

# SENATE BILL 431

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CF HB 578

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By: Senator Brooks

Introduced and read first time: January 30, 2026

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Fish and Wildlife – Endangered and Threatened Species and Migratory Birds –**  
3 **Regulations, Lists, Petitions, Essential Habitats, and Takings**

4 FOR the purpose of requiring the Secretary of Natural Resources to review and, if  
5 warranted, update certain regulations on or before a certain date and at a certain  
6 frequency; altering the impacts the Secretary can make reference to when making  
7 certain determinations; requiring the Secretary to delist an endangered or  
8 threatened species under certain circumstances; requiring a petition to remove a  
9 listed species to contain certain information; authorizing the Secretary to designate  
10 areas as essential habitats for endangered and threatened species; prohibiting a  
11 person from taking certain migratory birds; and generally relating to fish, wildlife,  
12 and endangered and threatened species.

13 BY repealing and reenacting, without amendments,

14 Article – Natural Resources

15 Section 3–501, 3–502, 4–2A–01(a), (i), and (j), and 10–2A–01(a), (k), and (l)

16 Annotated Code of Maryland

17 (2023 Replacement Volume and 2025 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Natural Resources

20 Section 3–503, 4–2A–04, 4–2A–05, 4–2A–06, 10–2A–03(c), 10–2A–04, 10–2A–05, and  
21 10–2A–06

22 Annotated Code of Maryland

23 (2023 Replacement Volume and 2025 Supplement)

24 BY adding to

25 Article – Natural Resources

26 Section 4–2A–01(f–1) and (f–2) and 10–2A–01(e–1) and (e–2)

27 Annotated Code of Maryland

28 (2023 Replacement Volume and 2025 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Natural Resources**

4 3–501.

- 5 (a) In this subtitle the following words have the meanings indicated.
- 6 (b) “Biodiversity” means the full range of living organisms native to a region.
- 7 (c) “Irreplaceable natural area” means an area with habitat necessary to support:
  - 8 (1) A unique natural community; or
  - 9 (2) A plant or animal species listed as threatened or endangered under
- 10 Title 10, Subtitle 2A of this article.
- 11 (d) “Program” means the Irreplaceable Natural Areas Program.
- 12 (e) “Unique natural community” means an area that:
  - 13 (1) Has an assemblage of native plants or animals that is rare or declining
  - 14 in the State; or
  - 15 (2) Supports an unusually pristine example of a native ecosystem type.

16 3–502.

- 17 (a) There is an Irreplaceable Natural Areas Program in the Department.
- 18 (b) The purpose of the Program is to preserve Maryland’s native biodiversity on
- 19 State-owned land managed by the Department for current and future residents of the
- 20 State.

21 3–503.

- 22 (A) On or before July 1, 2023, the Department shall adopt regulations to carry out
- 23 this subtitle, including regulations:
  - 24 (1) Designating irreplaceable natural areas on State-owned land managed
  - 25 by the Department; and
  - 26 (2) Establishing management objectives for irreplaceable natural areas,
  - 27 including:

- (i) A map depicting boundaries for each area;
- (ii) A description of the unique features and threats for each area;
- (iii) Compatible and incompatible activities for each area.

5 (B) ON OR BEFORE JULY 1, 2033, AND AT LEAST EVERY 10 YEARS  
6 THEREAFTER, THE SECRETARY SHALL REVIEW AND, IF WARRANTED, UPDATE THE  
7 REGULATIONS REQUIRED UNDER THIS SECTION.

8 4-2A-01.

(a) In this subtitle the following words have the meanings indicated.

