

# SENATE BILL No. 795

February 19, 2014, Introduced by Senators KOWALL, PAVLOV, WALKER, MEEKHOF and BIEDA and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 41305, 41309, and 47361 (MCL 324.41305, 324.41309, and 324.47361), sections 41305 and 41309 as amended by 2009 PA 52 and section 47361 as added by 1995 PA 57.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 41305. A person shall not introduce a prohibited species,  
 2 a restricted species, or a genetically engineered or nonnative  
 3 ~~aquatic plant, bird, crustacean, fish, **INSECT**, mammal, or mollusk,~~  
 4 **OR AQUATIC PLANT** unless the introduction is authorized by 1 of the  
 5 following, as applicable:

6           (a) For a fish, by a permit issued by the department of  
 7 natural resources under section 48735.

8           (b) For an insect or plant, by a permit issued by the

1 department of agriculture **AND RURAL DEVELOPMENT** under section  
2 41306.

3 (c) For any other species, by a permit issued by the  
4 department of natural resources under section 41306.

5 Sec. 41309. (1) A person who violates section 41303(2) is  
6 subject to a civil fine of not more than \$100.00.

7 (2) A person who violates section 41303(1), or a condition of  
8 a permit issued under this part, with respect to a restricted  
9 species is subject to a civil fine of not more than \$5,000.00. A  
10 person who violates section 41303(1), or a condition of a permit  
11 issued under this part, with respect to a prohibited species is  
12 subject to a civil fine of not more than \$10,000.00.

13 (3) A person who violates section 41303(1) knowing the  
14 possession is unlawful or who willfully or in a grossly negligent  
15 manner violates a condition of a permit issued under this part is  
16 guilty as follows:

17 (a) For a violation involving a restricted species, the person  
18 is guilty of a misdemeanor and may be imprisoned for not more than  
19 1 year and shall be fined not less than \$1,000.00 or more than  
20 \$10,000.00.

21 (b) For a violation involving a prohibited species **THAT IS NOT**  
22 **AN AQUATIC SPECIES**, the person is guilty of a felony and may be  
23 imprisoned for not more than 2 years and shall be fined not less  
24 than \$2,000.00 or more than \$20,000.00.

25 **(C) FOR A VIOLATION INVOLVING A PROHIBITED SPECIES THAT IS AN**  
26 **AQUATIC SPECIES, THE PERSON IS GUILTY OF A FELONY AND MAY BE**  
27 **IMPRISONED FOR NOT MORE THAN 3 YEARS AND SHALL BE FINED NOT LESS**

1 **THAN \$2,000.00 OR MORE THAN \$100,000.00.**

2 (4) A person who, with intent to damage natural, agricultural,  
3 or silvicultural resources or human health:

4 (a) Violates section 41303(1) with respect to a restricted  
5 species or possesses a nonnative ~~aquatic plant~~, bird, crustacean,  
6 fish, insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT** is guilty of a  
7 felony and may be imprisoned for not more than 2 years and shall be  
8 fined not less than \$1,000.00 or more than \$250,000.00.

9 (b) Violates section 41303(1) with respect to a prohibited  
10 species or possesses a genetically engineered ~~aquatic plant~~, bird,  
11 crustacean, fish, insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT** is  
12 guilty of a felony and may be imprisoned for not more than 4 years  
13 and shall be fined not less than \$2,000.00 or more than  
14 \$500,000.00.

15 (5) A person who sells or offers to sell a restricted species  
16 is subject to a civil fine of not less than \$1,000.00 or more than  
17 \$10,000.00. A person who sells or offers to sell a prohibited  
18 species is subject to a civil fine of not less than \$2,000.00 or  
19 more than \$20,000.00.

20 (6) A person who violates section 41305 is guilty as follows:

21 (a) For a violation involving a restricted species or a  
22 nonnative ~~aquatic plant~~, bird, crustacean, fish, insect, mammal, ~~or~~  
23 mollusk, **OR AQUATIC PLANT**, the person is guilty of a misdemeanor  
24 and may be imprisoned for not more than 6 months and shall be fined  
25 not less than \$500.00 or more than \$5,000.00.

26 (b) For a violation involving a prohibited species or a  
27 genetically engineered ~~aquatic plant~~, bird, crustacean, fish,

1 insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT**, the person is guilty  
2 of a misdemeanor and may be imprisoned for not more than 1 year and  
3 shall be fined not less than \$1,000.00 or more than \$10,000.00.

4 (7) A person who violates section 41305 with respect to a  
5 restricted species or nonnative ~~aquatic plant~~, bird, crustacean,  
6 fish, insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT** and who knows or  
7 should know the identity of the restricted species or that the  
8 organism, whether a restricted species or other ~~aquatic plant~~,  
9 bird, crustacean, fish, insect, mammal, ~~or mollusk~~, **OR AQUATIC**  
10 **PLANT** is nonnative is guilty of a misdemeanor and may be imprisoned  
11 for not more than 1 year and shall be fined not less than \$1,000.00  
12 or more than \$10,000.00.

