

SENATE, No. 3044

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 28, 2017

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Prohibits certain activities impacting animal and plant species that are of special concern, rare, threatened, or endangered on State-owned lands, and codifies DEP's "Landscape Project" concerning critical habitat.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning habitat for animal and plant species that are of
2 special concern, rare, threatened, or endangered, supplementing
3 Title 13 of the Revised Statutes, and amending P.L.1988, c.127.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. (New section) a. Notwithstanding any other law, or any rule
9 or regulation adopted pursuant thereto, to the contrary, no activity
10 shall be undertaken on State-owned lands that would negatively
11 impact the natural habitat, functioning ecosystem, or populations of
12 species of fauna or flora that are of special concern, rare,
13 threatened, or endangered, or rare biological communities. The
14 prohibition established in this subsection shall apply to controlled
15 burns, forestry activities including clear-cut, selective cutting, or
16 thinning activities, undergrowth removal, wetlands alteration or
17 filling, and other similar activities that have the potential to alter
18 critical habitat for fauna or flora on State-owned lands.

19 b. Any plan to alter, modify, or remove natural habitat from
20 State-owned lands shall be limited to activities that enhance habitat
21 for species of fauna or flora that are of special concern, rare,
22 threatened, or endangered, and may proceed only after the
23 Department of Environmental Protection conducts a primary source
24 natural resource inventory and environmental assessment using
25 species occurrence data from the Natural Heritage Program,
26 established pursuant to section 2 of P.L.1988, c.127 (C.13:1B-
27 15.147), identifying critical areas for imperiled species based on
28 land-use and land-cover classifications as well as site-specific
29 surveys when warranted by survey gaps in the Natural Heritage
30 Program database, and after it has been determined by the
31 preponderance of the evidence that the proposed activity will
32 positively impact significantly more species of fauna or flora that
33 are of special concern, rare, threatened, or endangered than it may
34 harm. The assessment of the habitat requirements of individual
35 species shall be determined by the department based on species
36 occurrence area justifications and the land-use and land-cover for
37 species analysis.

38 c. The provisions of subsections a. and b. of this section shall
39 not apply to stewardship activities on State-owned lands if the
40 Commissioner of Environmental Protection determines an activity
41 to be necessary to: protect human health; prevent or minimize
42 outbreaks of alien invasive pests or pathogens; control invasive
43 species; or prevent or minimize fire hazards.

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45 2. Section 1 of P.L.1988, c.127 (C.13:1B-15.146) is amended to
46 read as follows:

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

Matter underlined thus is new matter.

1 1. The Legislature finds and declares that this State has a rich
2 natural heritage which is in danger of disappearing as the State
3 continues to experience economic and industrial growth; that a
4 program to conduct an inventory of rare plants, animals, and natural
5 communities throughout New Jersey was established in 1984
6 through a cooperative agreement between the Department of
7 Environmental Protection and The Nature Conservancy, a nonprofit
8 conservation organization; that this program is providing up-to-date
9 information on **[rare]** species that are of special concern, rare,
10 threatened, and endangered, and natural communities to planners,
11 developers, and conservation agencies for use in resource
12 management, environmental impact assessment, and both public
13 and private land protection efforts; that this program enables the
14 State to share information, in a national network, with the more
15 than 40 other states with comparable programs; that the continued
16 success and usefulness of the program is dependent upon
17 continuously updating and refining the information in the inventory;
18 that, by design, The Nature Conservancy intended to end their
19 participation in the program after fiscal year 1987 but has
20 temporarily extended their participation pending the establishment
21 of a formal program; and the Legislature therefore determines that
22 in order to preserve the State's natural diversity the Natural Heritage
23 Program needs to be formally recognized and established.

24 The Legislature further finds and declares that all plant species
25 that occur on State-owned lands and are listed on the State list of
26 endangered plant species and plant species of concern developed
27 and maintained pursuant to the "Endangered Plant Species List
28 Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), are worthy of careful
29 consideration and protection, and that activities proposed for State-
30 owned lands must be informed as to the presence of such plant
31 populations and either the positive or negative impacts to them that
32 the activities may present.

33 The Legislature further finds and declares that the Endangered
34 and Nongame Species Program in the Department of Environmental
35 Protection began a program in 1994 called the "Landscape Project";
36 that the goal of this program is to protect the State's biological
37 diversity by maintaining and enhancing imperiled wildlife species
38 populations within healthy, functioning ecosystems; that through
39 this program the department has combined information on the
40 location of imperiled and priority species with land-use and land-
41 cover data in order to identify and map areas of critical importance
42 for species that are of special concern, rare, threatened, or
43 endangered; that these critical habitat maps focus on landscape
44 regions that are ecologically similar with regard to their plant and
45 animal communities; and that it is necessary and appropriate to
46 formally recognize and establish this program in order to protect
47 species that are of special concern, rare, threatened, or endangered,
48 and their habitats. The Legislature therefore determines that the

1 department's program known as the "Landscape Project" should be
2 formally adopted and incorporated into the Natural Heritage
3 Program.

