

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1128

By: Representative Mahony

For An Act To Be Entitled

"THE ARKANSAS ENDANGERED AND THREATENED PLANT PROTECTION
ACT."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The General Assembly finds and declares that the human needs and enjoyment, the interests of science, and the economy of the state require that rare plants throughout this state be protected and conserved; that their numbers be maintained and enhanced; and that techniques be developed to insure their perpetuation as viable components of their ecosystems.

SECTION 2. Definitions.

(a) "Commission" means the Arkansas Natural Heritage Commission.

(b) "Director" means the Director of the Arkansas Natural Heritage Commission or his agent(s).

(c) "Endangered Plant" means any species, subspecies, or variety of native plant listed as endangered by the director.

(d) "Plant" means any member of the plant kingdom, including but not limited to seeds, roots, bulbs, corms, tubers, rhizomes, stolons, leaves, flowers, fruits, cones, spores, and gametophytes.

(e) "Threatened Plant" means any species, subspecies, or variety of native plant listed as threatened by the director.

SECTION 3. Powers and duties of the director.

(a) It shall be the duty of the director to conduct investigations throughout the state of Arkansas in order to develop information relative to the biology, ecology, population status, distribution, habitat needs, and other factors relating to rare plants.

(b) It shall be the duty of the director to prepare and publish a

schedule of endangered and threatened plants pursuant to the Administrative Procedures Act, §25-15-201 et seq., based on the investigations authorized by subsection 3(a), other available scientific and commercial data, and appropriate consultation with federal agencies, other interested state agencies, other states having a common interest in the species, and other interested persons and organizations. The director shall revise and republish the schedule annually.

SECTION 4. Taking: penalties.

(a) It is unlawful for any person other than the landowner or a person with the prior written permission of the landowner to knowingly uproot, dig, take, remove, damage, destroy, possess, or otherwise disturb for any purpose, any endangered or threatened species.

(b) Any person who violates subsection 4(a) of this act shall be guilty of a Class A misdemeanor.

SECTION 5. Exceptions. The provisions of this act shall not apply to any employee or contractor of the federal government or of the state of Arkansas or of any governmental entity of the state engaged in any type of planning, construction, or maintenance work while performing such work in the course of employment or contract work with the federal, state, or local government.

SECTION 6. Enforcement of provisions--injunctions. Any law enforcement officer shall have the right to issue citations and apprehend persons detected violating subsection 4(a) of this act and take offenders before any court having jurisdiction in the county where the offense is committed. The director may apply to the chancery court of any county in which a violation of this act is occurring or in which the director has reasonable cause to believe a violation of this act is about to occur, and that court shall have jurisdiction to grant a temporary or permanent injunction restraining any person from violating this act without requiring the director to post bond during the pendency of this action.

SECTION 7. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

Revision Commission shall incorporate the same in the Code.

SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.