



**Committee: Education, Energy, and the Environment**

**Testimony on: SB 431 Fish and Wildlife – Endangered and Threatened Species and Migratory Birds – 3 Regulations, Lists, Petitions, Essential Habitats, and Takings**

**Position: Support**

**Hearing Date: February 17, 2026**

The Maryland Chapter of the Sierra Club supports SB 431 as a valuable mechanism to protect the State’s wildlife and natural areas from the impacts of a potential weakening of the federal Endangered Species Act (ESA) and the federal Migratory Bird Treaty Act.<sup>1</sup>

Toward this end, the bill will (a) codify into State law a definition of “harm” to protected species that already exists in Department of Natural Resources (DNR) regulations, (b) increase state protections for migratory birds, and (c) require DNR to periodically update its list of Irreplaceable Natural Areas.

The U. S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration seek to weaken the Endangered Species Act by limiting meaning of “harm” exclusively to the deliberate killing or injuring of a protected species. The new definition would eliminate long-standing prohibitions on damage to their habitats upon which protected species rely.<sup>2</sup> During the public comment period on this proposal, more than 380,000 individuals (including 17,000 Sierra Club members) submitted comments opposing this move.<sup>3</sup> Nevertheless, it could become law. SB 431 would protect Maryland’s wildlife from such a shift by codifying the DNR definition of “harm” (mirroring current federal law) as “an act which kills or injures wildlife including an act that significantly modifies or degrades habitat thereby killing or injuring wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.”

Similarly, the current federal Administration seeks to severely weaken the Migratory Bird Treaty Act by eliminating its prohibition against “incidental” harm to birds.<sup>4</sup> This aspect of the Act has required the federal government to work toward reducing incidental harms or “taking” of

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<sup>1</sup> Jeffers, J., et al., “Federal Agencies Propose Sweeping Revisions to Endangered Species Act Regulations, Largely Reinstating 2019–2020 Framework,” *National Law Review*, vol. 16, no. 41, November 21, 2025 (<https://natlawreview.com/article/federal-agencies-propose-sweeping-revisions-endangered-species-act-regulations#:~:text=On%20November%202019%2C%202025%2C%20the%20U.S.%20Fish,consultation%2C%20and%20%60%60take%20protections%20for%20threatened%20species>)

<sup>2</sup> “Rescinding the Definition of ‘Harm’ Under the Endangered Species Act,” *Federal Register*, 4/17/2025 (<https://www.federalregister.gov/documents/2025/04/17/2025-06746/rescinding-the-definition-of-harm-under-the-endangered-species-act>)

<sup>3</sup> Roscamp, G., “380,000+ Oppose Trump Administration Effort to Roll Back Endangered Species Act Protections,” Sierra Club, Dec. 22, 2025 (<https://www.sierraclub.org/press-releases/2025/12/380000-oppose-trump-administration-effort-roll-back-endangered-species-act>)

<sup>4</sup> Zerzan, G., “Withdrawal of Solicitor Opinion M-37065 - Permanent Withdrawal of Solicitor Opinion - The Migratory Bird Treaty Act Does Not Prohibit Incidental Take,” U. S. Department of the Interior, April 11, 2025 (<https://www.doi.gov/sites/default/files/documents/2025-04/m-37085.pdf>)

migratory birds, such as those that occur through fatal collisions with buildings lit at night.<sup>5</sup> SB 431 will adopt in Maryland law the prohibition against “incidental” harm to birds as it existed in federal law before the current Administration took office.

Finally, to further protect the State’s rare species, the bill clarifies the State’s Irreplaceable Natural Area (INA) Program to require that DNR review and add to, as needed, the state’s list of these areas.<sup>6</sup> The INAs are chosen specifically because they “support a unique natural community or a plant or animal species listed as Threatened or Endangered by the State” or that support “an assemblage of native plants or animals that is rare or declining in Maryland” or “an unusually pristine example of a native ecosystem type.”

All three provisions in SB 431 will help ensure that Maryland’s wildlife and natural areas are provided with a level of protection that supersedes any weakening of the federal Endangered Species Act or the Migratory Bird Treaty Act. With these considerations in mind, the Maryland Chapter of the Sierra Club recommends a favorable report on SB 431.

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<sup>5</sup> “Reducing Bird Collisions with Buildings and Building Glass: Best Practices,” US Fish And Wildlife Service 2016/2021 <https://www.fws.gov/sites/default/files/documents/reducing-bird-collisions-with-buildings.pdf>

<sup>6</sup> “Maryland's Irreplaceable Natural Areas,” Maryland Dept. of Natural Resources, August 2023 (<https://dnr.maryland.gov/wildlife/pages/ina.aspx>)