

House Bill 4040

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture and Natural Resources)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Ratifies decision of State Fish and Wildlife Commission to remove *Canis lupus* from state list of endangered species.

Prohibits commission from including *Canis lupus* on lists of threatened species or endangered species unless certain criteria met.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to *Canis lupus*; creating new provisions; amending ORS 496.176; and declaring an emer-
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The vote taken by the State Fish and Wildlife Commission on November 9,**
6 **2015, to remove *Canis lupus*, commonly known as the gray wolf, from the list of threatened**
7 **species or endangered species established pursuant to ORS 496.172 (2) is ratified and ap-**
8 **proved.**

9 **SECTION 2.** ORS 496.176 is amended to read:

10 496.176. (1) The lists of threatened species or endangered species established pursuant to ORS
11 496.172 (2) shall include:

12 (a) Those species of wildlife listed as of May 15, 1987, as a threatened species or an endangered
13 species pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as
14 amended; and

15 (b) Those species determined as of May 15, 1987, by the State Fish and Wildlife Commission to
16 be threatened species or endangered species.

17 (2) The commission, by rule, may add or remove any wildlife species from either list, or change
18 the status of any species on the lists, upon a determination that the species is or is not a threatened
19 species or an endangered species.

20 (3) A determination that a species is a threatened species or an endangered species shall be
21 based on documented and verifiable scientific information about the species' biological status. To list
22 a species as a threatened species or an endangered species under ORS 496.004 and 496.171 to
23 496.182, the commission shall determine that the natural reproductive potential of the species is in
24 danger of failure due to limited population numbers, disease, predation or other natural or human
25 actions affecting its continued existence and, to the extent possible, assess the relative impact of
26 human actions. In addition, the commission shall determine that one or more of the following factors
27 exists:

28 (a) That most populations are undergoing imminent or active deterioration of their range or
29 primary habitat;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) That overutilization for commercial, recreational, scientific or educational purposes is oc-
2 ccurring or is likely to occur; or

3 (c) That existing state or federal programs or regulations are inadequate to protect the species
4 or its habitat.

5 (4) Determinations required by subsection (3) of this section shall be made by the commission
6 on the basis of verifiable scientific and other data after consultation with federal agencies, other
7 interested state agencies, private landowners, affected cities, affected counties, affected local service
8 districts as defined in ORS 174.116, other states having a common interest in the species and inter-
9 ested persons and organizations.

10 (5)(a) Any person may petition the commission to, by rule, add, remove or change the status of
11 a species on the list.

12 (b) A petition shall clearly indicate the action sought and shall include documented scientific
13 information about the species' biological status to justify the requested action.

14 (c) Within 90 days of receipt of a petition, the commission shall respond in writing to the
15 petitioner indicating whether the petition presents substantial scientific information to warrant the
16 action requested.

17 (d) If the petition is found to present such information, the commission shall commence
18 rulemaking.

19 (e) A final determination by the commission concerning the action requested in a petition shall
20 be provided within one year from the date of receipt of the petition, with the option for an additional
21 12-month extension of time to complete the listing if the commission determines that limited infor-
22 mation or other appropriate considerations require the extension.

23 (f) If the petition is denied, the petitioner may seek judicial review as provided in ORS 183.484.

24 (6) The commission may determine not to list a species as a threatened species or an endangered
25 species in any of the following cases:

26 (a) If the species has been listed pursuant to the federal Endangered Species Act of 1973 (P.L.
27 93-205, 16 U.S.C. 1531), as amended.

28 (b) If the species is currently on the list as a sensitive species, or is a candidate species or has
29 been petitioned for listing pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16
30 U.S.C. 1531), as amended.

31 (c) If the species has been determined, pursuant to the federal Endangered Species Act of 1973
32 (P.L. 93-205, 16 U.S.C. 1531), as amended, to not qualify as a threatened species or an endangered
33 species.

34 (7)(a) Notwithstanding subsections (1) to (5) of this section, the commission shall take emergency
35 action to add a species to the list of threatened species or endangered species if it determines there
36 is a significant threat to the continued existence of the species within the state.

37 (b) The commission shall publish notice of such addition in the Secretary of State's bulletin and
38 shall mail notice to affected or interested persons whose names are included on the commission's
39 mailing list for such purposes.

40 (c) Such emergency addition shall take effect immediately upon publication in the Secretary of
41 State's bulletin and shall remain valid for a period no longer than one year, unless during the period
42 the commission completes rulemaking procedures as provided in subsection (5) of this section.

43 (8) The commission shall periodically review the status of all threatened species and endangered
44 species listed under ORS 496.171 to 496.192. Each species shall be reviewed at least once every five
45 years to determine whether verifiable scientific information exists to justify its reclassification or

1 removal from the list, according to the criteria listed under subsections (3) and (4) of this section.
2 If a determination is made to reclassify a species or remove it from the list, the commission, within
3 90 days, shall commence rulemaking to change the status of the species.

4 (9) Notwithstanding the provisions of this section, the commission:

5 (a) May decide not to list a species that otherwise qualifies as a threatened or endangered
6 species within this state if the commission determines that the species is secure outside this state
7 or the species is not of cultural, scientific or commercial significance to the people of this state.

8 (b) May not include *Branta canadensis leucopareia*, commonly known as the Aleutian Canada
9 goose, on the lists of threatened species or endangered species.

10 (c) **May not include *Canis lupus*, commonly known as the gray wolf, on the lists of**
11 **threatened species or endangered species unless *Canis lupus* populations in both the east and**
12 **the west wolf management zones described in the Oregon Wolf Conservation and Manage-**
13 **ment Plan adopted by the commission decline to below the population status necessary for**
14 **implementation of Phase II management activities under the plan.**

15 **SECTION 3. This 2016 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
17 **on its passage.**

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