H. R. 6784

To amend the Endangered Species Act of 1973 to provide for protective regulations when a species is listed as an endangered species.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2023

Mr. STAUBER (for himself, Mr. NEWHOUSE, Ms. HAGEMAN, Ms. BOEBERT, and Mr. BENTZ) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to provide for protective regulations when a species is listed as an endangered species.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “ESA Flexibility Act”.

SEC. 2. PROTECTIVE REGULATIONS FOR ENDANGERED SPECIES.

(a) Protective Regulations.—Section 4(d) of the

Endangered Species Act of 1973 (16 U.S.C. 1533(d)) is

amended to read as follows:
“(d) PROTECTIVE REGULATIONS.—

“(1) THREATENED SPECIES.—Whenever any species is listed as a threatened species pursuant to subsection (c), the Secretary shall issue such regulations as the Secretary deems necessary and advisable to provide for the conservation of such species.

“(2) ENDANGERED SPECIES.—Whenever any species is listed as an endangered species pursuant to subsection (c), the Secretary may issue such regulations as the Secretary deems necessary and advisable to provide for the conservation of such species.

“(3) PROHIBITION ON CERTAIN ACTIVITIES.—Except as provided in paragraph (4), the Secretary may, by regulation issued under this subsection, prohibit with respect to any threatened or endangered species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2) in the case of plants.

“(4) EXCEPTION.—Regulations described by paragraph (3) shall apply in any State which has entered into a cooperative agreement pursuant to section 6(c) only to the extent that such regulations have also been adopted by such State.”.

(b) EXCEPTION TO PROHIBITED ACTS.—Paragraphs (1) and (2) of section 9(a) of the Endangered Species Act
of 1973 (16 U.S.C. 1538(a)(1) and (2)) are each amended by inserting “by regulations issued under section 4(d) or” after “as provided”.