

Drafter: JC

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LR (item)#: 846(2)

New Title?: N

Add Emergency?: N

Date: 5/6/2021

**LD 883  
SPONSOR AMENDMENT  
Offered by Sen. Miramant**

Amend the bill by striking everything after the enacting clause and before the summary and replacing with the following:

**Sec. 1. 12 MRSA §6973** is amended to read:

**§6973. Designation of marine species as state endangered or state threatened**

**1. Commissioner's authority.** The commissioner may recommend a marine species found in the State for designation as a state endangered or state threatened marine species under section 6975 if that species is listed as an endangered or threatened species by the United States Secretary of the Interior, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

**2. Modification to list.** The commissioner may recommend that a marine species designated as a state endangered or state threatened species be removed from the list in section 6975 or recommend other changes to that list.

**3. Public notice and hearings.** Prior to recommending an addition, deletion or other change to the list of state endangered and state threatened marine species in section 6975, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

**4. Rulemaking.** The commissioner by rule shall designate a marine species as a state endangered or state threatened marine species if that species:

A. Is listed as an endangered or threatened species by the United States Secretary of the Interior or Secretary of Commerce, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended;

B. Uses waters of the State for any part of its life cycle; and

C. Is not listed in section 6975, 12803 or rules adopted under subsection 12803.

Rules adopted under this subsection are routine technical rules as defined in Title 5, Chapter 375, Subchapter 2-A.

**Sec. 2. 12 MRSA § 6974 is repealed.**

~~**§6974. Legislative authority**~~

~~The Legislature has sole authority to designate a marine species as a state endangered or state threatened species or to remove a species or change the designation of a species listed in section 6975.~~

**Sec. 3. 12 MRSA §6975** is amended to read:

**§6975. List of state endangered and state threatened marine species**

~~In addition to species designated by rule pursuant to section 6973, the~~ The list of state endangered or state threatened marine species by common name, scientific name and status is are as follows:

1. **Right whale.** Right whale, *Eubalaena glacialis*, endangered;
2. **Humpback whale.** Humpback whale, *Megaptera novaeangliae*, endangered;
3. **Finback whale.** Finback whale, *Balaenoptera physalus*, endangered;
4. **Sperm whale.** Sperm whale, *Physeter catodon*, endangered;
5. **Sei whale.** Sei whale, *Balaenoptera borealis*, endangered;
6. **Leatherback turtle.** Leatherback turtle, *Dermochelys coriacea*, endangered;
7. **Atlantic ridley turtle.** Atlantic ridley turtle, *Lepidochelys kempii*, endangered;
8. **Loggerhead turtle.** Loggerhead turtle, *Caretta caretta*, threatened; and
9. **Shortnose sturgeon.** Shortnose sturgeon, *Acipenser brevirostrum*, endangered.

**Sec. 4. 12 MRSA §12803** is amended to read:

**§12803. Designation of endangered species**

1. **Standards.** The commissioner shall recommend a species to be listed as endangered or threatened under subsection 3 whenever the commissioner finds one of the following to exist:

- A. The present or threatened destruction, modification or curtailment of its habitat or range;
- B. Overutilization for commercial, sporting, scientific, educational or other purposes;
- C. Disease or predation;
- D. Inadequacy of existing regulatory mechanisms; or
- E. Other natural or manmade factors affecting its continued existence within the State.

2. **Commissioner's duties.** In recommending a species to be listed as endangered or threatened under subsection 3, the commissioner shall:

- A. Make use of the best scientific, commercial and other data available;

B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and

C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened.

**3. Legislative authority list.** ~~The Legislature, as sole authority, shall designate a species as a state endangered or state threatened species.~~ In addition to the species designated by rule under subsection 6, The list of state endangered or state threatened species by common name, scientific name and status is are as follows:

