

**SUBSTITUTE FOR
SENATE BILL NO. 767**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 43516, 73101, 73102, 73109, and 73110
(MCL 324.43516, 324.73101, 324.73102, 324.73109, and 324.73110),
section 43516 as added by 1995 PA 57 and sections 73101, 73102,
73109, and 73110 as added by 1995 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 43516. (1) A person who has been issued a hunting,
2 fishing, or fur harvester's license, when hunting, fishing, or
3 trapping or in the possession of firearms or other hunting, fish-
4 ing, or trapping apparatus in an area frequented by wild animals
5 or fish, shall carry the license and shall exhibit the license
6 upon the demand of a conservation officer, a law enforcement
7 officer, or the owner or occupant of the land upon which the
8 person is hunting, fishing, or trapping.

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1 (2) A person shall not carry or possess afield a shotgun
2 with buckshot, slug loads, or ball loads; a bow and arrow; a
3 muzzle-loading rifle or black powder handgun; or a centerfire
4 handgun or centerfire rifle during firearm deer season unless
5 that person has a valid firearm deer license, with an unused kill
6 tag, if issued, issued in his or her name.

7 (3) The unused kill tag, if issued, shall be exhibited upon
8 the request of a conservation officer, a law enforcement officer,
9 or the owner or occupant of the land upon which the person is
10 hunting.

11 (4) WHEN REQUIRED TO CARRY A HUNTING LICENSE UNDER THIS SEC-
12 TION, A PERSON SHALL WEAR ATTACHED TO THE BACK OF HIS OR HER OUT-
13 ERMOST GARMENT A TAG PROMINENTLY DISPLAYING A NUMBER ASSIGNED BY
14 THE DEPARTMENT UNIQUE TO THAT PERSON. THE COMMISSION SHALL
15 IMPLEMENT THIS SUBSECTION ON OR BEFORE APRIL 1, 1999 BY AN ORDER
16 SETTING FORTH THE REQUIREMENTS FOR COMPLIANCE AND ISSUED UNDER
17 SECTION 40113A.

18 (5) THE DEPARTMENT SHALL CREATE AND MAINTAIN A COMPUTERIZED
19 CENTRAL FILE THAT INCLUDES THE INFORMATION CONTAINED IN EACH
20 APPLICATION FOR A HUNTING LICENSE AND THE TAG NUMBER UNDER SUB-
21 SECTION (4). INFORMATION IN A RECORD MAINTAINED UNDER THIS SECTION,
22 EXCEPT A PERSON'S NAME, ADDRESS, AND YEAR OF BIRTH, IS EXEMPT FROM
23 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

24 Sec. 73101. As used in this part:

25 (a) "Farm product" means that term as defined in section 2
26 of the Michigan right to farm act, ~~Act No. 93 of the Public Acts~~

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1 of 1981, being ~~section 286.472 of the Michigan Compiled Laws~~
2 1981 PA 93, MCL 286.472.

3 (b) "Farm property" means land used in the production of a
4 farm product and all lands contained within the farm.

5 (c) "FISH" MEANS GAME FISH OR NONGAME FISH AS THOSE TERMS
6 ARE DEFINED IN SECTION 48701.

7 (d) "FUR-BEARING ANIMAL" MEANS THAT TERM AS DEFINED IN SEC-
8 TION 43503.

9 (e) "GAME" MEANS THAT TERM AS DEFINED IN SECTION 40103.

10 (f) "HUNTING DOG" MEANS A DOG ALLOWED TO RANGE FREELY TO
11 ENGAGE IN OR AID IN HUNTING ON THE DAY THE DOG ENTERS THE PROP-
12 ERTY OF ANOTHER PERSON.

13 (g) "LICENSE" MEANS A HUNTING, FISHING, OR FUR HARVESTER'S
14 LICENSE OR, IN THE DISCRETION OF THE COURT, ANY COMBINATION OF
15 SUCH LICENSES. LICENSE DOES NOT MEAN A CERTIFICATE, LICENSE, OR
16 PERMIT UNDER PART 445 OR 473.

17 (h) "PROTECTED ANIMAL" MEANS THAT TERM AS DEFINED IN SECTION
18 40103.

