

NONNATIVE SPECIES: ADD INSECTS AND PLANTS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bills 211 and 507 (Substitutes H-1)
Sponsor: Sen. Patricia L. Birkholz

Senate Bill 213 (Substitute H-1)
Sponsor: Sen. Tony Stamas

Senate Bill 212 (Substitute H-1)
Sponsor: Sen. Gerald Van Woerkom

Senate Bill 215 (Substitute H-1)
Sponsor: Sen. Jud Gilbert, II

House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Senate Committee: Natural Resources and Environmental Affairs

Complete to 6-28-05

A SUMMARY OF SENATE BILLS 211-213, 215, AND 507 AS REPORTED FROM COMMITTEE 6-23-05

Part 413 (Transgenic and Nonnative Organisms) of the Natural Resources and Environmental Protection Act regulates the possession and release of certain nonnative, invasive species of fish. The bills would amend Part 413 to, among other things, regulate the possession and release of certain invasive species of aquatic plants and insects, and establish the Invasive Species Fund. **Senate Bills 211-213 and 215 are largely identical to House Bills 4710-4713, all of which passed the House on June 15th.** There appears to be no companion House bill for Senate Bill 507. Senate Bills 211-213 and 215 are tie-barred to each other and House Bills 4714-4716. Senate Bill 507 is tie-barred to House Bill 4716

Senate Bill 211 (MCL 324.41301)

The act includes a list of "prohibited species" of fish that a person is prohibited from possessing or releasing, including the bighead carp, bitterling, black carp, grass carp, ide, Japanese weatherfish, rudd, silver carp, a fish of the snakehead family, and tench. The bill would redefine "prohibited species" to mean a prohibited aquatic plant species, prohibited fish species, or a prohibited insect species. The bill would re-label the list of fish as being "prohibited fish species" and add definitions for "prohibited aquatic plant species" and "prohibited insect species."

The bill would define "prohibited aquatic plant species" to generally mean the following aquatic plants, including a hybrid or genetically engineered variant: African oxygen weed, Brazilian eloda, European frogbit, giant salvinia, giant hogweed, hyrdilla, Japanese knotweed, parrot's feather, water chestnut, yellow flag iris, and yellow floating heart.

The bill would define "prohibited insect species" to mean the Asian longhorned beetle and the Emerald Ash Borer, including any eggs, or a hybrid or genetically engineered variant.

The bill also adds a definition for "restricted aquatic plant species," which would include the following plants, include any fragments or seeds, or a hybrid or genetically engineered variant: curly leaf pondweed, Eurasian watermilfoil, flowering rush, phragmites or common reed, and purple loosestrife.

Finally the bill provides that a person would not be considered to possess a live organism under the following circumstances: (1) the organism is present on land or in waters owned by that person, unless that person has knowingly introduced that organism; (2) the organism was obtained from the environment and the person possesses the organism where it was located; or (3) the person possesses the organism for the purpose of destroying it.

Senate Bill 212 (MCL 324.41303)

The act prohibits a person from possessing or releasing those species of fish included in the definition of "prohibited species." The bill, instead, provides that a person would be prohibited from knowingly possessing a prohibited or restricted species, except in certain circumstances, including the following:

- The person intends to present the species for identification or similar purposes to a commercial pesticide applicator, an institution of higher education, or the Department of Natural Resources or another governmental agency with responsibility over the environment or natural resources.
- The person has been presented the species for identification or similar purposes.
- The person possesses the species in conjunction with an otherwise lawful activity to eradicate or control the species.
- The person possesses the species pursuant to a permit issued by the Department of Natural Resources, the state Department of Agriculture (MDA) or the U.S. Department of Agriculture for education or research purposes.

If a person possesses a species for identification or similar purposes, the person would have to notify the DNR, MDA, or Department of Environmental Quality if it is determined that the species is a prohibited or restricted species and found at a location where it is not previously known to be present.

Senate Bill 213 (MCL 324.41305 and 324.41306)

The act prohibits a person from knowingly releasing a genetically engineered or nonnative fish into any area where it is not already naturalized, except as authorized under a permit. The bill would also prohibit the release of a prohibited or restricted aquatic plant or insect species or a genetically engineered or nonnative aquatic plant into

any area where it is not already naturalized, except as authorized under a permit by the Department of Natural Resources or Agriculture.

Senate Bill 215 (MCL 324.41311 and 324.41313)

The bill would create the Invasive Species Fund within the state treasury and funded by civil fines and permit fees collected under Part 413. Money in the fund could be expended for the administration of Part 413 and public education efforts about prohibited and restricted species and other nonnative or genetically engineered fish, insects, and aquatic plants.

In addition, the bill would require the Department of Natural Resources to post on its Internet website (www.michigan.gov/dnr) the following information: (1) the requirements of Part 413, (2) penalties that may be imposed for violating Part 413, (3) a list of all prohibited fish, aquatic plant, and insect species, including descriptions and a photograph or drawing, and (4) each annual report of the advisory council established by HB 4714.

Senate Bill 507 (MCL 777.13e)

The bill would amend the Code of Criminal Procedure to include violations related to genetically engineered, nonnative, prohibited, and restricted organisms in the sentencing guidelines statute.

Under the current law, the possession or release of genetically engineered, nonnative, or prohibited fish is a class E property felony punishable by imprisonment for up to five years. The bill would delete that provision and include violations and penalties provided for in Senate Bill 214, which would amend Part 413 of NREPA to revise penalties for violations of that part. Under the bill, violations for unlawful possession or introduction would be a Class E, F, or G property felony punishable by a maximum term of imprisonment ranging from two to five years. The bill is tie-barred to Senate Bill 214. Senate Bill 214 is identical to House Bill 4716.

HOUSE COMMITTEE ACTION:

The House Committee on Natural Resources, Great Lakes, Land Use, and Environment adopted substitute versions of each of the bills. Changes made in committee are largely technical, including tie-barring to the bills to House Bills 4714-4716, rather than the corresponding Senate bills. House Bills 4714 and 4715 provide for an Invasive Species Advisory Council, and House Bill 4716 revises the penalty system for violating the provisions of Part 413.

FISCAL IMPACT:

Any increased workload relating to the inclusion of additional plant and insect species will be absorbed within the existing DNR budget unless non-state revenue becomes available.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Kirk Lindquist

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.