## 2017 Regular Session

### HOUSE BILL NO. 608

### BY REPRESENTATIVE WHITE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

# WILDLIFE & FISHERIES: Allow the Department of Wildlife and Fisheries to manage, regulate, conserve flora in addition to fauna

1	AN ACT
2	To amend and reenact R.S. 56:1901, 1902(1) and (2), 1903, 1904(A), (B)(introductory
3	paragraph), (C)(introductory paragraph) and (2), (D), (E), and (H), and 1907 and to
4	enact R.S. 56:1902(3) and 1904(C)(3), (I), (J), and (K), relative to threatened and
5	endangered species conservation; to include native plants in the species to be
6	conserved by the Wildlife and Fisheries Commission and the Department of Wildlife
7	and Fisheries; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 56:1901, 1902(1) and (2), 1903, 1904(A), (B)(introductory
10	paragraph), (C)(Introductory Paragraph) and (2), (D), (E), and (H), and 1907 are hereby
11	amended and reenacted and R.S. 56:1902(3) and 1904(C)(3), (I), (J), and (K) are hereby
12	enacted to read as follows:
13	§1901. Legislative findings and declarations
14	The Louisiana Legislature finds:
15	A. That it is the policy of this state to conserve species of wildlife and native
16	plants for human enjoyment, for scientific purposes, and to insure their perpetuation
17	as viable components of this state's economic and ecologic ecological systems;.
18	B. That species of wildlife and native plants normally occurring within this
19	state which may be found to be threatened or endangered within the state should be
20	accorded such protection as is necessary to maintain and to enhance their numbers;

1 C. That the state should assist in the protection of species of wildlife which 2 that are determined to be "threatened" or "endangered" elsewhere pursuant to the 3 Federal Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., as 4 concurred in by the Louisiana Wildlife and Fisheries Commission, by prohibiting the 5 taking, possession, transportation, exportation from the state, processing, sale or 6 offer for sale or shipment within this state of such endangered species, or by 7 carefully regulating such activities with regard to such species. Exceptions to such 8 prohibitions, for the purpose of enhancing the conservation of such species, may be 9 permitted as set forth elsewhere in this Part; and.

10 D. That funding for the conservation of threatened or endangered species and 11 native plants may be made available to the Louisiana Department of Wildlife and 12 Fisheries annually by appropriations from the general fund of the state. Additionally, 13 sources other than those normally used by the department to support its present 14 wildlife programs may be utilized, including but not limited to federal funding 15 through Section 6 of the federal Endangered Species Act of 1973 and to that extent 16 the department may enter into cooperative agreements with the proper authorities of 17 the government of the United States, issue and promote the sale of "Endangered 18 Species" stamps or utilize such other methods as are deemed appropriate to 19 accomplish the purposes of this Part.

20 §1902. Definitions

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For the purpose of this Part:

(1) "Threatened or endangered species" shall mean any species of wildlife
or native plant determined by the secretary of the Department of Wildlife and
Fisheries or by the secretary of the Interior of the United States with concurrence by
the Wildlife and Fisheries Commission to be of a class that requires protective
regulation to prevent its extinction or the destruction or deterioration of its economic
usefulness within this state, presently or in the foreseeable future.

(2) "Wildlife" shall mean all species of wild vertebrates, and invertebrates.

