

CONCURRENCE IN SENATE AMENDMENTS

AB 1319 (Schultz)

As Amended September 5, 2025

Majority vote

SUMMARY

Authorizes the California Department of Fish and Wildlife (CDFW) to extend protections under the California Endangered Species Act (CESA) to a California native species listed under the Endangered Species Act (ESA) if the federal government takes actions to decrease federal protections for that species under ESA. Further, makes it unlawful for a person to import, cause to be imported, export, cause to be exported, transport, sell, offer for sale, possess, receive, acquire, or purchase any fish, wildlife, or plant that was taken, possessed, transported or sold in violation of any law, treaty, or statute.

Senate Amendments

- 1) Recast and clarify the provisions of the bill, including clarifying the terms of a decrease in federal protection and narrowing the actions that CDFW must monitor.
- 2) Require listing the species initially as a provisional candidate species and clarify the treatment of provisional candidacy under CESA.
- 3) Require the publication of findings in the California Regulatory Notice Register; and add a public notice requirement.
- 4) Add penalties for the import or possession of fish, wildlife, or plants that are possessed in violation of the law.
- 5) Remove a duplicative provision and make technical changes.

COMMENTS

Section 1 of this bill institutes protections similar to those under the Lacey Act. First enacted in 1900, the Lacey Act is one of the oldest federal wildlife protection laws and that combats trafficking of illegally taken wildlife, fish, or plants. The Lacey Act has been amended several times, including in 2008, when protections were extended to a broader range of plants and plant products—making it unlawful to import certain products without an import declaration. The 2008 amendments focus on illegal logging and harvesting of wild plants, practices often linked to terrorist funding, political instability, deforestation, and unlawful trade. The Lacey Act is administered by agencies of the Departments of Agriculture, Commerce, and Interior, including the Animal and Plant Health Inspection Service, National Marine Fisheries Service (NMFS), and United States Fish and Wildlife Service (USFWS).

ESA and CESA were enacted to prevent the extinction of fish, wildlife, plant, and invertebrate species. Both acts rely on scientific analysis to determine which species face extinction and impose protections for those species. Although there are differences between ESA and CESA, the overarching intent of both is to regulate and impose mitigation on activities that could contribute to the extinction of species. Species are referred to as "listed" if they have been designated as "threatened" or "endangered" by either ESA or CESA. Species are considered "candidate species" to denote the period of time between a petition to list being accepted by the

Fish and Game Commission (Commission) and the determination that the species should or should not be formally listed. Under CESA, candidate species are afforded the same protections as a listed species. According to the list of state and federally listed animal species that CDFW maintains, there are 60 species that are both state- and federally-listed, 38 species are listed only under CESA, and 80 species listed only under ESA. Those 80 species include two species of abalone, numerous species of butterfly, two species of cutthroat trout, populations of steelhead salmon, loggerhead sea turtle, and several whale species, to name a few.

Incidental Take Permits (ITP) are granted as exceptions under CESA and ESA to enable prohibited take for an otherwise lawful activity. Examples of "lawful activities" for which an ITP may be issued include infrastructure development, housing development, and scientific research. ITPs granted under ESA and CESA both require the applicant to ensure adequate funding to implement minimization and mitigation measures, although there are a few key differences between the extent of those measures as required by each act. Under ESA, take must not appreciably reduce the likelihood of the survival and recovery of that species in the wild, and the applicant must, to the maximum extent practicable, minimize and mitigate the impact of that take. Under CESA, take must not jeopardize the continued existence of the species, and the applicant must minimize and fully mitigate the take. The "fully mitigated" standard often means that ITPs granted by the state require a higher level of mitigation than federal ITPs. CESA does provide a mechanism for CDFW to concur with a federal ITP if that ITP meets state standards, through what is called a consistency determination.

Section 2 of this bill is similar in spirit to provisions found in SB 1 (Atkins) of 2019 in response to the first Trump administration, which, as previous analyses noted, had committed numerous actions to roll back federal environmental protections because that administration presumed that environmental law and regulation jeopardize economic growth in the United States. The current federal administration has indicated its intention to weaken protections for biodiversity, particularly for endangered and threatened species. Since January, President Trump has issued multiple executive orders with directives to weaken protections for species protected under the ESA, including mandating quarterly meetings of the Endangered Species Committee, also known as the "God Squad," which can override ESA and authorize otherwise prohibited activities; sunset environmental protections to "unleash American energy" and streamlining ESA to expand American Timber Production. As recently as April 17, 2025, USFWS and NMFS have proposed to rescind the regulatory definition of "harm" under ESA, which is frequently used to protect critical habitat for listed species. On May 19, 2025, 16 State Attorneys General, including California Attorney General Rob Bonta, submitted a comment letter to the Trump Administration opposing this change. These actions indicate the need for the protections afforded under this bill are far from hypothetical.