19 Sec. 73102. (1) Except as provided in subsection (4), a
20 person shall not enter or remain upon the property of another
21 person, other than farm property or a wooded area connected to
22 farm property, to engage in any recreational activity or trapping
23 on that property without the consent of the owner or his or her
24 lessee or agent, if either of the following circumstances
25 exists:

26 (a) The property is fenced or enclosed and is maintained in
27 such a manner as to exclude intruders.

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1 (b) The property is posted in a conspicuous manner against
2 entry. The minimum letter height on the posting signs shall be 1
3 inch. Each posting sign shall be not less than 50 square inches,
4 and the signs shall be spaced to enable a person to observe not
5 less than 1 sign at any point of entry upon the property.

6 (2) Except as provided in subsection (4), a person shall not
7 enter or remain upon farm property or a wooded area connected to
8 farm property for any recreational activity or trapping without
9 the consent of the owner or his or her lessee or agent, whether
10 or not the farm property or wooded area connected to farm prop-
11 erty is fenced, enclosed, or posted.

12 (3) On fenced or posted property or farm property, a fisher-
13 man wading or floating a navigable public stream may, without
14 written or oral consent, enter upon property within the clearly
15 defined banks of the stream or, WITHOUT DAMAGING FARM PRODUCTS,
16 walk a route as closely proximate to the clearly defined bank as
17 possible when necessary to avoid a natural or artificial hazard
18 or obstruction, including, but not limited to, a dam, deep hole,
19 OR A fence — or other exercise of ownership by the riparian
20 owner.

21 (4) A person other than a person possessing a firearm may,
22 unless previously prohibited in writing or orally by the property
23 owner or his or her lessee or agent, enter on foot upon the prop-
24 erty of another person for the sole purpose of retrieving a hunt-
25 ing dog. The person shall not remain on the property beyond the
26 reasonable time necessary to retrieve the dog. IN AN ACTION
27 UNDER SECTION 73109 OR 73110, THE BURDEN OF SHOWING THAT THE

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1 PROPERTY OWNER OR HIS OR HER LESSEE OR AGENT PREVIOUSLY
2 PROHIBITED ENTRY UNDER THIS SUBSECTION IS ON THE PLAINTIFF OR
3 PROSECUTING ATTORNEY, RESPECTIVELY.

4 (5) Consent to enter or remain upon the property of another
5 person pursuant to this section may be given orally or in
6 writing. The consent may establish conditions for entering or
7 remaining upon that property. Unless prohibited in the written
8 consent, a written consent may be amended or revoked orally. If
9 the owner or his or her lessee or agent requires all persons
10 entering or remaining upon the property to have written consent,
11 the presence of the person on the property without written con-
12 sent is prima facie evidence of unlawful entry.

13 ~~(6) As used in this section, "hunting dog" means a dog~~
14 ~~allowed to range freely to engage in or aid in hunting on the day~~
15 ~~the dog enters the property of another person.~~

16 Sec. 73109. ~~A person shall not resist or obstruct a peace~~
17 ~~officer enforcing this part.~~ THE OWNER OF PROPERTY ON WHICH A
18 VIOLATION OF THIS PART IS COMMITTED, OR HIS OR HER LESSEE, MAY
19 BRING A CAUSE OF ACTION AGAINST A PERSON WHO VIOLATES THIS PART
20 FOR \$250.00 OR ACTUAL PROPERTY DAMAGES, WHICHEVER IS GREATER, AND
21 ACTUAL AND REASONABLE ATTORNEY FEES.

22 Sec. 73110. (1) Except as provided in subsection (2), a
23 person who violates this part is guilty of a misdemeanor punish-
24 able by imprisonment for not more than 90 days or a fine of not
25 ~~more~~ LESS than \$100.00 OR MORE THAN \$500.00, or both.