10 (F-1) "FORESEEABLE FUTURE" MEANS AS FAR INTO THE FUTURE AS THE  
11 DEPARTMENT CAN MAKE REASONABLY RELIABLE PREDICTIONS, ON A  
12 CASE-BY-CASE BASIS, ABOUT THE THREATS TO A SPECIES OF FISH AND THE  
13 SPECIES' RESPONSE TO THOSE THREATS:

**(1) USING THE BEST AVAILABLE DATA; AND**

**(2) TAKING INTO ACCOUNT CONSIDERATIONS INCLUDING:**

## (I) THE SPECIES' LIFE-HISTORY CHARACTERISTICS;

(II) THE PROJECTED TIME FRAME OF THE THREAT; AND

### (III) ENVIRONMENTAL VARIABILITY.

19 (F-2) (1) "HARM" MEANS AN ACT THAT KILLS OR INJURES ANY SPECIES OF  
20 FISH.

25 (i) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture,  
26 or collect, or to attempt to engage in any such conduct.

27 (j) "Threatened species" means any species of fish which appears likely, within  
28 the foreseeable future, to become endangered, including any species of fish determined to  
29 be a "threatened species" pursuant to the Endangered Species Act.

1 4-2A-04.

2 (a) Any species of fish determined to be an endangered species pursuant to the  
3 Endangered Species Act shall be deemed to be an endangered species under the provisions  
4 of this subtitle and any species of fish determined to be a threatened species pursuant to  
5 the Endangered Species Act shall be deemed to be a threatened species under the provisions  
6 of this subtitle. The Secretary may determine, in accordance with this section, that any  
7 threatened species is an endangered species throughout all or any portion of the range of  
8 the species within the State.

9 (b) In addition to the species deemed to be endangered or threatened pursuant to  
10 the Endangered Species Act, the Secretary, by rule or regulation, shall determine whether  
11 any species of fish normally occurring within the State is an endangered or threatened  
12 species due to any of the following factors:

13 (1) The present or threatened destruction, modification, or curtailment of  
14 its habitat or range;

15 (2) Overutilization for commercial, sporting, scientific, educational, or  
16 other purposes;

17 (3) Disease or predation;

18 (4) The inadequacy of existing regulatory mechanisms; or

19 (5) Other natural or manmade factors affecting its continued existence  
20 within the State.

21 (c) (1) The Secretary shall make determinations required by subsection (b) of  
22 this section [on]:

23 (I) **ON** the basis of the best scientific, commercial, and other data  
24 available and after consultation, as appropriate, with federal agencies, other interested  
25 State agencies, other states having a common interest in the species, and interested persons  
26 and organizations; AND

27 (II) **WITHOUT REFERENCE TO POSSIBLE ECONOMIC OR OTHER**  
28 **IMPACTS OF SUCH DETERMINATION.**

29 (2) In determining whether any species of fish is an endangered species or  
30 a threatened species, the Secretary shall take into consideration any actions being carried  
31 out or about to be carried out by the federal government, other states, other agencies of this  
32 State, or political subdivisions, or by any other person, which may affect the species under  
33 consideration.

4 (1) Publishes a public notice of the proposed action;

(3) Allows at least 30 days following publication for comment from the public and other interested parties.

10 (e) Notwithstanding the provisions of subsection (d) of this section, if the  
11 Department determines that an emergency situation exists involving the continued  
12 existence of the species as a viable component of the State's fish population it may add the  
13 species to the lists if it publishes a public notice that an emergency situation exists together  
14 with a summary of facts which support this determination.

15 (f) THE SECRETARY SHALL DELIST A SPECIES IF THE SECRETARY  
16 DETERMINES, BASED ON CONSIDERATION OF THE FACTORS AND STANDARDS SET  
17 FORTH IN SUBSECTION (B) OF THIS SECTION, THAT THE BEST SCIENTIFIC AND  
18 COMMERCIAL DATA AVAILABLE SUBSTANTIATE THAT:

19 (1) THE SPECIES IS EXTINCT;

20 (2) THE SPECIES HAS RECOVERED TO THE POINT THAT IT NO LONGER  
21 MEETS THE DEFINITION OF ENDANGERED SPECIES OR THREATENED SPECIES;

22 (3) INFORMATION HAS BECOME AVAILABLE SINCE THE ORIGINAL  
23 LISTING DECISION THAT SHOWS THAT THE LISTED ENTITY DOES NOT MEET THE  
24 DEFINITION OF AN ENDANGERED SPECIES OR A THREATENED SPECIES; OR

25 (4) INFORMATION HAS BECOME AVAILABLE SINCE THE ORIGINAL  
26 LISTING DECISION THAT SHOWS THAT THE LISTED ENTITY DOES NOT MEET THE  
27 DEFINITION OF A SPECIES.

