

C.R.S. 33-2-101

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 33. PARKS AND WILDLIFE
WILDLIFE

ARTICLE 2. NONGAME AND ENDANGERED SPECIES CONSERVATION

C.R.S. 33-2-101 (2013)

33-2-101. Short title

This article shall be known and may be cited as the "Nongame, Endangered, or Threatened Species Conservation Act".

33-2-102. Legislative declaration

The general assembly finds and declares that it is the policy of this state to manage all nongame wildlife, recognizing the private property rights of individual property owners, for human enjoyment and welfare, for scientific purposes, and to ensure their perpetuation as members of ecosystems; that species or subspecies of wildlife indigenous to this state which may be found to be endangered or threatened within the state should be accorded protection in order to maintain and enhance their numbers to the extent possible; that this state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered or threatened elsewhere; and that adequate funding be made available to the division annually by appropriations from the general fund.

33-2-103. Definitions

As used in this article, unless the context otherwise requires:

(1) "Management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern, scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations. "Management" may include artificial propagation to maintain threatened or endangered species populations, in concert with the exercise of water rights, and may also include restriction of stocking of species which are in competition with threatened or endangered species for the available habitat.

33-2-104. Nongame species - regulations

(1) The division shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations, the commission shall issue regulations and develop management programs designed to ensure the

continued ability of nongame wildlife to perpetuate themselves successfully. Such regulations shall set forth species or subspecies of nongame wildlife which the commission deems in need of management pursuant to this section, giving their common and scientific names by species and, where necessary, by subspecies. The commission shall conduct ongoing investigations of nongame wildlife and may from time to time amend such regulations by adding or deleting therefrom species or subspecies of nongame wildlife.

(2) The commission shall by regulation establish limitations relating to the taking, possession, transportation, exportation, processing, sale or offering for sale, or shipment as may be deemed necessary to manage nongame wildlife.

(3) Except as provided in regulations issued by the commission, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship nongame wildlife deemed by the commission to be in need of management pursuant to this section. Subject to the same exception, it is also unlawful for any common or contract carrier to knowingly transport or receive for shipment nongame wildlife deemed by the commission to be in need of management pursuant to this section.

33-2-105. Endangered or threatened species

(1) On the basis of investigations of nongame wildlife provided for in [section 33-2-104](#) and other available scientific and commercial data and after consultation with other state wildlife agencies, the Colorado water conservation board, the Colorado water and power development authority, water conservancy districts, and other water conservation districts of the state, and other water resource development agencies within the state, appropriate federal agencies, and other interested persons and organizations, the commission shall by regulation adopted pursuant to the procedures specified in [sections 33-1-111](#) and [24-4-103, C.R.S.](#), establish a list of those species and, where necessary, subspecies of wildlife indigenous to this state which are determined to be endangered or threatened within this state, giving their common and scientific names by species and, where necessary, by subspecies.

(2) The commission shall:

(a) Conduct, by July 1, 1986, and at least once every five years thereafter, a review of all species included in the state lists of endangered or threatened species established pursuant to subsection (1) of this section; and

(b) Determine on the basis of such review whether any such species should:

(I) Be removed from such list;

(II) Be changed in status from an endangered species to a threatened species; or

(III) Be changed in status from a threatened species to an endangered species.

(3) Except as otherwise provided in this article, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship and for any common or contract carrier to knowingly transport or receive for shipment any species or subspecies of wildlife appearing on the list of wildlife indigenous to this state determined to be endangered within the state pursuant to subsection (1) of this section.

(4) Except as otherwise provided in this article, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship and for any common or contract carrier to knowingly transport or receive for shipment any species or subspecies of wildlife appearing on the list of wildlife indigenous to this state determined to be threatened within the state pursuant to subsection (1) of this section.

33-2-105.5. Reintroduction of endangered species - legislative declaration

(1) The general assembly determines and declares that pursuant to the tenth amendment of the United States constitution, the state of Colorado has primacy over affairs that are of statewide concern and that matters concerning the environment, including the introduction or reintroduction of species that are currently not found or no longer found in this state is a statewide concern and should be conducted by the state through specific legislation. Reintroduction drives enormous land use questions and impacts property and water rights throughout Colorado.

(2) Before any species may be introduced or reintroduced into this state through action by any state or local government entity, the general assembly shall act by bill to specifically name such species and to specify the manner of introduction or reintroduction. The species to be introduced or reintroduced shall be:

(a) Not, or no longer, found in this state; and

(b) A candidate for listing or has been placed in the threatened or endangered species list pursuant to the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531 et seq., as amended.

33-2-105.6. Reintroduction of the bonytail fish and the black-footed ferret

(1) In accordance with [section 33-2-105.5](#), the general assembly hereby determines that the following species were not, as of April 18, 2000, found in the state and are listed under the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531 et seq., as amended, and therefore require approval by the general assembly prior to reintroduction by the division. The general assembly hereby approves the reintroduction of the following species into the state of Colorado:

(a) (I) The bonytail (*gila elegans*).

(II) The reintroduction of the bonytail shall be conducted consistent with the five-year stocking plan for endangered Colorado river fish species in Colorado, as approved by the Colorado river fishes recovery program biology committee on September 1, 1998, or as may be amended.

(b) (I) The black-footed ferret (*mustela nigripes*).

