

WILD RESOURCE CONSERVATION ACT
Act of Jun. 23, 1982, P.L. 597, No. 170
AN ACT

Cl. 32

Providing for a voluntary contribution system to aid in the conservation of certain wild flora and fauna, establishing a special fund and providing for its administration, establishing a procedure for the protection of wild flora, establishing a permit system, imposing powers and duties on the Department of Environmental Resources and imposing penalties.

Compiler's Note: Section 305(a)(9) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties conferred upon the Department of Environmental Resources by Act 170 of 1982 with respect to the study and protection of the Commonwealth's ecological and geological resources. Notwithstanding any provision in Act 170 to the contrary, the Department of Conservation and Natural Resources may use any funds appropriated to it to carry out the purposes of section 305 of Act 18 of 1995.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the "Wild Resource Conservation Act."

Section 2. Legislative finding; declaration of policy.

It is hereby determined and declared as a matter of legislative finding that there are numerous flora and fauna, including those rare or endangered, which are not commonly pursued, killed or consumed either for sport or profit, that such species are in need of more active management and that it is in the public interest to preserve and enhance such species for the benefit of all. Therefore, it is the purpose of this act to:

- (1) Further provide for such species so as to enhance the constitutional rights guaranteed in section 27, Article 1 of the Constitution of the Commonwealth of Pennsylvania.

(2) Provide a means for the citizens of the Commonwealth to support the management of our wild resource by establishing a voluntary contribution system on State income tax return forms.

(3) Promote the cooperation of the Department of Environmental Resources, Pennsylvania Fish Commission and Pennsylvania Game Commission in the management of our wild resource.

(4) Establish an interagency Wild Resource Conservation Board to channel that cooperation, promote the voluntary contribution system and administer the program.

(5) Establish and promote a cooperative Statewide system of private wild plant sanctuaries in order to maintain, protect and, to the extent possible, enhance wild plant numbers.

(6) Conserve and protect wild plant species recognized as endangered, threatened or vulnerable.

(7) Conduct an investigation to determine the status of wild plants, classify wild plants indigenous to or found in the Commonwealth and provide for their protection.

(8) Create a permit procedure for persons interested in wild plant management and a commercial license procedure for persons who purchase vulnerable plants with the intent to sell all or any part thereof.

Compiler's Note: The Department of Environmental Resources, referred to in par. (3), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in par. (3), was changed to the Pennsylvania Fish and Boat Commission by Act 39 of 1991. See 30 Pa.C.S. § 308 (relating to designation of commission).

Section 3. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Board." The Wild Resource Conservation Board.

"Department." The Department of Environmental Resources of the Commonwealth of Pennsylvania.

"Fund." The Wild Resource Conservation Fund.

"Management." The entire range of activities that constitute a modern scientific resource program including, but not limited to, the collection and application of biological data through research, census, habitat acquisition, habitat improvement and education.

"Wild plant." Any and all naturally occurring native flora, except those commonly considered an agricultural commodity, including green and nongreen species or subspecies or any part, product, seed or offspring thereof.

"Wild resource." All fauna not commonly pursued, killed or consumed either for sport or profit, but not including any domestic fauna or any domestic fauna that has reverted to a feral existence, and all flora not commonly considered an agricultural commodity.

Compiler's Note: The Department of Environmental Resources, referred to in the def. of "department," was abolished by Act 18 of 1995. Its functions were transferred to the

Department of Conservation and Natural Resources and the
Department of Environmental Protection.

Section 4. Voluntary contribution system.--(4 repealed May
7, 1997, P.L.85, No.7).

Section 5. Wild Resource Conservation Fund.

(a) In order to carry out the purposes of this act, there
is hereby created a special fund, which shall be known as the
"Wild Resource Conservation Fund," of the treasury of the
Commonwealth.

(b) All moneys received from the voluntary contribution
system established in section 4 and by the sale of any item
authorized by section 6, by the issuance of permits authorized
by section 8, by the issuance of licenses authorized by section
9 and from all penalties and fines imposed under section 11
shall be deposited in said fund.

