HOUSE BILL NO. 4442

April 10, 2019, Introduced by Reps. Howell, Cambensy, Wozniak, Rendon, Crawford, Bellino, Wakeman, Pohutsky, Sowerby, Calley and Cherry and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 40113a (MCL 324.40113a), as amended by 2016 PA 382, and by adding sections 43528c, 43528d, 48714a, and 48714b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40113a. (1) The legislature finds and declares that:
2 (a) The fish and wildlife populations of the state and their habitat are of paramount importance to the citizens of this state.
3 (b) The conservation of fish and wildlife populations of the
state depend upon the wise use and sound scientific management of
the state's natural resources.

(c) The sound scientific management of the fish and wildlife
populations of the state, including hunting of bear, is declared to
be in the public interest.

(d) The sound scientific management of bear populations in
this state is necessary to minimize human/bear encounters and to
prevent bears from threatening or harming humans, livestock, and
pets.

(2) The commission has the exclusive authority to regulate the
taking of game as that term is defined in section 40103 and to
regulate sport fishing under part 487 in this state, including, but
not limited to, regulating the use of commercial guides in taking
game and fish. The commission shall, to the greatest extent
practicable, utilize principles of sound scientific management in
making decisions regarding the taking of game. The commission may
take testimony from department personnel, independent experts, and
others, and review scientific literature and data, among other
sources, in support of its duty to use principles of sound
scientific management. The commission shall issue orders regarding
the taking of game following a public meeting and an opportunity
for public input. Not less than 30 days before issuing an order,
the commission shall provide a copy of the order to each of the
following:

(a) Each member of each standing committee of the senate or
house of representatives that considers legislation pertaining to
conservation, the environment, natural resources, recreation,
tourism, or agriculture.

(b) The chairperson of the senate appropriations committee and
the chairperson of the house of representatives appropriations committee.

(c) The members of the subcommittee of the senate appropriations committee and the subcommittee of the house of representatives appropriations committee that consider the budget of the department of natural resources.

(3) The legislature declares that hunting, fishing, and the taking of game are a valued part of the cultural heritage of this state and should be forever preserved. The legislature further declares that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural resources. Therefore, the legislature declares that the citizens of this state have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by subsection (2) and law.

Sec. 43528c. (1) Beginning March 1, 2019, an individual shall not act as a commercial hunting guide in this state unless that individual possesses both of the following:

(a) A valid license issued under subsection (2).

(b) A valid base license issued under section 43523a.

(2) To obtain a license to act as a commercial hunting guide, an individual shall submit the application fee described in section 43528d and an application to the department. The application must be in a form and format determined by the department. The department shall only grant a license to an individual if the department determines all of the following:

(a) That the individual holds a valid certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or a comparable organization
approved by the department.

(b) That the individual is covered by commercial general liability insurance with limits of not less than $300,000.00 per claim and $1,000,000.00 aggregate, for the period that the license is valid.

(c) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or a sportcard issued under section 43522.

(d) Until February 29, 2020, the individual has not been convicted of any of the following within the past 2 years:

(i) A violation of this part or part 401, 411, 413, 445, or 487.

(ii) A violation of an order or interim order issued under this part or part 401, 411, 413, 445, or 487.

(iii) Any felony.

(iv) A violation of a law of a participating state substantially corresponding to a violation described in subparagraphs (i) to (iii).

(e) Beginning March 1, 2020, the individual has not been convicted of any of the following within the past 3 years:

(i) A violation of this part or part 401, 411, 413, 445, or 487.

(ii) A violation of an order or interim order issued under this part or part 401, 411, 413, 445, or 487.

(iii) Any felony.

(iv) A violation of a law of a participating state
substantially corresponding to a violation described in
subparagraphs (i) to (iii).

    (f) The individual is eligible to purchase a license for the
game species for which the individual is acting as a commercial
hunting guide.

    (3) An individual shall not act as a commercial hunting guide
on commercial forestland.

    (4) A license issued under this section is valid for 3 years
after the date it is issued. The department may revoke a license
under this section, after notice and opportunity for hearing
pursuant to the administrative procedures act of 1969, 1969 PA 306,
MCL 24.201 to 24.328, for any of the following reasons:

        (a) The department determines that the individual is not
eligible to hold a license under this section.

        (b) The individual provides false information under this
section.

        (c) The individual fails to file an annual report under
subsection (5), and that report remains unfiled for more than 90
days after it is due.

    (5) A commercial hunting guide shall file an annual report
with the department, in a format determined by the department, that
contains information related to all of the following:

        (a) The counties of this state where the individual acted as a
commercial hunting guide.