(II) The reintroduction of the black-footed ferret shall be conducted consistent with the approach described in the black-footed ferret cooperative management plan dated June 1995, developed by the division, the United States fish and wildlife service, and the United States bureau of land management, as modified by the availability of programmatic safe harbor agreements and enhancement-of-survival permits under 16 U.S.C. sec. 1539 (a) (1) (A). The reintroduction program must provide for regular updates for the local community on the status of the reintroduction and involve representatives of local government and affected interests in resolving issues that may arise during the reintroduction effort.

(2) Reintroduction of the species listed in subsection (1) of this section shall commence before December 31, 2002.

(3) The division shall submit annual reports, no later than January 15 of each year, to the house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee on the status of the reintroduction of the bonytail and the black-footed ferret and the progress towards meeting the goals of the recovery program and the removal of the species from the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531 et seq., as amended.

(4) In addition to the requirements of paragraph (b) of subsection (1) of this section, the reintroduction of the black-footed ferret shall be conducted in accordance with the following requirements:

(a) Each annual report prepared pursuant to subsection (3) of this section shall include an assessment evaluating whether the reintroduction of the black-footed ferret will impair any use of private land or beneficial use of water existing at the time of such reintroduction. If the assessment in any annual report concludes that any such use of land will be impaired by reintroduction of the black-footed ferret, the annual report shall also describe the reason for the

impact and possible actions to reduce such impact.

(b) Any effort to reintroduce the black-footed ferret in any areas outside the experimental population boundaries described in the black-footed ferret cooperative management plan dated June 1995, shall require further legislative approval; except that a reintroduction of black-footed ferrets occurring on or after August 7, 2013, as amended, does not require further legislative approval if the reintroduction occurs on private land with landowner consent pursuant to a programmatic safe harbor agreement and an enhancement-of-survival permit under 16 U.S.C. sec. 1539 (a) (1) (A) that:

(I) Authorize the incidental take of black-footed ferrets that may result from the implementation of conservation actions, specific land uses, and the return of the landowner's real estate to baseline conditions; and

(II) Provide landowners with assurances that the federal government will not impose further land, water, or resource-use restrictions or additional commitments of land, water, or finances beyond that agreed to in the agreement.

(c) The state of Colorado shall ensure enforcement of the provisions of the black-footed ferret cooperative management plan dated June, 1995, up to and including litigation if the memorandum of understanding between Colorado and any federal agency implementing such plan is violated.

(d) If requested, the state of Colorado shall relocate any black-footed ferrets within the state of Colorado that were reintroduced pursuant to the black-footed ferret cooperative management plan dated June 1995, and that move outside of the experimental population boundaries described in the plan into the area originally designated in the plan.

(e) Nothing in the black-footed ferret cooperative management plan dated June, 1995, shall affect current prairie dog management efforts on private lands.

33-2-105.7. Reintroduction of species - legislative declaration - report

(1) (a) As used in this section, unless the context otherwise requires, "introduction" means the release of a nonaquatic wildlife species that is currently not found or no longer found in this state into the environment of Colorado, and shall include reintroduction; except that introduction shall not include any nonaquatic wildlife species the actual initial release of which occurred prior to May 24, 2000, or any release that has previously been approved by the general assembly acting by bill.

(b) The general assembly determines and declares that the introduction of species is a matter of statewide concern and should be conducted by the state through specific legislation. Such introduction may cause substantial harm to the state's overall ecosystem, including native plants and animal wildlife. The introduction of wildlife species also has far-reaching impacts on benefits from the use of both public and private lands within the state.

(2) Before any wildlife species may be introduced, the department shall prepare a report that includes, at a minimum, the following information:

(a) The potential ecological and economic impacts, including whether the introduction of a wildlife species will prevent or impair the then-existing use or uses of private land, and the benefits of the introduction;

(b) The probable survival rates of the introduced animals;

(c) The possible impacts should the introduction not take place; and

(d) An assessment evaluating whether the introduction of the wildlife species will impair any use of private land or beneficial use of water existing at the time of such introduction. If the assessment concludes that any such use will be impaired by the introduction, the report shall also describe the reason for the impact and possible actions to

reduce such impact.

(3) The department shall deliver the report prepared pursuant to subsection (2) of this section to the general assembly, in accordance with [section 24-1-136 \(9\), C.R.S.](#), within thirty days after its completion.

(4) The department shall annually prepare a report for each of the five years after an introduction occurs that shall include, at a minimum, the following information:

(a) The status of the introduction effort;

(b) A report on the estimated survival rates of the introduced wildlife species and their progeny;

(c) If the survival rate of the introduced wildlife species and their progeny is below the initial projected range, an assessment of why the survival rate is lower than expected and the steps that have been considered and put in place to increase survival rates; and

(d) The recovery goals and anticipated timelines of the recovery program.

33-2-106. Management programs

(1) The division shall establish such programs including acquisition of land or aquatic habitat as are deemed necessary for management of nongame, endangered, or threatened wildlife.

(2) In carrying out programs authorized by this section, the division may enter into agreements with federal agencies or political subdivisions of this state or with private persons for administration and management of any area established under this section or utilized for management of nongame, endangered, or threatened wildlife.

(3) The commission may permit, under such terms and conditions as may be prescribed by regulation, the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife which appear on the state lists of endangered or threatened species for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

(4) Upon good cause shown and where necessary to alleviate damage to property or to protect human health, endangered or threatened species may be removed, captured, or destroyed but only pursuant to permit issued by the division and, where possible, by or under the supervision of an agent of the division. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth in this subsection (4) shall be set forth in regulations issued by the commission pursuant to [section 33-2-104 \(1\)](#).

33-2-107. Regulations

The commission shall issue such regulations as are necessary to carry out the purposes of this article.

33-2-108. Funding. (Repealed)