(c) The Legislature may, from time to time, appropriate
funds into the special fund for the purposes of this act.

(d) The moneys contained in said fund are continuously
appropriated to the Wild Resource Conservation Board for the
exclusive use of carrying out the purposes of this act.

Section 6. Wild Resource Conservation Board.

(a) There is hereby created a Wild Resource Conservation
Board, the members of which shall consist of the Secretary of
the Department of Environmental Resources or his designee, the
Executive Director of the Pennsylvania Fish and Boat Commission
or his designee, the Executive Director of the Pennsylvania
Game Commission or his designee, the chairman and minority
chairman of the House Conservation Committee or their designees
and the chairman and minority chairman of the Senate
Environmental Resources and Energy Committee or their designees.
The chairmanship of said board shall rotate on an annual basis
among the members thereof.

((a) amended July 1, 1994, P.L.375, No.56)

(b) The board shall have the power and its duty shall be
to:

(1) Meet annually to determine and prioritize the
management objectives deemed necessary to preserve and
enhance the wild resource.

(2) Conduct a public hearing not less than 60 days prior
to each annual meeting of the board, providing 30 days
advance notice thereof by publication in the Pennsylvania
Bulletin to which all interested persons shall be invited
to make recommendations to the board.

(3) Establish, after reviewing the recommendations made
at the public hearing and consulting with the professional
staffs of those agencies represented on the board, management
projects or programs deemed necessary to preserve and enhance
the wild resource and to allocate moneys from the Wild
Resource Conservation Fund to the agency or agencies selected
by the board to implement said programs or projects. Prior
to the issuance of an allocation for any project or program
authorized herein, the board shall allocate moneys to the
Department of Environmental Resources for its administrative
responsibilities under sections 7, 8, 9, 10 and 11.

(4) Administer the Wild Resource Conservation Fund.

(5) Establish projects or programs to promote the
voluntary contribution system and to allocate moneys from
the fund to implement same.

(6) Issue an annual report, to be published in the
Pennsylvania Bulletin concurrently with the notice required
in paragraph (2), which shall include a financial analysis
and synopsis of program activities.

(c) The board shall have the right to issue for sale to the public, stamps, decals or other items of personal property intended to signify the interest of the purchaser in contributing to programs established by the board, the net proceeds of which shall be deposited in the Wild Resource Conservation Fund.

(d) The authority granted pursuant to subsection (c) shall not effect or interfere with similar authority vested by law in any agency represented on the board to sell items of personal property which promote the independent programs of those respective agencies. Said agencies shall likewise have the right to issue for sale items of personal property intended to signify the interest of the purchaser in contributing to programs established by the board, the net proceeds of which shall be deposited in the Wild Resource Conservation Fund.

(e) The board may establish an advisory committee, the members of which shall be chosen from the public and shall serve at the pleasure of the board, which shall meet to advise the board and make recommendations regarding general management objectives or specific management projects.

(f) Within two years following the effective date of this act, the board shall develop a comprehensive management plan which shall establish the management objectives and policies of the board. The board shall review said plan periodically and make revisions thereto when necessary. The board shall make the plan and any revisions thereto available for public review and comment by publication in the Pennsylvania Bulletin.

(g) The powers and duties granted pursuant to this section shall be in addition to any powers and duties granted to the Department of Environmental Resources pursuant to the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," or to the Fish Commission pursuant to 30 Pa.C.S. § 101 et seq. (relating to fish), or to the Game Commission pursuant to the act of June 3, 1937 (P.L.1225, No.316), known as "The Game Law."

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in subsecs. (a) and (g), was changed to the Pennsylvania Fish and Boat Commission by the act of December 12, 1991 (P.L.368, No.39). See 30 Pa.C.S. § 308 (relating to designation of commission).
Section 7. Wild plant management.

