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H.588

Introduced by Representative Brennan of Colchester

Referred to Committee on

Date:

Subject: Fish and wildlife; threatened and endangered species; critical habitat

Statement of purpose of bill as introduced: This bill proposes to amend multiple provisions related to the listing of threatened or endangered species, including provisions to protect the confidentiality of critical habitats of certain listed species.

An act relating to threatened or endangered species

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. § 5403(b) is amended to read:

(b) Any person who, without authorization, takes a threatened or endangered species or who destroys or adversely impacts critical habitat shall report the taking, destruction, or adverse impact to the Secretary as soon as possible and not later than 48 hours from the time of taking, destruction, or adverse impact.

1 Sec. 2. 10 V.S.A § 5408 is amended to read:

2 § 5408. AUTHORIZED TAKINGS; INCIDENTAL TAKINGS;

3 DESTRUCTION OF CRITICAL HABITAT

4 (a) Authorized taking. Notwithstanding any provision of this chapter, after
5 obtaining the advice of the Endangered Species Committee, the Secretary may
6 permit, under such terms and conditions as the Secretary may require as
7 necessary to carry out the purposes of this chapter, the taking of a threatened or
8 endangered species, the destruction of or adverse impact on critical habitat, or
9 any act otherwise prohibited by this chapter if done for any of the following
10 purposes:

11 (1) scientific purposes;

12 (2) to enhance the propagation or survival of a threatened or endangered
13 species;

14 (3) zoological exhibition;

15 (4) educational purposes;

16 (5) noncommercial cultural or ceremonial purposes; or

17 (6) special purposes consistent with the purposes of the federal

18 Endangered Species Act.

19 * * *

20 (k) Public notice. ~~Prior~~ Except for threatened and endangered species

21 listed by the Secretary in accordance with subsection 5410(b) of this title, prior

1 to issuing a permit for an incidental taking and prior to the initial issuance or
2 amendment of a general permit under this section, the Secretary shall provide
3 for public notice of ~~no~~ not fewer than 30 days, opportunity for written
4 comment, and opportunity to request a public informational hearing. ~~The~~
5 Except for threatened and endangered species listed by the Secretary in
6 accordance with subsection 5410(b) of this title, the Secretary shall post permit
7 applications, permit decisions, and the initial or amended general permits on
8 the website of the Agency of Natural Resources. ~~The~~ Except for threatened
9 and endangered species listed by the Secretary in accordance with subsection
10 5410(b) of this title, the Secretary also shall provide notice to interested
11 persons who request notice of permit applications, permit decisions, and
12 proposed general permits or proposed amendments to general permits.

13 (l) General permits.

14 (1) The Secretary may issue general permits for activities that will not
15 affect the continued survival or recovery of a threatened or endangered species.

16 * * *

17 (6) ~~Prior~~ Except for threatened and endangered species listed by the
18 Secretary in accordance with subsection 5410(b) of this title, prior to issuing an
19 initial or amended general permit under this subsection, the Secretary shall:

20 (A) post a draft of the general permit on the Agency website;

21 (B) provide public notice of at least 30 days; and

1 (C) provide for written comments or a public hearing, or both.

2 (7) For applications for coverage under the terms of an issued general
3 permit, the applicant shall provide notice on a form provided by the Secretary.
4 ~~The~~ Except for threatened and endangered species listed by the Secretary in
5 accordance with subsection 5410(b) of this title, the Secretary shall post notice
6 of the application on the Agency website and shall provide an opportunity for
7 written comment, regarding whether the application complies with the terms
8 and conditions of the general permit, for ~~ten~~ 10 days following receipt of the
9 application.

10 * * *

11 Sec. 3. 10 V.S.A. § 5410 is amended to read:

12 § 5410. LOCATION CONFIDENTIAL

13 (a) The Secretary shall not disclose information regarding the specific
14 location of threatened or endangered species sites or habitats except ~~that the~~
15 ~~Secretary shall disclose information regarding the location of the threatened or~~
16 ~~endangered species to:~~

17 (1) to the owner of land upon which the species is located;

18 (2) to a potential buyer of land upon which the species is located who
19 has a bona fide contract to buy the land and applies to the Secretary for
20 disclosure of threatened or endangered species information; ~~or~~

1 (3) to qualified individuals or organizations, public agencies, and
2 nonprofit organizations for scientific research or for preservation and planning
3 purposes when the Secretary determines that the preservation of the species is
4 not further endangered by the disclosure; or

5 (4) during regulatory processes with the exception of threatened or
6 endangered species listed under subsection (b) of this section.

7 (b) The Secretary shall maintain a subset list of threatened and endangered
8 species whose specific names shall not be included in regulatory planning.

9 The subset list shall include threatened or endangered species for which the
10 species names and locations shall not be disclosed because of the risk that the
11 species will be significantly harmed by unauthorized take, such as illegal
12 collection, commercial trade, human-caused mortality, or destruction of
13 habitat. The list shall be based on the rarity of the species, known collection
14 and commercial trade activities in Vermont and other states or countries,
15 incidents of human-caused mortality or destruction of habitat, and other factors
16 that present a threat to the continued existence of the species.

17 (c) When the Secretary issues a permit under this chapter to take a
18 threatened or endangered species or destroy or adversely impact critical habitat
19 and when the Secretary designates critical habitat by rule under section 5402a
20 of this title, the Secretary shall disclose only the municipality and general
21 location where the threatened or endangered species or designated critical

1 habitat is located. When the Secretary designates critical habitat under section
2 5402a of this title, the Secretary shall notify the municipality in which the
3 critical habitat is located and shall disclose the general location of the
4 designated critical habitat.

5 Sec. 4. EFFECTIVE DATE

6 This act shall take effect on July 1, 2024.