

HB 1603-FN - AS INTRODUCED
2026 SESSION

26-3192
08/06

HOUSE BILL ***1603-FN***

AN ACT requiring state agencies to provide current and verifiable evidence of a species presence before imposing any land use restriction related to that species' habitat.

SPONSORS: Rep. DeVito, Rock. 8; Rep. Beaulier, Graf. 1; Rep. Litchfield, Rock. 32; Rep. Tom Mannion, Hills. 1; Rep. Mazur, Hills. 44; Rep. McGrath, Rock. 40; Rep. Sabourin dit Choiniere, Rock. 30; Rep. Harvey-Bolia, Belk. 3; Rep. DeRoy, Straf. 3; Rep. Mary Murphy, Hills. 27; Sen. Murphy, Dist 16

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill requires state agencies to provide current and verifiable evidence of an endangered or threatened species presence before imposing any land use restriction related to that species' habitat.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT requiring state agencies to provide current and verifiable evidence of a species presence before imposing any land use restriction related to that species' habitat.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Evidence of Endangered or Threatened Species. Amend RSA 212-A by inserting
2 after section 14 the following new section:

3 212-A:14-a Evidence of Endangered or Threatened Species.

4 I. Any agency or municipal official evaluating the current presence of endangered or
5 threatened species or habitat associated with that species, which may result in the restriction of the
6 use of the land shall provide verifiable evidence of the presence of specific species or habitat before
7 proposing or requiring restrictions on such land. Data gathered by the agency or municipality prior
8 to the proposed restriction shall only be valid for consideration if the property owner gave permission
9 to collect the data or if an administrative search warrant was issued to search the property for such
10 evidence. Current requests to gather data shall require either written landowner permission or an
11 administrative search warrant as described in paragraph II.

12 II. Current evidence of threatened or endangered species shall include the following:

13 (a) Written landowner permission to search for specific data or an administrative
14 warrant detailing the critical necessity of data collection.

15 (b) The name and credentials of the observing official or biologist.

16 (c) The GPS coordinates of the sighting.

17 (d) Date and time-stamped photographs of the species on the property.

18 III. Land use applications shall not require new biodiversity searches as a precondition of
19 application or as a condition of subsequent approval.

20 2 Effective Date. This act shall take effect 60 days after its passage.

**HB 1603-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT requiring state agencies to provide current and verifiable evidence of a species presence before imposing any land use restriction related to that species' habitat.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Indeterminable - \$1,000,000+ Per Year		
<i>Funding Source(s)</i>	Fish and Game Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable		

METHODOLOGY:

This bill requires any agency or municipal official that is considering a restriction on the use of land because of the presence of an endangered or threatened species to provide current, verifiable evidence of the species' presence to the landowner before proposing or requiring any land use restrictions. The proposed evidence includes four requirements: (a) Written landowner permission to search for specific data or an administrative warrant detailing the critical necessity of data collection, (b) name and credentials of the observing official or biologist, (c), GPS coordinates of the sighting, (d) Date-and time-stamped photographs of the species on the property. Section III would prohibit agencies from requiring new biodiversity searches as a precondition of application or as a condition of subsequent approval.

State Impact

The Fish and Game Department states there is an existing process to document the presence of threatened or endangered species, with information available through the Department of Natural and Cultural Resources' (DNCR) Natural Heritage Bureau. However, this process does not specifically require documentation of written landowner permission, photographs or the observer to be a Department official/biologist, therefore it would not meet the criteria listed in the new section. The Department assumes its staff would need to review wildlife records currently in the state database to determine whether they meet criteria a-d. The Department states there are thousands of records currently in the database and it anticipates that most records would not meet all four proposed criteria. To meet the intent of RSA 212:A (Endangered Species Conservation Act) to ensure avoidance, minimization, and mitigation of harm to threatened or endangered wildlife, much of the state would need to be resurveyed for threatened and endangered species to create records that meet all criteria. Although staff currently survey populations, the work is done over a longer time-period and on a broader spatial scale, as staff and resources do not allow regular surveying of all species across the state on an individual landowner scale. Photographs and other associated information for sightings of threatened and endangered wildlife received from the public are currently reviewed and verified by qualified wildlife biologists. However, the photographs are not stored in the state database used for project screening. From its initial assessment, the Department states that the state database currently used to store verified locations of threatened and endangered wildlife does not have the ability to store photographs and does not include documentation of written landowner permission. As such, the Department would likely need to create a new database to store this information so that it could be efficiently utilized and available.

The Department states it isn't clear whether the 'observing official/biologist' listed under criteria (b) would need to visually observe the actual animal or whether verifying photographic evidence provided by others would be acceptable. Many wildlife species are highly cryptic or mobile, and it would be extremely difficult to confirm a species record with a biologist follow-up survey given wildlife are mobile in nature. The Department states it would require extensive additional staff and resources and would still not guarantee being able to observe the animal.

Finally, although it is impossible to estimate the direct fiscal impact, the Department states the restrictions imposed through this bill would significantly impair the state's ability to recover threatened or endangered wildlife, which will substantially increase the costs to recover such species and likely result in more species being listed over time. Ultimately, this could increase the likelihood of additional species becoming federally listed under the Endangered Species Act, resulting in additional federal restrictions.

The Department states additional staff would be required to manage and create a new database, review existing records, and survey wildlife populations statewide continuously to ensure compliance with the proposed criteria. Additional contracts for specialized surveys would also likely be required. The Department has not provided any specific personnel needs or cost details, however, believes the impact on state expenditures could be more than \$1,000,000 per year.

Municipal Impact

The New Hampshire Municipal Associations states RSA 212-A, as it currently exists, does not assign any responsibilities to municipalities and vests enforcement of the statute with the New Hampshire Fish and Game Department and the New Hampshire Department of Environmental Services. The Association is not aware of any municipalities conducting the functions referenced in RSA 212-A, however, if any municipalities conduct such activities, this bill could create new financial obligations:

- The Association states if there is a concern that a land use restriction is necessary to protect an endangered species the municipality only has two options: get landowner approval to examine the habitat or seek an administrative warrant. However, since the town can't make owner cooperation a necessary condition for new projects, towns are going to be reliant on landowners willingly cooperating with them, when cooperation may lead to the person not being able to accomplish their project. Consequently, most cases will require an administrative warrant, requiring attorney fees, filing costs, and judicial intervention.
- The Association states a new cost the bill imposes is the requirement of producing verifiable evidence of an endangered species. The statute specifically mentions a biologist or "observing official." Since most municipalities are unlikely to have wildlife experts on staff, they will need to contract out to a biologist to provide this service.

AGENCIES CONTACTED:

Fish and Game Department and New Hampshire Municipal Association