28       (G) (1) The Secretary shall adopt rules and regulations containing a list of all  
29 species of fish normally occurring within the State determined to be endangered species  
30 and a list of all species determined to be threatened species.

(3) On or before July 1, 2026, and at least every 5 years thereafter, the Secretary shall review and, if warranted, update the regulations required under this subsection.

4 4-2A-05.

12 (2) A petition submitted by an interested person under paragraph (1) of  
13 this subsection shall include:

14 (i) A description of the biological distribution of the species in the  
15 State;

16 (ii) The life needs and habitat requirements of the species;

17 (iii) Evidence:

## 22 A. THAT THE SPECIES IS EXTINCT;

26 C. OF ANY OTHER INFORMATION THAT HAS BECOME  
27 AVAILABLE SINCE THE ORIGINAL LISTING DECISION THAT SHOWS THAT THE LISTED  
28 ENTITY DOES NOT MEET THE DEFINITION OF AN ENDANGERED SPECIES OR A  
29 THREATENED SPECIES; OR

30 D. OF INFORMATION THAT HAS BECOME AVAILABLE  
31 SINCE THE ORIGINAL LISTING DECISION THAT SHOWS THAT THE LISTED ENTITY  
32 DOES NOT MEET THE DEFINITION OF A SPECIES;

(iv) All known threats that jeopardize the continued existence of the species;

(v) Any other relevant biological and ecological data or other life history information pertinent to the status of the species;

5 (vi) Evidence that the species is recognized as a valid species or an  
6 infraspecific taxon of regional or national significance; and

(vii) Adequate documentation that the species occurs naturally and is permanently established in the State.

14 (c) Except as provided in subsection (f) of this section, with respect to any  
15 endangered species of fish, no person may:

16 (1) Export the species from the State;

17 (2) Take the species within the State;

18 (3) Possess, process, sell, or offer for sale, deliver, carry, transport, or ship  
19 the species by any means; or

(4) Violate any regulation pertaining to the conservation of the species or to any threatened species of wildlife listed pursuant to this subsection and adopted by the Secretary pursuant to authority provided by this section.

23 (d) Except as provided in subsection (f) of this section, with respect to any  
24 endangered species of fish, no person may:

25 (1) Export the species from the State;

26 (2) Possess, process, sell, offer for sale, deliver, carry, transport, or ship the  
27 species by any means; or

31 (e) If any endangered species of fish which enters the State from another state or  
32 from a point outside the territorial limits of the United States and which is being  
33 transported to a point within or beyond the State may be so entered and transported

1 without restriction in accordance with the terms of any federal permit or permit issued  
2 under the laws or regulations of another state.

3 (f) (1) Subject to paragraph (2) of this subsection, the Secretary may issue a  
4 permit, under the terms and conditions he prescribes, to allow any act otherwise prohibited  
5 by subsections (c) and (d) of this section for scientific purposes, to enhance the propagation  
6 or survival of the affected species, and on or after January 1, 1990, for aquaculture  
7 involving the affected species in nontidal ponds, lakes, or impoundments.

8 (2) Notwithstanding the provisions of paragraph (1) of this subsection, on  
9 or after June 1, 1989, the Secretary may issue a permit to allow the purchase of striped  
10 bass or striped bass hybrid from out-of-state sources for possession and raising in  
11 aquaculture operations in nontidal ponds, lakes, or impoundments in the State.