(a) In addition to the powers and duties granted to it by the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," the Department of Environmental Resources shall, with cooperation from taxonomists, biologists, botanists and other interested persons conduct investigations on wild plants in order to ascertain information relating to population, distribution, habitat needs, limiting factors and other biological and ecological data to classify plants and to determine management measures necessary for their continued ability to sustain themselves successfully.

(b) The department shall establish a classification procedure that should include but may not be limited to the following categories:

(1) Extirpated. Species which once occurred in Pennsylvania, but no longer are known to exist.

(2) Endangered. Species in danger of extinction throughout all or most of its range if critical habitat is not maintained, or it is greatly exploited by man.

(3) Threatened. Species likely to become endangered throughout all or most of its range if critical habitat is not maintained or it is greatly exploited by man.

(4) Disjunct. Species which are significantly separated from the main area of distribution.

(5) Endemic. Species confined to a specialized habitat and with limited ranges.

(6) Restricted. Species with epidemic distribution but found in specialized habitats or habitats infrequent in Pennsylvania.

(7) Limit of range. Species which are uncommon or rare in Pennsylvania because they are at or near the peripheral of their distribution. Within the main body of their distribution, these species may or may not be common.

(8) Vulnerable. Species which are in danger of loss because of their beauty, economic value, use as cultivar or other factors which make them prime targets for being removed from native habitats.

(9) Undetermined. Species suggested as needing protection because of their infrequent occurrence, but their status in Pennsylvania is unclear.

(c) On the basis of such determinations, the Environmental Quality Board shall issue regulations not later than two years from the effective date of this act, after public notice, after receiving data from interested persons and after holding public hearings. Such regulations so established shall set limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage wild plants. The Environmental Quality Board may add or delete species as conditions change and may modify regulations to reflect the changing environment.

(d) The department shall establish criteria for and promote a cooperative Statewide system of private wild plant sanctuaries.

(e) Each landowner desiring "private wild plant sanctuary" designation under this act shall make application to the department on a form prepared and provided by the department.

(f) No portion of this section shall be construed to restrict withdrawal of said designation at the request of the landowner.

(g) The department may suspend or revoke any designation for violation of this act, the regulations thereunder or for other good cause.

(h) No portion of this section shall be construed to restrict entry into such sanctuaries for the purpose of hiking, hunting, fishing or any other beneficial nonmotorized outdoor activity.

(i) Except as provided in this section, it shall be unlawful for any person exclusive of the owner of the land or any person having a bona fide property interest therein, to willfully adversely alter or destroy the local ecosystem of such private wild plant sanctuary.

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in subsecs. (a) and (g), was changed to the Pennsylvania Fish and Boat Commission by Act 39 of 1991. See 30 Pa.C.S. § 308 (relating to designation of commission).

Section 8. Wild plant management permits.

(a) In carrying out the purposes of this act, the department shall upon application issue permits authorizing the removal, collection or transplanting of endangered or threatened plant species pursuant to regulations established by the Environmental Quality Board.

(b) Any person desiring a wild plant management permit as herein provided, shall make application to the department on a form provided by the department.

(c) It shall be lawful for a person holding a valid wild plant management permit, with the expressed permission of landowners, to transplant wild plants into private and public plant sanctuaries for the purpose of insuring their perpetuation as members of ecosystems, to enhance their numbers or to restore their natural range. All such transplants shall be in accordance with the provisions of this act.

(d) Persons holding valid wild plant management permits should make every effort possible to transplant valuable species from land areas threatened by future land development, surface mining or agricultural encroachment to public or private plant sanctuaries.

(e) The department may also grant certain permittees, for taxonomical and botanical purposes, the right to collect threatened or endangered plants defined herein subject to the rules and regulations pursuant to this act, with the expressed permission of the landowner, as long as such collections would be deemed by the department to be consistent with the intent of this act.

(f) The department may suspend or revoke any plant management permit for violation of this act or regulations thereunder, the terms or conditions of the permit or for other good cause.

(g) Any person aggrieved by a decision of the department may appeal such decisions to the Environmental Hearing Board pursuant to Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Compiler's Note: Section 313(g) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties previously vested in the Environmental Quality Board by section 8.