        (b) The species of game for which the individual acted as a
commercial hunting guide.

        (c) The number of clients that the commercial hunting guide
had during the year.

        (d) The number of game animals harvested by the clients of the
commercial hunting guide.

(e) Any additional information the department requires regarding the biological characteristics of the game animals harvested.

(6) Information submitted in a report under subsection (5) is confidential and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) The department shall annually post on its website all of the following:

(a) The number of applications submitted under subsection (2) in the previous year.

(b) The number of licenses issued under this section in the previous year.

(c) A list of individuals who have valid licenses under this section.

(8) An individual shall carry his or her commercial hunting guide license and shall exhibit the license upon the demand of a conservation officer, a law enforcement officer, a tribal conservation officer, or the owner or occupant of any land where the individual is acting as a commercial hunting guide.

(9) An individual who acts as a commercial hunting guide without a valid license issued under this section or who acts as a commercial hunting guide on commercial forestland is subject to a civil fine of $2,000.00. An individual who acts as a commercial hunting guide without a valid license issued under this section or who acts as a commercial hunting guide on commercial forestland a second or subsequent time is subject to a civil fine of $4,000.00. A civil fine collected under this subsection must be deposited in the game and fish protection account established in section 2010.
(10) An individual who provides false information to the department under this section is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than $1,000.00 or more than $2,500.00, or both, and the costs of prosecution.

(11) As used in this section:

(a) "Commercial hunting guide" means an individual who, for a fee or other consideration of value, provides assistance to another individual in hunting game. Commercial hunting guide does not include any of the following:

(i) The owner of private land while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take game on that private land.

(ii) The owner, employee, or member of a game bird hunting preserve licensed under part 417, or his or her designee, while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take game birds authorized to be hunted on that game bird hunting preserve.

(iii) An individual, business, agency, or nonprofit organization issued a permit from the department to provide damage or nuisance animal control services, while providing those damage or nuisance animal control services.

(iv) An employee or member of an organization conducting a not-for-profit event to recruit, retain, or promote hunting, while providing assistance to another individual in hunting game during that event.

(b) "Consideration of value" means an economic benefit, inducement, right, or profit, including monetary payment accruing to an individual or person. Consideration of value does not include
a voluntary sharing of the actual expenses of the guiding activity by monetary contribution or donation of fuel, food, beverages, or other supplies.

(c) "Participating state" means that term as defined in section 1615.

(d) "Privately owned cervid ranch" means that term as defined in section 6 of the animal industry act, 1988 PA 466, MCL 287.706.

Sec. 43528d. Except as otherwise provided in this section, the department shall charge a resident applying for a commercial hunting guide license under section 43528c an application fee of $500.00. If a resident applies for a commercial hunting guide license and that resident has previously applied for a commercial fishing guide license in the same year, the department shall only charge that individual an application fee of $250.00 under this section. The department shall charge a nonresident applying for a commercial hunting guide license under section 43528c an application fee of $750.00. If a nonresident applies for a commercial hunting guide license and that nonresident has previously applied for a commercial fishing guide license in the same year, the department shall only charge that individual an application fee of $250.00 under this section. Money collected under this section must be deposited in the game and fish protection account established in section 2010.

Sec. 48714a. (1) Beginning March 1, 2019, an individual shall not act as a commercial fishing guide on the inland waters of this state unless that individual possesses both of the following:

(a) A valid license issued under subsection (2).

(b) A valid fishing license.

(2) To obtain a license to act as a commercial fishing guide,
an individual shall submit the application fee described in section 48714b and an application to the department. The application must be in a form and format determined by the department. The department shall only grant a license to an individual if the department determines all of the following:

(a) That the individual holds a valid certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or a comparable organization as approved by the department.

(b) That the individual is covered by commercial general liability insurance with limits of not less than $300,000.00 per claim and $1,000,000.00 aggregate, for the period that the license is valid.

(c) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or a sportcard issued under section 43522.

(d) Until February 29, 2020, the individual has not been convicted of any of the following within the past 2 years:

(i) A violation of this part or part 401, 411, 413, 435, or 445.

(ii) A violation of an order or interim order issued under this part or part 401, 411, 413, 435, or 445.

(iii) Any felony.

(iv) A violation of a law of a participating state substantially corresponding to a violation described in subparagraphs (i) to (iii).