1	(3) "Native plant" shall mean any nonvascular or vascular plants occurring
2	outside of cultivation, excluding species that are known to have escaped cultivation
3	or to have been intentionally or unintentionally introduced from outside of Louisiana
4	since European colonization.
5	* * *
6	§1903. Conservation, study, regulation; authority
7	A. The Louisiana Department of Wildlife and Fisheries is authorized to
8	conserve resident species of wildlife or native plants, and those species determined
9	to be threatened or endangered by the secretary and the secretary of the Interior of
10	the United States, and to formulate conservation programs and plans, to be submitted
11	to the secretary of Interior for review.
12	B. The Louisiana Department of Wildlife and Fisheries is authorized to
13	conduct investigations on resident wildlife or native plants in order to develop
14	information relating to populations, distribution, habitat needs, limiting factors and
15	other biological, economic, and ecological data to determine conservation measures
16	necessary for their continued ability to sustain themselves successfully. On the basis
17	of such determinations the commission may issue regulations designed to assist the
18	continued ability of wildlife or native plants deemed in need of conservation to
19	perpetuate themselves successfully. The department may conduct ongoing
20	investigations of wildlife or native plants and the commission may from time to time
21	amend such regulations.
22	C. The commission may establish such programs, including acquisition of
23	land or aquatic habitat or interests therein, as are deemed necessary for the
24	conservation of threatened or endangered species of wildlife or native plants. The
25	commission may utilize all vested authority except the power of expropriation to
26	carry out the purposes of this Part.
27	§1904. Threatened or endangered species, determination; notice; lists; regulations
28	A. Any species of wildlife or native plant determined by the secretary of the
29	Louisiana Department of Wildlife and Fisheries to be an endangered or threatened

1	species pursuant to the Federal federal Endangered Species Act shall be deemed to
2	be an endangered or threatened species under the provisions of this Part.
3	B. In addition to the species deemed to be endangered or threatened pursuant
4	to the Federal federal Endangered Species Act, the commission may by regulation
5	determine whether any species of wildlife or native plant occurring within this state
6	is an endangered or threatened species because of any of the following factors:
7	* * *
8	C. The secretary may make determinations required by Subsection B of this
9	Section on the basis of the best scientific, commercial, and other data available to it
10	and after consultation, as appropriate, with federal agencies, other interested state
11	agencies, other states having a common interest in the species, and interested persons
12	and organizations. The secretary may not add a species to nor remove a species from
13	any list published pursuant to Subsection D of this Section unless he has first:
14	* * *
15	(2) Allowed at least thirty days following publication for comment from the
16	public and other interested parties; however, that in cases where the department
17	determines that an emergency situation exists involving the continued existence of
18	such species as a viable component of the state's wildlife and native plants the
19	department may add species to such lists provided it has published a public notice
20	that such an emergency situation exists together with a summary of facts which
21	support such determination.
22	(3) In determining whether any species of wildlife or native plant is an
23	endangered species or a threatened species, the department shall take into
24	consideration those actions, if any, being carried out or about to be carried out by the
25	federal government, by other states, by other agencies of this state or political
26	subdivisions thereof, or by any other person which may affect the species under
27	consideration.
28	D.(1) The commission may issue regulations containing a list of all species
29	of wildlife and native plants occurring within this state which are determined in

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accordance with Subsections A through C of this Section to be an endangered or
 threatened species. Each list shall refer to the species contained therein by scientific
 and common name or names, if any, and shall specify with respect to each such
 species over what portion of its range it is endangered or threatened.

5 (2) Except with respect to species of wildlife <u>and native plants</u> determined 6 to be endangered or threatened pursuant to the Federal federal Endangered Species 7 Act, the commission may upon the petition of an interested person conduct a review 8 of any listed or unlisted species proposed to be removed from or added to the lists 9 published pursuant to this Subsection, but only if it makes and publishes a public 10 notice that such person has presented substantial evidence which warrants such a 11 review.

12 E. Whenever any species of wildlife or native plant is listed as a threatened 13 or endangered species pursuant to Subsection D of this section, the 14 commission shall issue such regulations as it deems necessary and advisable to 15 provide for the conservation of such species. The commission may, by regulation, 16 prohibit with respect to any threatened or endangered species of wildlife any act 17 prohibited under Subsection F of this section <u>Section and with respect to any</u> 18 threatened or endangered species of native plant any act prohibited under Subsection 19 H of this Section.

H. <u>With respect to any threatened or endangered species of native plant, it</u>
 <u>is unlawful, except as provided in Subsection I of this Section, for any person subject</u>
 to the jurisdiction of this state to:

24 (1) Willfully destroy or harvest any such species growing on the private land
 25 of another without first obtaining the written permission of the landowner or legal
 26 representative of the landowner.