26 (2) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION
27 OF THIS PART OCCURRING WITHIN 3 YEARS OF A PREVIOUS VIOLATION OF

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1 THIS PART SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 90
2 DAYS OR A FINE OF NOT LESS THAN \$250.00 OR MORE THAN \$1,000.00,
3 OR BOTH. IN ADDITION, THE COURT SHALL ORDER THE PERSON'S LICENSE
4 REVOKED IF THE PERSON IS LICENSED TO HUNT, FISH, OR TRAP IN THIS
5 STATE, AND SHALL ORDER THE PERSON NOT TO SEEK OR POSSESS A
6 LICENSE FOR THE REMAINDER OF THE CALENDAR YEAR IN WHICH THE
7 PERSON IS CONVICTED AND DURING AT LEAST 1 SUCCEEDING CALENDAR
8 YEAR. THIS SUBSECTION DOES NOT APPLY AFTER SEPTEMBER 30, 2001.

9 (3) ~~(2)~~ THIS SUBSECTION APPLIES BEGINNING OCTOBER 1, 2001.

10 A person convicted of a second or subsequent violation of this
11 part occurring within 3 years of a previous violation of this
12 part shall be punished by imprisonment for not more than 90 days
13 or a fine of not less than \$100.00 or more than \$1,000.00, or
14 both. ~~(3) Except as provided in subsection (4), if a person is~~
15 ~~sentenced under subsection (2) and the person is licensed to hunt~~
16 ~~or fish in this state,~~ IN ADDITION, the court may order the
17 person's ~~hunting or fishing~~ license revoked ~~for the remainder~~
18 ~~of the calendar year~~ IF THE PERSON IS LICENSED TO HUNT, FISH, OR
19 TRAP IN THIS STATE, and MAY order the person not to seek or pos-
20 sess a ~~hunting or fishing~~ license ~~of any kind~~ for not more
21 than 3 succeeding calendar years.

22 ~~(4) If a person is sentenced under subsection (2), if the~~
23 ~~second or subsequent violation occurred on a private shooting~~
24 ~~preserve licensed pursuant to part 417, if the person possessed a~~
25 ~~firearm or bow including, but not limited to, a crossbow, at the~~
26 ~~time the violation occurred, and if the person is licensed to~~
27 ~~hunt or fish in this state, then the court shall order the~~

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~~1 person's license revoked for the remainder of the calendar year
2 and shall order the person not to seek or possess a hunting or
3 fishing license of any kind for not more than 3 succeeding calen-
4 dar years.~~

5 (4) ~~-(5)-~~ The court may order a person convicted of violat-
6 ing this part to pay the costs of prosecution.

7 (5) ~~-(6) Property brought onto the property of another
8 person while committing a second or subsequent violation of this
9 part-~~ THE FOLLOWING may be seized and forfeited IN THE SAME MANNER
as provided in
10 chapter 47 of the revised judicature act of 1961, ~~Act No. 236 of~~
11 the Public Acts of 1961, being sections 600.4701 to 600.4709 of
12 the Michigan Compiled Laws. 1961 PA 236, MCL 600.4701 TO
13 600.4709:

14 (A) A PROTECTED ANIMAL, A FUR-BEARING ANIMAL, GAME, OR FISH
15 TAKEN WHILE COMMITTING ANY VIOLATION OF THIS PART.

16 (B) PROPERTY IN THE POSSESSION OF THE DEFENDANT WHILE COM-
17 MITTING A SECOND OR SUBSEQUENT VIOLATION OF THIS PART OCCURRING
18 WITHIN 3 YEARS OF A PREVIOUS VIOLATION OF THIS PART. THIS SUBDI-
19 VISION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

20 (i) ELECTRONIC HUNTING-DOG-RETRIEVAL EQUIPMENT.

21 (ii) A LIVING OR DEAD ANIMAL OF ANY KIND NOT DESCRIBED IN
22 SUBDIVISION (A).

23 (6) ~~-(7)-~~ The court shall order a person convicted of vio-
24 lating this part to make restitution for any damage arising out
25 of the violation, INCLUDING, BUT NOT LIMITED TO, REIMBURSING THIS
26 STATE FOR THE VALUE OF ANY PROTECTED ANIMAL, FUR-BEARING ANIMAL,
27 GAME, OR FISH TAKEN WHILE VIOLATING THIS PART AS PROVIDED IN

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1 SECTION 40119. HOWEVER, THE VALUE OF FISH SHALL BE DETERMINED AS
2 PROVIDED IN SECTION 48740.

3 Enacting section 1. This amendatory act does not take
4 effect unless Senate Bill No. 768 of the 89th Legislature is
5 enacted into law.