLISHING AND CARRYING OUT PROGRAMS FOR THE MANAGEMENT OF NONGAME AND ENDANGERED WILDLIFE, TO MAKE TECHNICAL CHANGES; TO AMEND ARTICLE 1, CHAPTER 15, TITLE 50 OF THE 1976 CODE, RELATING TO NONGAME AND ENDANGERED WILDLIFE SPECIES, BY ADDING SECTION 50‑15‑55, TO PROVIDE THAT IT IS UNLAWFUL FOR WILDLIFE THAT IS NOT NATIVE TO THIS STATE TO BE RELEASED FROM CAPTIVITY IN THIS STATE AND TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY PROMULGATE REGULATIONS TO PROHIBIT OR OTHERWISE RESTRICT CERTAIN SPECIES OF NON‑NATIVE WILDLIFE IN THIS STATE; TO AMEND SECTION 50-15-80 OF THE 1976 CODE, RELATING TO PENALTIES, SEARCHES AND SEIZURES, THE POWER TO ARREST, AND THE DISPOSITION OF CONFISCATED PROPERTY, TO PROVIDE PENALTIES FOR THE SALE, PURCHASE, TRADE, EXCHANGE, BARTER, EXPORT, SHIPPING, TRANSFER, POSSESSION, OR RE‑HOMING OF ANY NATIVE REPTILE OR AMPHIBIAN SPECIES AND FOR THE RELEASE FROM CAPTIVITY IN THIS STATE OF WILDLIFE THAT IS NOT NATIVE TO THIS STATE, TO PROVIDE THAT THE MAGISTRATE’S COURT HAS CONCURRENT JURISDICTION OVER SUCH VIOLATIONS, TO PROVIDE THAT A VIOLATOR MUST ALSO HAVE ANY PERMITS ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES REVOKED AND MAY NOT APPLY TO OBTAIN ANOTHER PERMIT FOR A CERTAIN PERIOD OF TIME; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 50‑15‑10 of the 1976 Code is amended by adding appropriately numbered new items to read:

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

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

SECTION 2. Section 50-15-10(4) of the 1976 Code is amended to read:

“(4) ‘Nongame species’ means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal, including parts, products, eggs, offspring, and derivatives thereof, not otherwise legally classified by statute or regulation of this State as a game species.”

SECTION 3. 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, re‑home, 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 exemptions to this section 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 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:

“Section 50-15-40. (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. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

“Section 50‑15‑55. (A) It is unlawful for wildlife that is not native to this State to be released 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 non‑native wildlife in this State, including:

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

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

SECTION 7. 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 or 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, or both ~~and ordered to pay restitution~~. The magistrate’s court has concurrent jurisdiction over such violations. Each individual animal not covered by a legal exemption or authorization by the department is a separate violation of Section 50-15-15, Section 50‑15‑20, or a permit issued under the regulations. Upon the conviction of a violator, the department must revoke any permits issued to the violator pursuant to this chapter, and the violator may not apply to obtain another permit from the department in a personal capacity or indirectly through corporate or other forms for a period of two years following conviction. In addition, the court may order restitution for a violation of Section 50-15-15, Section 50‑15‑20, or a permit issued under the regulations.

(B) A person who violates Section 50-15-55, Section 50‑15‑30(C), or regulations promulgated ~~pursuant to it~~ pursuant to 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. The magistrate’s court has concurrent jurisdiction over such violations. Each individual animal not covered by a legal exemption or authorization by the department is a separate violation of Section 50-15-55, Section 50‑15‑30(C), or regulations promulgated pursuant to these sections. Upon the conviction of a violator, the department must revoke any permits issued to the violator pursuant to this chapter, and the violator may not apply to obtain another permit from the department in a personal capacity or indirectly through corporate or other forms for a period of three years following conviction. In addition, the court may order restitution for a violation of Section 50-15-55, Section 50‑15‑30(C), or regulations promulgated pursuant to these sections.

(C) 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~~ chapter 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) Equipment, merchandise, wildlife, or records seized under subsection (C) 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 holding the ~~transfer~~ confiscated wildlife and items are assessable to the defendant regardless of the disposition of the proceedings. The department may promulgate regulations to implement this subsection.”

SECTION 8. A. 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 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 9. This act takes effect upon approval by the Governor.

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