13 (8) ~~A EXCEPT AS PROVIDED IN SUBSECTION (9)~~, A person who  
14 violates section 41305 with respect to a prohibited species or a  
15 genetically engineered ~~aquatic plant~~, bird, crustacean, ~~fish~~,  
16 insect, mammal, or mollusk and who knows or should know the  
17 identity of the prohibited species or that the ~~aquatic plant~~, bird,  
18 crustacean, ~~fish~~, insect, mammal, or mollusk is genetically  
19 engineered, respectively, is guilty of a felony and may be  
20 imprisoned for not more than 2 years and shall be fined not less  
21 than \$2,000.00 or more than \$20,000.00.

22 (9) **THIS SUBSECTION APPLIES ONLY TO SPECIES THAT ARE AQUATIC**  
23 **SPECIES. A PERSON WHO VIOLATES SECTION 41305 WITH RESPECT TO A**  
24 **PROHIBITED SPECIES OR A GENETICALLY ENGINEERED CRUSTACEAN, FISH,**  
25 **INSECT, MOLLUSK, OR AQUATIC PLANT AND WHO KNOWS OR SHOULD KNOW THE**  
26 **IDENTITY OF THE PROHIBITED SPECIES OR THAT THE CRUSTACEAN, FISH,**  
27 **INSECT, MOLLUSK, OR AQUATIC PLANT IS GENETICALLY ENGINEERED,**

1 RESPECTIVELY, IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR NOT  
2 MORE THAN 3 YEARS AND SHALL BE FINED NOT LESS THAN \$2,000.00 OR  
3 MORE THAN \$100,000.00.

4 (10) ~~(9)~~—A person who violates section 41305 knowing the  
5 introduction is unlawful, is guilty as follows:

6 (a) For a violation involving a restricted species or  
7 nonnative ~~aquatic plant~~, bird, crustacean, fish, insect, mammal, ~~or~~  
8 mollusk, **OR AQUATIC PLANT**, the person is guilty of a felony and may  
9 be imprisoned for not more than 2 years and shall be fined not less  
10 than \$1,000.00 or more than \$250,000.00.

11 (b) For a violation involving a prohibited species or a  
12 genetically engineered ~~aquatic plant~~, bird, crustacean, fish,  
13 insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT**, the person is guilty  
14 of a felony and may be imprisoned for not more than 4 years and  
15 shall be fined not less than \$2,000.00 or more than \$500,000.00.

16 (11) ~~(10)~~—A person who, with intent to damage natural,  
17 agricultural, or silvicultural resources or human health, violates  
18 section 41305 is guilty as follows:

19 (a) For a violation involving a restricted species or  
20 nonnative ~~aquatic plant~~, bird, crustacean, fish, insect, mammal, ~~or~~  
21 mollusk, **OR AQUATIC PLANT**, the person is guilty of a felony and may  
22 be imprisoned for not more than 3 years and shall be fined not less  
23 than \$1,000.00 or more than \$500,000.00.

24 (b) For a violation involving a prohibited species or a  
25 genetically engineered ~~aquatic plant~~, bird, crustacean, fish,  
26 insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT**, the person is guilty  
27 of a felony and may be imprisoned for not more than 5 years and

1 shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

2 (12) A VEHICLE, EQUIPMENT, OR OTHER PROPERTY USED IN A  
3 CRIMINAL VIOLATION OF THIS PART OR A RULE PROMULGATED OR PERMIT  
4 ISSUED UNDER THIS PART THAT INVOLVES AN AQUATIC SPECIES IS SUBJECT  
5 TO SEIZURE AND FORFEITURE AS PROVIDED IN CHAPTER 47 OF THE REVISED  
6 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO 600.4709.