According to the Author

[CESA] states that all native species and their habitats, threatened with extinction and those experiencing a significant decline, which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved. Currently, there are 80 fish and wildlife species and 65 plant species in California considered endangered or threatened but are protected only by the federal [ESA]. California law also includes protections for international species experiencing declines by prohibiting the trade in lion and elephant parts.

The current federal administration has made it clear that it intends to weaken protections for biodiversity, particularly endangered and threatened species. Since January, President Trump has

issued multiple executive orders with directives to weaken protections for species protected under the federal ESA. Last month, the federal government issued a draft rule that would significantly reduce the scope of protections for imperiled species under the federal ESA.

[This bill] creates a clear and orderly process by which the state would evaluate the changes in federal protection and decide if endangered and threatened California native species left unprotected by changes in federal law should be protected by [CESA]. It also keeps in place existing protections for hunted international species protected by federal law.

Arguments in Support

Numerous environmental and conservation organizations write in support of this bill and the long legacy of biodiversity conservation in this state: "The current federal administration has made it clear that it intends to weaken protections for biodiversity, particularly endangered and threatened species. Since January, President Trump has issued multiple executive orders with directives to weaken protections for species protected under the federal ESA, including mandating quarterly meetings of the Endangered Species Committee, also known as the "God Squad," which can override the ESA and authorize otherwise prohibited activities. The God Squad has exercised its power to overrule the law just three times. In addition, in April, the federal government issued a draft rule that would significantly reduce the scope of protection for imperiled species under the federal ESA.

Further, based on actions taken in the last Trump Administration, there is sufficient reason for concern that there could be changes to federal law that will place additional international species deemed desirable by American trophy hunters at risk."

They further note that this bill will provide "greater certainty for developers and less costs at the Commission by creating a thoughtful and controlled process to review listing petitions instead of the Commission responding to a potential tsunami of listing petitions triggered by changes in federal regulations. This bill also provides more certainty for developers by allowing the Commission to rely on federal take permits and biological opinions to permit the "take" of the species."

Defenders of Wildlife, the sponsor of this bill, notes that recent amendments maintain public notice and opportunity to comment at the Commission and further argue that species listed under the federal ESA have already undergone an extensive public process in order to be listed. The sponsor also notes that amendments have narrowed the circumstances under which a species may become a provisional candidate under this bill.

Arguments in Opposition

The Association of California Water Agencies (ACWA), in a joint "oppose unless amended" letter, writes that the new emergency regulation process proposed by this bill "creates additional uncertainty for permittees with the potential to lead to extensive delays in the implementation of projects and maintenance activities."

In previous letters, they note, "The Commission and CDFW already have the appropriate and expeditious tools to address any concerns related to a species that is native to California. CDFW and the Commission can utilize the emergency regulation process consistent with Fish and Game Code section 399, and CDFW can submit a petition for listing in the absence of a petition from an interested party, which would expedite the traditional candidate status process. By using

these existing tools, CDFW could best manage its resources and manage the fiscal impact of adding new species to the endangered and threatened species list."

In the most recent letter, the coalition claims that this bill would circumvent public process by allowing CDFW to list any federally listed species as a provisional candidate "with no public justification and no public appeal or comment process."

FISCAL COMMENTS

According to the Senate Appropriations Committee, this bill will result in unknown, but likely significant ongoing costs, potentially as much as \$7–9 million annually (General Fund, Fish and Game Preservation Fund, or other fund) for CDFW to implement the provisions of this bill, depending on the number of species that become eligible for listing under [CESA] pursuant to [this bill]. Costs of around \$7 million is based on assuming a scenario where only about 10% of federally listed species are listed by the Commission under the emergency regulations under this bill in any one year.

VOTES:

ASM WATER, PARKS, AND WILDLIFE: 8-3-2

YES: Papan, Ávila Farías, Bennett, Boerner, Caloza, Hart, Celeste Rodriguez, Rogers

NO: Jeff Gonzalez, Macedo, Tangipa

ABS, ABST OR NV: Alvarez, Bains

ASM APPROPRIATIONS: 11-3-1

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Dixon, Ta, Tangipa

ABS, ABST OR NV: Sanchez

ASSEMBLY FLOOR: 54-18-7

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Ward, Wicks, Wilson, Zbur, Rivas

NO: Alanis, Castillo, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

ABS, ABST OR NV: Arambula, Bains, Chen, Lowenthal, Blanca Rubio, Soria, Valencia

SENATE FLOOR: 25-10-5

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Cervantes, Cortese, Durazo, Gonzalez, Laird, Limón, McGuire, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Caballero, Grayson, Hurtado, McNerney, Smallwood-Cuevas

UPDATED

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