(e) Beginning March 1, 2020, the individual has not been
1 convicted of any of the following within the past 3 years:
2   (i) A violation of this part or part 401, 411, 413, 435, or 445.
3   (ii) A violation of an order or interim order issued under this part or part 401, 411, 413, 435, or 445.
4   (iii) Any felony.
5   (iv) A violation of a law of a participating state substantially corresponding to a violation described in subparagraphs (i) to (iii).
6 (3) An individual shall not act as a commercial fishing guide on commercial forestland.
7 (4) A license issued under this section is valid for 3 years after the date it is issued. The department shall allow an individual to obtain a public boating access entry pass required under section 78105(3) with any commercial fishing guide license issued under this section for each year that the commercial fishing guide license is valid. The department may revoke a license under this section, after notice and opportunity for hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for either of the following reasons:
8   (a) The department determines that an individual is not eligible to hold a license under this section.
9   (b) The individual provides false information under this section.
10 (5) A commercial fishing guide shall file monthly reports to the department, in a format determined by the department, that contain information related to all of the following:
11   (a) The counties of this state where the individual acted as a commercial fishing guide.
(b) The species of fish for which the individual acted as a commercial fishing guide.

(c) The number of clients that the commercial fishing guide had for each fishing trip and the number of hours fished for each fishing trip.

(d) The number of fish caught and released and the number of fish harvested by the clients of the commercial fishing guide.

(e) The bodies of water where the individual acted as a commercial fishing guide.

(f) Any additional information the department requires regarding the fishing activity or biological characteristics of the fish caught and released or harvested.

(g) For any month that the guide did not act as a commercial fishing guide, a report stating that the individual did not act as a commercial fishing guide during that month.

(6) If an individual fails to file a monthly report under subsection (5) and that report remains unfiled for more than 90 days after the date it is due, the individual is subject to the following:

(a) For the first violation, a $100.00 civil fine.

(b) For the second violation, a $200.00 civil fine.

(c) For a third violation, a $500.00 civil fine.

(d) For a fourth violation, after notice and an opportunity for hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, a revocation of the individual's license under this section.

(7) Information submitted in reports under subsection (5) is confidential and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
(8) The department shall annually post on its website all of
the following:

(a) The number of applications submitted under subsection (2)
in the previous year.

(b) The number of licenses issued under this section in the
previous year.

(c) A list of individuals who have valid licenses under this
section.

(9) An individual shall carry his or her commercial fishing
guide license and shall exhibit the license upon the demand of a
conservation officer, a law enforcement officer, a tribal
conservation officer, or the owner or occupant of any land where
the individual is acting as a commercial fishing guide.

(10) An individual who acts as a commercial fishing guide
without a valid permit issued under this section is subject to a
civil fine of $2,000.00. An individual who acts as a commercial
fishing guide without a valid license issued under this section a
second or subsequent time is subject to a civil fine of $4,000.00.
A civil fine collected under this subsection or subsection (6) must
be deposited in the game and fish protection account established in
section 2010.

(11) An individual who provides false information to the
department under this section is guilty of a misdemeanor punishable
by imprisonment for not more than 180 days or a fine of not less
than $1,000.00 or more than $2,500.00, or both, and the costs of
prosecution.

(12) As used in this section:

(a) "Commercial fishing guide" means an individual who, for a
fee or other consideration, provides assistance to another
individual in pursuing, capturing, catching, killing, taking, or attempting to take fish. Commercial fishing guide does not include an employee or member of an organization conducting a not-for-profit activity to recruit, retain, or promote fishing, while providing assistance to another individual in taking fish during that activity, or the owner of private land while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take fish on that private land.

(b) "Consideration of value" means an economic benefit, inducement, right, or profit, including monetary payment accruing to an individual or person. Consideration of value does not include a voluntary sharing of the actual expenses of the guiding activity, by monetary contribution or donation of fuel, food, beverage, or other supplies.

(c) "Participating state" means that term as defined in section 1615.

Sec. 48714b. (1) Except as otherwise provided in this section, the department shall charge a resident applying for a commercial fishing guide license under section 48714a an application fee of $500.00. If a resident applies for a commercial fishing guide license and that resident has previously applied for a commercial hunting guide license in the same year, the department shall only charge that individual an application fee of $250.00 under this section. The department shall charge a nonresident applying for a commercial fishing guide license under section 48714a an application fee of $750.00. If a nonresident applies for a commercial fishing guide license and that nonresident has previously applied for a commercial hunting guide license in the same year, the department shall only charge that individual an
application fee of $250.00 under this section. Money collected under this section shall be deposited in the game and fish protection account established in section 2010.

(2) If an individual elects to obtain a public boating access entry pass with the commercial fishing guide license under section 48714a, the department shall charge that individual a $300.00 fee. Money collected for a public boating access entry pass under this section shall be deposited in the waterways account established in section 2035.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.