12 4-2A-06.

13 (a) (1) The Secretary [shall]:

14 (I) **SHALL** establish programs, including acquisition of land or  
15 aquatic habitat or interests therein, necessary for the conservation of threatened or  
16 endangered species of fish; AND

17 (II) **MAY DESIGNATE AREAS AS ESSENTIAL HABITATS FOR**  
18 **ENDANGERED AND THREATENED SPECIES.**

19 (2) The Secretary shall use all vested authority to carry out the provisions  
20 of this subsection.

21 (b) In carrying out programs authorized by this section, the Secretary shall  
22 consult with other states having a common interest in particular species of endangered or  
23 threatened species of fish and may enter into agreements with federal agencies, other  
24 states, political subdivisions of this State, or with individuals with respect to programs  
25 designed to conserve endangered or threatened species of fish including agreements for  
26 administration and management of any that are established under this section or utilized  
27 for conservation of endangered or threatened species of fish.

28 (c) (1) The Governor shall review other programs administered by him and  
29 utilize these programs in furtherance of the purposes of this subtitle.

30 (2) All State departments and agencies, in consultation with and with the  
31 assistance of the Secretary, shall utilize their authorities in furtherance of the purposes of  
32 this subtitle by carrying out programs for the conservation of endangered species and  
33 threatened species listed pursuant to [§ 4-2A-04(f)] **§ 4-2A-04(G)** of this subtitle and by  
34 taking any action necessary to insure that actions authorized, funded, or carried out by  
35 them do not jeopardize the continued existence of the endangered species or threatened

1 species or result in the destruction or modification of habitat of the species which is deemed  
2 by the Secretary to be critical.

3 (d) The Secretary shall adopt rules and regulations necessary to implement this  
4 section.

5 10-2A-01.

6 (a) In this subtitle the following words have the meanings indicated.

7 **(E-1) "FORESEEABLE FUTURE" MEANS AS FAR INTO THE FUTURE AS THE**  
8 **DEPARTMENT CAN MAKE REASONABLY RELIABLE PREDICTIONS, ON A**  
9 **CASE-BY-CASE BASIS, ABOUT THE THREATS TO A SPECIES OF WILDLIFE OR PLANT**  
10 **AND THE SPECIES' RESPONSE TO THOSE THREATS:**

11 (1) **USING THE BEST AVAILABLE DATA; AND**

12 (2) **TAKING INTO ACCOUNT CONSIDERATIONS INCLUDING:**

13 (i) **THE SPECIES' LIFE-HISTORY CHARACTERISTICS;**

14 (ii) **THE PROJECTED TIME FRAME OF THE THREAT; AND**

15 (iii) **ENVIRONMENTAL VARIABILITY.**

16 (E-2) (1) **"HARM" MEANS AN ACT THAT KILLS OR INJURES WILDLIFE.**

17 (2) **"HARM" INCLUDES AN ACT THAT SIGNIFICANTLY MODIFIES OR**  
18 **DEGRADES A HABITAT, THEREBY KILLING OR INJURING WILDLIFE BY**  
19 **SIGNIFICANTLY IMPAIRING ESSENTIAL BEHAVIORAL PATTERNS, INCLUDING**  
20 **BREEDING, FEEDING, AND SHELTERING.**

21 (k) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture,  
22 or collect, or to attempt to engage in any such conduct.

23 (l) "Threatened species" means any species of wildlife or plants which appears  
24 likely, within the foreseeable future, to become endangered including any species of wildlife  
25 or plant determined to be a "threatened species" pursuant to the Endangered Species Act.

26 10-2A-03.

27 (c) (1) Except as provided in regulations adopted by the Secretary, a person  
28 [may]:

9 10-2A-04.