Section 9. Vulnerable species.

(a) Species classified as vulnerable shall be subject to the following restrictions:

(1) The Environmental Quality Board upon designation of vulnerable species shall establish regulations over the digging, harvesting, sale and exploitation of said species.

(2) The regulations shall:

(i) consider the distribution, abundance, economic value, growing and reproduction cycle;

(ii) establish seasons for the digging and harvesting of plants or plant parts; and

(iii) provide for the commercial licensing of persons who buy with the intent to sell vulnerable plants within the Commonwealth or export said plants therefrom and to require the licensees to maintain records of their transactions.

(3) The Environmental Quality Board shall establish the license fee.

Compiler's Note: Section 313(g) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties previously vested in the Environmental Quality Board by section 9. Section 10. Public wild plant sanctuaries.

(a) The department may, when deemed necessary to protect wild plant species afforded consideration under this act, acquire natural areas of land or aquatic habitat, or designate such areas on land previously acquired for the establishment of public wild plant sanctuaries.

(b) The department may, when deemed necessary to protect a species afforded protection under this act, acquire natural areas of land or aquatic habitat.

(c) The secretary shall utilize all existing authority vested in the department to carry out the purposes of this section.

(d) The department may allow, under such terms and conditions as may be prescribed by regulation, individuals or groups to assist in the management of designated areas for the purpose of promoting wild plants.

(e) Such areas established under this section shall be utilized whenever feasible, for scientific or educational purposes.

Section 11. Enforcement.

(a) Except as otherwise provided it shall be unlawful for any person, exclusive of the owner of the land or any person having a bona fide property interest therein to disturb, pick, take or possess vulnerable, threatened or endangered wild plants. It shall be unlawful for any person to transport with the intent to sell, sell or export threatened or endangered wild plants. It shall be unlawful for any person to disturb, pick or take wild plants from State parks and forest lands except as provided by rules and regulations.

(b) In order to aid the department in the enforcement of this act, the following penalties shall apply:

(1) Any person who violates the provisions of this act relating to commercial licensing or regulations issued thereunder shall be sentenced to pay a fine of not more than \$200 or have the license revoked or both.

(2) Any person found to be illegally in possession of any wild plant species or part thereof protected hereunder, or any person who willfully destroys or mutilates an endangered plant species protected hereunder shall be

sentenced to pay a fine of up to \$100 for each plant taken or destroyed.

(3) Any person who violates any other provision of this act or regulation issued hereunder shall, for violation, be sentenced to pay a fine of not more than \$100.

(c) Any enforcement officer employed or designated by the department or any police officer of the Commonwealth or any municipality within the Commonwealth shall have authority to enforce the provisions of this section.

(d) Any person aggrieved by any order or other action of the department shall have the right of appeal to the Environmental Hearing Board, in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) and such further right of appeal as is provided by law in such cases.

Section 12. Limitation; termination.

The check-off system created by section 4 of this act shall be the only such check-off allowed on Pennsylvania State income tax return forms seeking voluntary contributions from tax refunds. In the event the Wild Resource Conservation Fund shows a net loss, after the deduction of administrative costs by the Department of Revenue, for two consecutive years, and the Secretary of the Budget and the State Treasurer certify to the General Assembly that such loss has in fact occurred then the board and all of its powers and duties shall terminate and go out of existence within 60 days of the certification.

Compiler's Note: Section 35.1(b) of Act 7 of 1997 provided that section 12 is repealed insofar as it is inconsistent with Act 7.

Compiler's Note: Section 16 of Act 67 of 1990 provided that section 12 is repealed insofar as it is inconsistent with Act 67.

Section 13. Limitation on General Fund money.

Except to complete any transfer required by section 4, no moneys from the General Fund shall be used for the purposes of this act.

Section 14. Repeal.

All acts or parts of acts inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency.

Section 15. Effective date.

This act shall take effect January 1, 1983.