

Chapter 10. Endangered Plant and Insect Species.

§ 3.2-1000. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Candidate species" means those species formally recommended by the Director of the Department of Conservation and Recreation or other reliable data sources in writing to and accepted by the Commissioner for presentation to the Board for listing under this chapter.

"Endangered species" means any species or variety of plant life or insect life determined by the Board to be in danger of extinction throughout all or a significant part of its range other than a species determined by the Commissioner not to be in the best interest of the welfare of man.

"Insect" or "insect life" means any species of the class Insecta.

"Plant" or "plant life" means any member of the plant kingdom, including spores, leaves, stems, branches, flowers, seeds, roots, and other parts or products thereof.

"Proposed species" means any candidate species authorized by the Board for consideration for listing as threatened or endangered under the provisions of this chapter.

"Species" includes any species or variety of plant life or insects.

"Take" means, in reference to plants and insects, to collect, pick, cut, or dig up for the purpose of resale.

"Threatened species" means any species determined by the Board to be likely to become an endangered species within the foreseeable future throughout all or a significant portion of its native range.

1979, c. 372, § 3.1-1021; 1985, c. 326; 1989, c. 553; 1990, c. 369; 2008, c. [860](#).

§ 3.2-1001. Powers and duties of Commissioner.

For the purpose of effectively administering this chapter, the Commissioner may:

1. Establish programs as are deemed necessary for the management of threatened or endangered species.
2. Accept funds for a special account or other gifts or grants from any source for use in the furtherance of this chapter. Funds collected for services on articles determined by the Commissioner to be beyond the scope of this chapter shall revert to the fund from which expended.
3. Enter into reciprocal agreements with responsible officers of other states under which any part of this chapter would benefit.
4. Issue a permit authorizing the removal, taking, or destruction of threatened or endangered species on the state list upon good cause shown and where necessary to alleviate damage to property, the impact on progressive development, or protect human health, provided that such action does not violate federal laws or regulations.

5. Stop sale, seize, or return to point of origin at the owner's expense, any threatened or endangered species or part thereof if the Commissioner determines the owner has violated any of the provisions of this chapter or the regulations adopted hereunder. Any threatened or endangered species or part thereof seized may be disposed of at the discretion of the Commissioner.

6. Seek, in those situations where permission to enter property is denied by the owner or occupant, an administrative inspection warrant signed by any judge of any circuit court whose territorial jurisdiction encompasses the property to be inspected, authorizing the Commissioner to make inspections or develop other biological data for the proper management of any threatened or endangered species. The issuance of an administrative inspection warrant pursuant hereto shall conform, insofar as is practicable, to the requirements and guidelines set forth in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2 relating to the issuance of inspection warrants in connection with the manufacturing or emitting of a toxic substance.

1979, c. 372, §§ 3.1-1022, 3.1-1024; 1985, c. 326; 2008, c. 860.

§ 3.2-1002. Listing of threatened and endangered species; powers of Board; further powers of Commissioner.

A. The Board may adopt regulations including the listing of threatened or endangered species, their taking, quotas, seasons, buying, selling, possessing, monitoring of movement, investigating, protecting, or any other need in furtherance of the purposes of this chapter.

B. The Commissioner may conduct investigations of species of plants and insects to develop information relating to the population, distribution, habitat needs, limiting factors, and other biological and ecological data in order to determine management measures necessary to assure their continued ability to sustain themselves successfully. As a result of this investigation and recommendations received regarding candidate species from the Director of the Department of Conservation and Recreation and from other reliable data, the Board shall approve proposed species to be added to or deleted from the list of threatened species or the list of endangered species, or to be transferred from one list to the other.

1979, c. 372, § 3.1-1025; 1985, c. 326; 1989, c. 553; 1990, c. 369; 2008, c. 860.

§ 3.2-1003. Threatened and endangered species; prohibitions.

A. It shall be unlawful for any person to dig, take, cut, process, or otherwise collect, remove, transport, possess, sell, offer for sale, or give away any species native to or occurring in the wild in the Commonwealth that are listed in this chapter or the regulations adopted hereunder as threatened or endangered, other than from such person's own land, except in accordance with the provisions of this chapter or the regulations adopted hereunder.

B. The Commissioner may require any person possessing endangered species or parts thereof to present such species or parts thereof for inspection and to give full information as to their origin and destination.

1979, c. 372, §§ 3.1-1023, 3.1-1024; 2008, c. 860.