18 (b) In addition to the species deemed to be endangered or threatened pursuant to  
19 the Endangered Species Act, the Secretary, by regulation, shall determine whether any  
20 species of wildlife or plant normally occurring within the State is an endangered or  
21 threatened species due to any of the following factors:

22 (1) The present or threatened destruction, modification, or curtailment of  
23 its habitat or range;

24 (2) Overutilization for commercial, sporting, scientific, educational, or  
25 other purposes;

26 (3) Disease or predation;

27 (4) The inadequacy of existing regulatory mechanisms; or

28 (5) Other natural or manmade factors affecting its continued existence  
29 within the State.

30 (c) (1) The Secretary shall make determinations required by subsection (b) of  
31 this section [on]:

32 (I) ON the basis of the best scientific, commercial, and other data  
33 available [to] and after consultation, as appropriate, with federal agencies, other interested

1 State agencies, other states having a common interest in the species, and interested persons  
2 and organizations; AND

3 **(II) WITHOUT REFERENCE TO POSSIBLE ECONOMIC OR OTHER  
4 IMPACTS OF SUCH DETERMINATION.**

5 (2) In determining whether any species of wildlife or plant is an  
6 endangered species or a threatened species, the Secretary shall take into consideration any  
7 actions being carried out or about to be carried out by the federal government, other states,  
8 other agencies of this State, or political subdivisions, or by any other person which may  
9 affect the species under consideration.

10 (d) Except with respect to species of wildlife or plants determined to be  
11 endangered or threatened species under the provisions of subsection (a) of this section, the  
12 Secretary may not add a species to nor remove a species from any list published unless the  
13 Secretary first:

14 (1) Publishes a public notice of the proposed action;

15 (2) Furnishes notice of the proposed action to the Governor of any state  
16 sharing a common border with the State and in which the subject species is known to exist;  
17 and

18 (3) Allows at least 30 days following publication for comment from the  
19 public and other interested parties.

20 (e) Notwithstanding the provisions of subsection (d) of this section, if the  
21 Department determines that an emergency situation exists involving the continued  
22 existence of the species as a viable component of the State's wildlife or plants, the  
23 Department may add the species to the lists if the Department publishes a public notice  
24 that an emergency situation exists together with a summary of facts which support this  
25 determination.

26 **(f) THE SECRETARY SHALL DELIST A SPECIES IF THE SECRETARY  
27 DETERMINES, BASED ON CONSIDERATION OF THE FACTORS AND STANDARDS SET  
28 FORTH IN SUBSECTION (B) OF THIS SECTION, THAT THE BEST SCIENTIFIC AND  
29 COMMERCIAL DATA AVAILABLE SUBSTANTIATE THAT:**

30 (1) THE SPECIES IS EXTINCT;

31 (2) THE SPECIES HAS RECOVERED TO THE POINT THAT IT NO LONGER  
32 MEETS THE DEFINITION OF ENDANGERED SPECIES OR THREATENED SPECIES;

33 (3) INFORMATION HAS BECOME AVAILABLE SINCE THE ORIGINAL  
34 LISTING DECISION THAT SHOWS THAT THE LISTED ENTITY DOES NOT MEET THE  
35 DEFINITION OF AN ENDANGERED SPECIES OR A THREATENED SPECIES; OR

1 (4) INFORMATION HAS BECOME AVAILABLE SINCE THE ORIGINAL  
2 LISTING DECISION THAT SHOWS THAT THE LISTED ENTITY DOES NOT MEET THE  
3 DEFINITION OF A SPECIES.

4       (G) (1) The Secretary shall adopt regulations containing a list of all species of  
5 wildlife and plants normally occurring within the State determined to be endangered  
6 species and a list of all species determined to be threatened species.

13 10-2A-05.

14       (a) (1) Except with respect to species of wildlife or plants determined to be  
15 endangered or threatened pursuant to the Endangered Species Act, the Secretary, upon the  
16 petition of an interested person that meets the requirements of paragraph (2) of this  
17 subsection, shall conduct a review of any listed or unlisted species proposed to be removed  
18 from or added to the lists published pursuant to **§ 10-2A-04(f)** **§ 10-2A-04(G)** of this  
19 subtitle, if the Secretary publishes public notice that the person has presented substantial  
20 evidence which warrants a review.

