

SENATE BILL NO. 1312

September 17, 1998, Introduced by Senator JAYE and referred to the Committee on Hunting, Fishing and Forestry.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 36505 and 40114 (MCL 324.36505 and 324.40114), section 36505 as added by 1995 PA 59 and section 40114 as added by 1995 PA 57.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36505. (1) Except as otherwise provided in this part,
2 a person shall not take, possess, transport, import, export, pro-
3 cess, sell, offer for sale, buy, or offer to buy, and a common or
4 contract carrier shall not transport or receive for shipment, any
5 species of fish, plants, or wildlife appearing on the following
6 lists:

7 (a) The list of fish, plants, and wildlife indigenous to the
8 state determined to be endangered or threatened within the state
9 pursuant to section 36503 or subsection (3).

1 (b) The United States list of endangered or threatened
2 native fish and wildlife.

3 (c) The United States list of endangered or threatened
4 plants.

5 (d) The United States list of endangered or threatened for-
6 eign fish and wildlife.

7 (2) A species of fish, plant, or wildlife appearing on any
8 of the lists delineated in subsection (1) which enters the state
9 from another state or from a point outside the territorial limits
10 of the United States may enter, be transported, possessed, and
11 sold in accordance with the terms of a federal permit issued pur-
12 suant to section 10 of the endangered species act of 1973, Public
13 Law 93-205, 16 U.S.C. 1539, or an applicable permit issued under
14 the laws of another state.

15 (3) The department may, by rule, treat any species as an
16 endangered species or threatened species even though it is not
17 listed pursuant to section 36503, if it finds any of the
18 following:

19 (a) The species so closely resembles in appearance, at the
20 point in question, a species ~~which~~ THAT is listed pursuant to
21 section 36503 that enforcement personnel would have substantial
22 difficulty in attempting to differentiate between the listed and
23 unlisted species.

24 (b) The effect of the substantial difficulty in differenti-
25 ating between a listed and an unlisted species is an additional
26 threat to an endangered or threatened species.

1 (c) The treatment of an unlisted species will substantially
2 facilitate the enforcement and further the intent of this part.

3 (4) The department may permit the taking, possession, pur-
4 chase, sale, transportation, exportation, or shipment of species
5 of fish, plants, or wildlife ~~which~~ THAT appear on the state
6 list of endangered or threatened species compiled pursuant to
7 section 36503 and subsection (3) for scientific, zoological, or
8 educational purposes, for propagation in captivity of such fish,
9 plants, or wildlife to ensure their survival.

10 (5) Upon good cause shown and where necessary to alleviate
11 damage to property or to protect human health, endangered or
12 threatened species found on the state list compiled pursuant to
13 section 36503 and subsection (3) may be removed, captured, or
14 destroyed, but only pursuant to a permit issued by the
15 department. Carnivorous animals found on the state list may be
16 removed, captured, or destroyed by any person in emergency situa-
17 tions involving an immediate threat to human life, but the remov-
18 al, capture, or destruction shall be reported to the department
19 within 24 hours of the act. IF AN ENDANGERED OR THREATENED SPE-
20 CIES OF WILDLIFE IS TO BE REMOVED FROM OR CAPTURED OR DESTROYED
21 ON LAND UNDER THE CONTROL OF THE DEPARTMENT, THE DEPARTMENT SHALL
22 ISSUE THE PERMIT TO A MEMBER OF THE GENERAL PUBLIC RATHER THAN TO
23 A DEPARTMENT EMPLOYEE OR CONTRACTOR. THE PERMIT SHALL BE OFFERED
24 BY AN AUCTION CONDUCTED PURSUANT TO RULES PROMULGATED BY THE
25 DEPARTMENT.

26 (6) This section does not prohibit any of the following:

1 (a) The importation of a trophy under a permit issued
2 pursuant to section 10 of the endangered species act of 1973,
3 Public Law 93-205, 16 U.S.C. 1539, which is not for resale and
4 which was lawfully taken in a manner permitted by the laws of the
5 state, territory, or country where the trophy was caught, taken,
6 or killed.

7 (b) The taking of a threatened species when the department
8 has determined that the abundance of the species in the state
9 justifies a controlled harvest not in violation of federal law.

10 Sec. 40114. (1) The department may issue a permit to a
11 person who is unable to walk due to being a paraplegic or an
12 amputee, or being permanently disabled and unable to walk because
13 of other disease or injury. A permit issued under this subsec-
14 tion authorizes the person to take game during the open season
15 for that game, including deer of either sex, from or upon a
16 standing vehicle if that person holds a license to take that game
17 issued pursuant to part 435 and complies with all other laws and
18 rules for the taking of game.

19 (2) The department may issue a permit to a person who is
20 permanently disabled and who has full use of only 1 arm and who
21 upon investigation is unable to hold, aim, and shoot a bow. A
22 permit issued under this subsection authorizes the person to take
23 game during the open season for that game with a bow that has
24 been modified so that the bow may be held, aimed, and shot with 1
25 arm, if that person holds a license to take that game issued pur-
26 suant to part 435 and complies with all other laws and rules for
27 the taking of game.

1 (3) In addition, the department may issue permits
2 authorizing 1 or more of the following:

3 (a) The taking or possession of animals for the purpose of
4 rehabilitating animals.

5 (b) The taking of animals to prevent or control damage and
6 nuisance caused by the animals. IF AN ANIMAL IS TO BE TAKEN PUR-
7 SUANT TO THIS SUBDIVISION ON LAND UNDER THE CONTROL OF THE
8 DEPARTMENT, THE DEPARTMENT SHALL ISSUE THE PERMIT TO A MEMBER OF
9 THE GENERAL PUBLIC, RATHER THAN TO A DEPARTMENT EMPLOYEE OR
10 CONTRACTOR. THE PERMIT SHALL BE OFFERED BY AN AUCTION CONDUCTED
11 PURSUANT TO AN ORDER ISSUED BY THE COMMISSION OF NATURAL
12 RESOURCES UNDER SECTION 40113A IF THE ANIMAL IS GAME OR BY THE
13 DEPARTMENT UNDER SECTION 40107 IF THE ANIMAL IS NOT GAME.

14 (c) The collection, transportation, possession, or disposi-
15 tion of animals and parts of animals for scientific purposes.

16 (d) The public exhibition of animals.

17 (e) Taxidermy.

18 (f) The disposition of accidentally or unlawfully taken or
19 injured animals or animals that are unlawfully possessed.

20 (g) The taking of game with a crossbow by a person who is
21 permanently disabled as provided in section 40115.

22 (4) A permit issued under this section or section 40115 may
23 be suspended, revoked, annulled, withdrawn, recalled, canceled,
24 or amended pursuant to the administrative procedures act of 1969,
25 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
26 ~~24.328 of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO~~
27 24.328. If the holder of a permit is convicted of violating this

1 section, his or her permit or license may be revoked and any
2 animal and the parts of any animal in his or her possession shall
3 be disposed of in a manner approved by the department.

4 (5) Except as otherwise provided in section 40115 for a
5 permit described in subsection (3)(g), all fees received for per-
6 mits and licenses issued under this section shall be forwarded by
7 the department to the state treasurer to be credited to the game
8 and fish protection fund created in part 435.