- A. Least tern, *Sterna antillarum*, endangered;
- B. Golden eagle, *Aquila chrysaetos*, endangered;
- C. Piping plover, *Charadrius melodus*, endangered;
- D. Sedge wren, *Cistothorus platensis*, endangered;
- E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- F. Box turtle, *Terrapene carolina*, endangered;
- G. Black racer, *Coluber constrictor*, endangered;
- H. Roseate tern, *Sterna dougallii*, endangered;
- I. Northern bog lemming, *Synaptomys borealis*, threatened;
- J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- K. Black tern, *Chlidonias niger*, endangered;
- L. American pipit, *Anthus rubescens* (breeding population only), endangered;
- M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered;
- N. Roaring Brook mayfly, *Epeorus frisoni*, threatened;
- O. Ringed boghaunter, *Williamsonia lintneri*, threatened;
- P. Clayton's copper, *Lycaena dorcas claytoni*, threatened;
- Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered;
- R. Hessel's hairstreak, *Callophrys hesseli*, endangered;
- S. Katahdin arctic, *Oenis polixenes katahdin*, endangered;
- T. Spotted turtle, *Clemmys guttata*, threatened;
- U.
- V. Razorbill, *Alca torda*, threatened;
- W. Atlantic puffin, *Fratercula arctica*, threatened;
- X. Harlequin duck, *Histrionicus histrionicus*, threatened;
- Y. Arctic tern, *Sterna paradisaea*, threatened;

- Z. Upland sandpiper, *Bartramia longicauda*, threatened;
- AA. Swamp darter, *Etheostoma fusiforme*, threatened;
- BB. Tidewater mucket, *Leptodea ochracea*, threatened;
- CC. Yellow lampmussel, *Lampsilis cariosa*, threatened;
- DD. Tomah mayfly, *Siphonisca aerodromia*, threatened;
- EE.
- FF. Twilight moth, *Lycia rachelae*, threatened;
- GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened;
- HH. Redfin pickerel, *Esox americanus americanus*, endangered;
- II. Juniper hairstreak, *Callophrys gryneus*, endangered;
- JJ. Rapids clubtail, *Gomphus quadricolor*, endangered;
- KK. New England cottontail, *Sylvilagus transitionalis*, endangered;
- LL. Black-crowned night heron, *Nycticorax nycticorax*, endangered;
- MM. Common gallinule, *Gallinula galeata*, threatened;
- NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened;
- OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened;
- PP. Purple lesser fritillary, *Boloria chariclea grandis*, threatened;
- QQ. Sleepy duskywing, *Erynnis brizo*, threatened;
- RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened;
- SS. Brook floater, *Alasmodonta varicosa*, threatened;
- TT. Barrow's goldeneye, *Bucephala islandica*, threatened;
- UU. Least bittern, *Ixobrychus exilis*, endangered;
- VV. Cobblestone tiger beetle, *Cicindela marginipennis*, endangered;
- WW. Frigga fritillary, *Boloria frigga*, endangered;
- XX. Little brown bat, *Myotis lucifugus*, endangered;
- YY. Northern long-eared bat, *Myotis septentrionalis*, endangered;
- ZZ. Eastern small-footed bat, *Myotis leibii*, threatened; and
- AAA. Six-whorl vertigo, *Vertigo morsei*, endangered.

**4. Process for recommendation; notice and hearings.** Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

**5. Designation by Legislature.** The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

**6. Rulemaking.** The commissioner by rule shall designate a species as a state endangered or state threatened species if that species:

A. Is listed as an endangered or threatened species by the United States Secretary of the Interior or Secretary of Commerce, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended;

B. Uses the land or waters of the State for any part of its life cycle; and

C. Is not listed in subsection 3, section 6975 or rules adopted under 6973

Rules adopted under this subsection are routine technical rules as defined in Title 5, Chapter 375, Subchapter 2-A.

## SUMMARY

This amendment replaces the bill. This amendment does the following.

1. Requires the Commissioner of Marine Resources to designate a marine species as a state endangered or state threatened species if the species is listed as an endangered or threatened species under the United States Endangered Species Act, the species uses the waters of the State for any part of its life cycle and the species is not already so designated in state law or rule.
2. Requires the Commissioner of Inland Fisheries and Wildlife to designate a species as a state endangered or state threatened species if the species is listed as an endangered or threatened species under the United States Endangered Species Act, the species uses the land or waters of the State for any part of its life cycle and the species is not already so designated in state law or rule.
3. Removes provisions of law that provide that the Legislature is the sole authority to designate species as endangered or threatened.
4. Continues to authorize the Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife to recommend additional species to the Legislature for listing as an endangered or threatened species.