21 (2) A petition submitted by an interested person under paragraph (1) of  
22 this subsection shall include:

23 (i) A description of the biological distribution of the species in the  
24 State;

25 (ii) The life needs and habitat requirements of the species;

### 26 (iii) Evidence:

## 31 A THAT THE SPECIES IS EXTINCT:

4 C. OF ANY OTHER INFORMATION THAT HAS BECOME  
5 AVAILABLE SINCE THE ORIGINAL LISTING DECISION THAT SHOWS THAT THE LISTED  
6 ENTITY DOES NOT MEET THE DEFINITION OF AN ENDANGERED SPECIES OR A  
7 THREATENED SPECIES; OR

11 (iv) All known threats that jeopardize the continued existence of the  
12 species;

13 (v) Any other relevant biological and ecological data or other life  
14 history information pertinent to the status of the species;

(vi) Evidence that the species is recognized as a valid species, or  
infraspecific taxa of regional or national significance; and

17 (vii) Adequate documentation that the species occurs naturally and is  
18 permanently established in the State.

19 (b) (1) When any species of wildlife or plant is listed as a threatened species  
20 pursuant to [§ 10-2A-04(f)] **§ 10-2A-04(G)** of this subtitle, the Secretary shall adopt  
21 regulations necessary and advisable to provide for the conservation of the species.

(2) The Secretary, by regulations, may prohibit with respect to any threatened species of wildlife or plant any act prohibited under subsection (c) of this section.

24 (c) Except as provided in subsection (f) of this section and §§ 10-2A-05.1,  
25 10-2A-05.2, and 10-2A-05.3 of this subtitle, with respect to any endangered species of  
26 wildlife, a person may not:

27 (1) Export the species from the State;

28 (2) Take the species within the State;

29 (3) Possess, process, sell or offer for sale, deliver, carry, transport, or ship  
30 the species by any means; or

3 (1) Export the species from the State;

4 (2) Possess, process, sell, offer for sale, deliver, carry, transport, or ship the  
5 species by any means; or

9       (e) Any endangered species of wildlife or plant which enters the State from  
10 another state or from a point outside the territorial limits of the United States and which  
11 is transported to a point within or beyond the State may enter and be transported without  
12 restriction in accordance with the terms of any federal permit or permit issued under the  
13 laws or regulations of another state.

14 (f) The Secretary may permit, under the terms and conditions that the Secretary  
15 prescribes, any act otherwise prohibited by subsections (c) and (d) of this section for  
16 scientific purposes or to enhance the propagation or survival of the affected species.

17 10-2A-06.

18 (a) (1) The Secretary [shall]:

22 (II) MAY DESIGNATE AREAS AS ESSENTIAL HABITATS FOR  
23 ENDANGERED AND THREATENED SPECIES

1 or utilized for conservation of nongame, endangered, or threatened species of wildlife or  
2 plants.

3 (c) (1) The Governor shall review other programs administered by the  
4 Governor and utilize these programs in furtherance of the purposes of this subtitle.

5 (2) All State departments and agencies, in consultation with and with the  
6 assistance of the Secretary, shall utilize their authorities in furtherance of the purposes of  
7 this subtitle by carrying out programs for the conservation of endangered species and  
8 threatened species listed pursuant to ~~§ 10-2A-04(f)~~ **§ 10-2A-04(G)** of this subtitle, and  
9 by taking any action necessary to insure that actions authorized, funded, or carried out by  
10 them do not jeopardize the continued existence of the endangered species or threatened  
11 species or result in the destruction or modification of habitat of the species which is deemed  
12 by the Secretary to be critical.

13 (d) The Secretary shall adopt regulations necessary to implement this section.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2026.