§ 3.2-1004. When Commissioner may permit taking of threatened or endangered species.

The Commissioner may issue a permit under certain circumstances for the taking, possessing, buying, selling, transporting, exporting, or shipping of any threatened or endangered species that appear on the state list of threatened or endangered species for scientific, biological, or

educational purposes or for propagation to ensure their survival, provided that such action does not violate federal laws or regulations.

1979, c. 372, §§ 3.1-1022; 1985, c. 326; 2008, c. 860.

§ 3.2-1005. Harvesting of threatened species; further powers of Board and Commissioner.

A. The Board may adopt regulations to permit and control the commercial harvest of certain threatened species that would prevent that species from becoming endangered or extinct.

B. The Commissioner may permit the taking of a threatened species when the Board has determined that its abundance in the Commonwealth justifies a controlled harvest that is not in violation of federal laws or regulations. The Commissioner shall take the necessary action to conserve, protect, restore, or propagate threatened and endangered species.

1979, c. 372, § 3.1-1025; 1985, c. 326; 1989, c. 553; 1990, c. 369; 2008, c. 860.

§ 3.2-1006. License required to buy threatened species; records of purchases.

A. It shall be unlawful for any person to buy any threatened species or part thereof, which is listed in this chapter or regulations adopted hereunder, without first obtaining a license to do so from the Commissioner. This section shall not apply to the purchase or sale of real property upon which such threatened species or part thereof may be located. Application forms shall be provided by the Commissioner and shall be completed and returned with a fee of \$10 made payable to the Treasurer of Virginia. Licenses shall expire on December 31 annually and there shall be no abatement in the annual fee. Licenses may be revoked at any time by the Commissioner for good cause.

B. The buyer of any threatened species or part thereof shall maintain and keep records of all purchases for the preceding 12 months on forms prescribed by the Commissioner. Records shall be sent or otherwise provided to the Commissioner within 30 days following the expiration of the license. Records shall be made available to the Commissioner during normal business hours for examination or information.

1979, c. 372, § 3.1-1026; 2008, c. 860.

§ 3.2-1007. Wild ginseng declared threatened plant species.

The indigenous plant, *Panax quinquefolius* L., of the Araliaceae family, commonly referred to as ginseng, is hereby declared a threatened plant species when it occurs in the wild. All persons buying wild ginseng or otherwise accepting this plant or part thereof for resale shall be licensed to do so and shall acquire wild ginseng or parts thereof in accordance with the provisions of this chapter and the regulations adopted hereunder. The wild ginseng harvest season shall be set by the Board. If any person takes wild ginseng, other than from his own land, on any other date it shall be deemed a violation of this chapter.

1979, c. 372, § 3.1-1027; 1983, c. 121; 2008, c. 860.

§ 3.2-1008. Export certificate required for export of ginseng.

All persons who have ginseng either wild or artificially propagated in any quantity and who wish to export any amount out of the Commonwealth shall obtain an export certificate from the Department. This section shall not apply to persons exporting ginseng for personal or individual use in quantities not exceeding eight ounces in any calendar year. To obtain an export certificate, an individual shall keep accurate records of the year of harvest and the county of origin of the

ginseng. In the case of dealers, a person shall keep accurate records of purchases, quantity purchased, whether the ginseng was wild or cultivated, county of origin, and the name of the seller. Such records shall be presented to the Commissioner for inspection.

1983, c. 121, § 3.1-1027.1; 2008, c. 860.

§ 3.2-1009. Virginia birch declared endangered species.

Virginia birch or round-leaf birch, *Betula uber* of the Betulaceae family, is hereby declared an endangered species as defined herein and is subject to the provisions of this chapter to preserve those specimens known to occur in the Commonwealth.

1979, c. 372, § 3.1-1028; 2008, c. 860.

§ 3.2-1010. Enforcement of chapter; summons.

Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain members of the Virginia Alcoholic Beverage Control Authority, may enforce the provisions of this chapter and the regulations adopted hereunder as well as those who are so designated by the Commissioner. Those designated by the Commissioner may issue a summons to any person who violates any provision of this chapter to appear at a time and place to be specified in such summons.

1979, c. 372, § 3.1-1029; 2007, c. 87; 2008, c. 860; 2015, cc. 38, 730.

§ 3.2-1011. Penalty.

Any person who violates any provision of this chapter or the regulations adopted hereunder is guilty of a Class 1 misdemeanor.

1979, c. 372, § 3.1-1030; 1985, c. 326; 2008, c. 860.