7 (13) IF A PERSON COMMITS A CRIMINAL VIOLATION OF THIS PART OR  
8 A RULE PROMULGATED OR PERMIT ISSUED UNDER THIS PART OR KNOWINGLY  
9 COMMITS A VIOLATION DESCRIBED IN SUBSECTION (5) AND IF THE  
10 VIOLATION INVOLVES AN AQUATIC SPECIES, THE COURT SHALL ORDER THAT  
11 ANY COMMERCIAL FISHING LICENSE OR PERMIT UNDER PART 473 ISSUED TO  
12 THE PERSON AND ANY VEHICLE GROUP DESIGNATION FOR A NONPASSENGER  
13 COMMERCIAL MOTOR VEHICLE UNDER SECTION 312E OF THE MICHIGAN VEHICLE  
14 CODE, 1949 PA 300, MCL 257.312E, PROCURED BY THE PERSON BE  
15 SUSPENDED FOR 1 YEAR, AND THAT THE PERSON IS NOT ELIGIBLE TO BE  
16 ISSUED ANY SUCH LICENSE OR PERMIT OR TO PROCURE SUCH A DESIGNATION  
17 FOR 1 YEAR. IF THE REMAINING TERM OF AN EXISTING COMMERCIAL FISHING  
18 LICENSE OR PERMIT OR VEHICLE GROUP DESIGNATION FOR A NONPASSENGER  
19 COMMERCIAL MOTOR VEHICLE IS LESS THAN 1 YEAR, THE COURT SHALL ORDER  
20 THAT THE LICENSE OR PERMIT OR DESIGNATION BE REVOKED AND THAT THE  
21 PERSON IS NOT ELIGIBLE TO BE ISSUED ANY SUCH LICENSE OR PERMIT OR  
22 TO PROCURE SUCH A DESIGNATION FOR 1 YEAR. FOR A SECOND VIOLATION  
23 DESCRIBED IN THIS SUBSECTION, THE COURT SHALL ORDER THAT ANY SUCH  
24 LICENSE OR PERMIT ISSUED TO THE PERSON OR DESIGNATION PROCURED BY  
25 THE PERSON BE REVOKED AND THAT THE PERSON IS PERMANENTLY INELIGIBLE  
26 TO BE ISSUED ANY SUCH LICENSE OR PERMIT OR TO PROCURE SUCH A  
27 DESIGNATION. AN ORDER UNDER THIS SUBSECTION SHALL INDICATE THAT THE

1 SECRETARY OF STATE SHALL SUSPEND OR REVOKE THE VEHICLE GROUP  
2 DESIGNATION FOR A NONPASSENGER COMMERCIAL MOTOR VEHICLE WITHIN 7  
3 BUSINESS DAYS AFTER RECEIPT OF THE ORDER. AS IT APPLIES TO A  
4 COMMERCIAL FISHING LICENSE OR PERMIT UNDER PART 473, AN ORDER UNDER  
5 THIS SUBSECTION IS SELF-EFFECTUATING. THE CLERK OF THE COURT SHALL  
6 SEND A COPY OF THE ORDER TO THE DEPARTMENT OF NATURAL RESOURCES AND  
7 SECRETARY OF STATE.

8 (14) ~~(11)~~—In addition to any other civil or criminal sanction  
9 imposed under this section, a person who violates this part is  
10 liable for any damages to natural resources resulting from the  
11 violation, including, but not limited to, costs incurred to prevent  
12 or minimize such damages.

13 (15) ~~(12)~~—This part does not apply to activities authorized  
14 under the Michigan aquaculture development act, 1996 PA 199, MCL  
15 286.871 to 286.884.

16 Sec. 47361. (1) A person who violates sections 47335 to 47360  
17 is guilty of a misdemeanor, punishable by imprisonment for not more  
18 than 30 days, or a fine of not less than \$10.00 or more than  
19 \$100.00 and costs of prosecution, or both. The license of any  
20 person convicted of 3 violations of this part or other acts or  
21 parts regulating commercial fishing in any 1 license year shall be  
22 automatically revoked and canceled for the balance of the license  
23 year for which issued, and such a revocation prohibits the use of  
24 boats, nets, or other gear by any person during the balance of the  
25 year for which the license was issued.

26 (2) SUBJECT TO SUBSECTION (3), IF ANY LICENSE OR PERMIT UNDER  
27 THIS PART IS ORDERED TO BE SUSPENDED OR REVOKED UNDER SECTION 41309

1 AND IF THE DEPARTMENT MAINTAINS A DATABASE OF SUSPENSIONS OR  
2 REVOCATIONS OF LICENSES OR PERMITS UNDER THIS PART, THE DEPARTMENT  
3 SHALL NOT ISSUE A LICENSE OR PERMIT UNDER THIS PART TO THE PERSON  
4 FOR THE PERIOD PROVIDED IN THE ORDER.

5 (3) IF A LICENSE OR PERMIT UNDER THIS PART IS ORDERED TO BE  
6 SUSPENDED UNDER SECTION 41309, THE SUSPENSION REMAINS IN EFFECT  
7 UNTIL ALL OF THE FOLLOWING OCCUR:

8 (A) THE SUSPENSION PERIOD SET FORTH IN THE COURT ORDER HAS  
9 ELAPSED.

10 (B) THE PERSON PAYS THE DEPARTMENT A REINSTATEMENT FEE OF  
11 \$125.00.

12 (4) UNLESS A PERSON'S LICENSE OR PERMIT IS OTHERWISE  
13 SUSPENDED, REVOKED, OR DENIED, THE LICENSE OR PERMIT IS IMMEDIATELY  
14 REINSTATED ON SATISFACTION OF THE REQUIREMENTS OF SUBSECTION (3).