(2) Willfully destroy or harvest any such species on any public land without
 a permit from the Louisiana Department of Wildlife and Fisheries and written
 permission from the agency owning the land. However, permits issued for species

1	listed on the federal Endangered Species List under the federal Endangered Species
2	Act of 1973, as amended, must be consistent with federal standards.
3	I. With respect to native plant species, no provision of this Part shall apply
4	to the following:
5	(1) The clearing or other disturbance of land for agricultural or silvicultural
6	purposes.
7	(2) The clearing or removal of threatened or endangered plants by the
8	landowner or his agent.
9	(3) The clearing of land by a public agency or a publicly or privately owned
10	public utility when acting in the performance of its obligation to provide service to
11	the public.
12	(4) The propagation and sale of legally harvested threatened or endangered
13	plant species by entities of the horticultural and nursery industry that are licensed or
14	permitted to operate under the Horticulture Commission Law, R.S. 3:3801 et seq.
15	$\underline{J}$ . Any law, regulation or ordinance of any political subdivision of this state
16	which applies with respect to the taking, importation, exportation, possession, sale
17	or offer for sale, processing, delivery, carrying, transportation or shipment of wildlife
18	species determined to be endangered species or threatened species pursuant to this
19	Part is void to the extent that it may effectively do either of the following:
20	(1) <u>Permit permit</u> what is prohibited by this Part or by any regulation which
21	implements this Part <del>, or</del> .
22	(2) <u>Prohibit prohibit</u> what is authorized pursuant to an exemption or permit
23	provided for in this Part or in any regulation which implements this Part.
24	$\underline{K}$ . This Part shall not otherwise be construed to void any law, regulation or
25	ordinance of any political subdivision of this state which is intended to conserve
26	wildlife.
27	* * *

1	§1907. Penalties and enforcement
2	A. Violation of the provisions of R.S. 56:1904(C) or any regulations issued
3	pursuant thereto constitutes a class four violation.
4	B. Violation of the provisions of R.S. 56:1904(F), or any regulations issued
5	pursuant to R.S. 56:1904(E), or failure to procure any permit required by R.S.
6	56:1904(G), or violation of the terms of any such permit constitutes a class six
7	violation. Any violation of the provisions of this Part or any regulation adopted
8	pursuant to the provisions of this Part shall constitute a class six violation punishable
9	under the provisions of R.S. 56:36.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 608 Engrossed	2017 Regular Session	White
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Abstract: Includes native plants in the species to be conserved by the Dept. of Wildlife and Fisheries under the endangered species laws.

<u>Present law</u> charges the Dept. of Wildlife and Fisheries and the Wildlife and Fisheries Commission with conservation of species of wildlife and the protection of species of wildlife determined to be "threatened" or "endangered" under the federal Endangered Species Act.

<u>Proposed law</u> adds native plants to the species to be conserved and protected by the department and commission. Authorizes the use of federal funds for these purposes. Defines "native plants" to be nonvascular or vascular plants occurring outside of cultivation. Requires the commission to adopt regulations to assist in conservation of native plants. Provides that it is unlawful to willfully destroy or harvest any endangered or threatened species of native plant on private land without written permission of the landowner or his representative. To destroy or harvest on public land, a permit from the department and written permission from the public entity holding title to the land must be obtained. Requires any permit issued to be consistent with the federal Endangered Species Act.

<u>Proposed law</u> specifically excludes the clearing of land for agricultural purposes, clearing of land by a landowner or his agent, a public entity when acting in performance of its obligation to provide service to the public, and propagation of legally harvested species by licensed entities of the horticultural and nursery industry.

<u>Proposed law</u> provides for violations to be class six violations punishable with a fine of between \$900 and \$950 or imprisonment for less than 120 days or both and forfeiture of anything seized.

(Amends R.S. 56:1901, 1902(1) and (2), 1903, 1904(A), (B)(intro. para.), (C)(intro. para.) and (2), (D), (E), and (H), and 1907; Adds R.S. 56:1902(3),1904(C)(3), (I), (J), and (K))