

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 894

(Delegate Jacobs, *et al.*)

Environment and Transportation

Education, Energy, and the Environment

Endangered and Threatened Species - Incidental Taking - Bats

This bill authorizes the Secretary of Natural Resources to issue a permit that authorizes an incidental taking of the Indiana bat, the northern long-eared bat, the tricolored bat, or the eastern small-footed bat if an applicant submits a conservation plan and the Secretary makes certain findings.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill authorizes the Secretary to issue a permit to an applicant that authorizes an incidental taking of the Indiana bat, the northern long-eared bat, the tricolored bat, or the eastern small-footed bat if:

- the applicant submits a conservation plan to the Department of Natural Resources (DNR) that specifies (1) the impact that will likely result from the incidental taking; (2) the steps that the applicant will take to minimize and mitigate the impact; (3) the funding that will be available to implement the steps; (4) the alternative actions to the incidental taking that the applicant considered and the reasons that the alternatives were not used; and (5) any other measures that the Secretary requires as being necessary or appropriate for the purposes of the plan; and

- the Secretary finds that (1) the incidental taking will not appreciably reduce the likelihood of the survival or recovery of the Indiana bat, the northern long-eared bat, the tricolored bat, or the eastern small-footed bat in the wild; (2) the applicant will, to the extent practicable, minimize and mitigate the impacts of the incidental taking; (3) adequate funding for the conservation plan is available and the plan will be implemented; and (4) the applicant has obtained the required federal authorization for the incidental taking of the Indiana Bat, the northern long-eared bat, the tricolored bat, or the eastern small-footed bat.

The Secretary may adopt regulations to implement and enforce the bill.

Current Law: The State's Nongame and Endangered Species Conservation Act, and DNR regulations implementing the Act, generally prohibit taking, possession, transportation, or trade of threatened and endangered species, subject to specified exceptions. "Endangered species" is defined as any species whose continued existence as a viable component of the State's wildlife or plants is determined to be in jeopardy, including any species of wildlife or plant determined to be an endangered species pursuant to the federal Endangered Species Act (ESA). "Threatened species" is any species of wildlife or plants, which appears likely, within the foreseeable future, to become endangered, including any determined to be a threatened species pursuant to ESA.

Under the Nongame and Endangered Species Conservation Act, "incidental taking" means the taking of listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

The Indiana bat and the northern long-eared bat are listed as endangered species under ESA and are therefore endangered under the State's Nongame Endangered Species Conservation Act. The eastern small-footed bat is not listed as an endangered species under ESA but is listed as endangered under the State's Nongame Endangered Species Conservation Act. ESA allows for a permit to be issued for incidental taking of endangered wildlife, but the State's Nongame Endangered Species Conservation Act does not.

Small Business Effect: DNR advises the bill could have a meaningful impact on small businesses that otherwise have to comply with time-of-year or other restrictions (in areas known to support endangered bats) on activities that could result in an incidental taking of endangered bats.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 946 (Senator Carozza, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Department of Natural Resources; U.S. Fish and Wildlife Service; Department of Legislative Services

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