

D R A F T

SUMMARY

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

Relating to *Canis lupus*; creating new provisions; amending ORS 496.176; and declaring an emergency.

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

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

SECTION 2. ORS 496.176 is amended to read:

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

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

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

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

1 species.

2 (3) A determination that a species is a threatened species or an endan-
 3 gered species shall be based on documented and verifiable scientific infor-
 4 mation about the species' biological status. To list a species as a threatened
 5 species or an endangered species under ORS 496.004 and 496.171 to 496.182,
 6 the commission shall determine that the natural reproductive potential of the
 7 species is in danger of failure due to limited population numbers, disease,
 8 predation or other natural or human actions affecting its continued existence
 9 and, to the extent possible, assess the relative impact of human actions. In
 10 addition, the commission shall determine that one or more of the following
 11 factors exists:

12 (a) That most populations are undergoing imminent or active deteri-
 13 oration of their range or primary habitat;

14 (b) That overutilization for commercial, recreational, scientific or educa-
 15 tional purposes is occurring or is likely to occur; or

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

18 (4) Determinations required by subsection (3) of this section shall be made
 19 by the commission on the basis of verifiable scientific and other data after
 20 consultation with federal agencies, other interested state agencies, private
 21 landowners, affected cities, affected counties, affected local service districts
 22 as defined in ORS 174.116, other states having a common interest in the
 23 species and interested persons and organizations.

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

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

29 (c) Within 90 days of receipt of a petition, the commission shall respond
 30 in writing to the petitioner indicating whether the petition presents sub-
 31 stantial scientific information to warrant the action requested.

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

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

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

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

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

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

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

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

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

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

(8) The commission shall periodically review the status of all threatened

1 species and endangered species listed under ORS 496.171 to 496.192. Each
2 species shall be reviewed at least once every five years to determine whether
3 verifiable scientific information exists to justify its reclassification or re-
4 moval from the list, according to the criteria listed under subsections (3) and
5 (4) of this section. If a determination is made to reclassify a species or re-
6 move it from the list, the commission, within 90 days, shall commence
7 rulemaking to change the status of the species.

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

9 (a) May decide not to list a species that otherwise qualifies as a threat-
10 ened or endangered species within this state if the commission determines
11 that the species is secure outside this state or the species is not of cultural,
12 scientific or commercial significance to the people of this state.

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

16 (c) **May not include *Canis lupus*, commonly known as the gray wolf,**
17 **on the lists of threatened species or endangered species unless *Canis***
18 ***lupus* populations in both the east and the west wolf management**
19 **zones described in the Oregon Wolf Conservation and Management**
20 **Plan adopted by the commission decline to below the population status**
21 **necessary for implementation of Phase II management activities under**
22 **the plan.**

23 **SECTION 3. This 2016 Act being necessary for the immediate pres-**
24 **ervation of the public peace, health and safety, an emergency is de-**
25 **clared to exist, and this 2016 Act takes effect on its passage.**