4 (cf: P.L.1988, c.127, s.1)

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6 3. Section 2 of P.L.1988, c.127 (C.13:1B-15.147) is amended to
7 read as follows:

8 2. There is established in the Division of Parks and Forestry,
9 Department of Environmental Protection, a Natural Heritage
10 Program. The purpose of the program is to :

11 a. identify the most critically important natural areas in the
12 State, including those areas that are of critical importance to the
13 species listed pursuant to the "Endangered Plant Species List Act,"
14 P.L.1989, c.56 (C.13:1B-15.151 et seq.), or "The Endangered and
15 Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1
16 et seq.), or any rule or regulation adopted pursuant thereto; and

17 b. provide detailed up-to-date information on [rare species]
18 species of fauna or flora that are of special concern, rare,
19 threatened, or endangered, and natural communities , including
20 species location data and land-use and land-cover data regarding
21 critical habitat, to planners, developers, and conservation agencies
22 for use in resource management, environmental impact assessment,
23 and both public and private land protection efforts.

24 (cf: P.L.1988, c.127, s.2)

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26 4. Section 3 of P.L.1988, c.127 (C.13:1B-15.148) is amended to
27 read as follows:

28 3. The functions of the program established pursuant to section
29 2 of P.L.1988, c.127 (C.13:1B-15.147) shall include, but need not
30 be limited to:

31 a. **【Maintaining】** maintaining and updating, through data
32 collection and field work, a partially computerized data base which
33 includes lists of species of fauna or flora that are of special concern,
34 rare , threatened, and endangered [species] , and natural
35 communities ranked according to rarity, as well as information on
36 the location, quality, protection status, and sources of information
37 of individual occurrences of [the above] species that are of special
38 concern, rare, threatened, or endangered, and natural communities;
39 and

40 b. **【Providing】** providing information on species of fauna or
41 flora that are of special concern, rare, threatened, or endangered,
42 and natural community occurrences to other government agencies,
43 consultants, and private landowners seeking to preserve natural
44 diversity and advice on how best to protect these occurrences.

45 (cf: P.L.1988, c.127, s.3)

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47 5. This act shall take effect immediately.

STATEMENT

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This bill would protect populations of species of fauna or flora that are of special concern, rare, threatened, or endangered, and their habitats and unique and fragile ecosystems by (1) setting forth certain conditions impacting such species and habitat on State-owned lands, and (2) codifying the Department of Environmental Protection’s (DEP) “Landscape Project.”

The bill would establish a prohibition on actions undertaken on State-owned lands that would negatively impact the natural habitat, functioning ecosystem, and populations of species of fauna or flora that are of special concern, rare, threatened, or endangered, or rare biological communities. This prohibition would apply to controlled burns, logging activities including clear-cut, selective cutting, or thinning activities, undergrowth removal, wetlands alteration or filling, and other similar activities that have the potential to alter critical habitat for fauna or flora on State-owned lands.

The bill further provides that any plan to alter, modify, or remove natural habitat from State-owned lands be limited to activities that enhance habitat for populations of fauna or flora that are of special concern, rare, threatened, or endangered, and may proceed only after the DEP conducts a primary source natural resource inventory and environmental assessment. This natural resource inventory and environmental assessment would be based upon animal species occurrence data prepared by the department’s Endangered and Nongame Species Program as part of the “Landscape Project,” which would be incorporated into the Natural Heritage Program by this bill, as well as rare plant species occurrences based on surveys and Natural Heritage Program data.

These provisions of the bill would not apply to stewardship activities on State-owned lands if the DEP Commissioner determines the activity is necessary to: protect human health; prevent or minimize outbreaks of alien invasive pests or pathogens; control invasive species; or prevent or minimize fire hazards.

In addition, this bill would codify the DEP’s “Landscape Project” for species that are of special concern, rare, threatened, or endangered by incorporating it into the DEP’s current Natural Heritage Program. The “Landscape Project” was originally started in 1994 by the DEP’s Endangered and Nongame Species Program as a pro-active, ecosystem-level approach for the long-term protection of imperiled species and their habitats. Through this project, the program identifies critical areas for imperiled species based on land-use and land-cover classifications and species location information. The Natural Heritage Program, established by statute in 1988, requires the DEP to identify the most critically important natural areas in the State. This bill would specify that the program is to include those areas that are of critical importance to those species listed pursuant to the “Endangered Plant Species List

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1 Act” and “The Endangered and Nongame Species Conservation
2 Act.” Incorporating the Landscape Program’s critical habitat maps
3 into the Natural Heritage Program will provide comprehensive
4 information concerning ecological communities and populations of
5 fauna or flora that are of special concern, rare, threatened, or
6 endangered, and their habitats.