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Senate Bill 211 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 212 (Substitute S-3 as reported)
Senate Bill 213 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 214 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 215 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 216 (Substitute S-2 as reported)
Senate Bill 217 (Substitute S-5 as reported by the Committee of the Whole)
Sponsor: Senator Patricia L. Birkholz (S.B. 213)
Senator Gerald Van Woerkom (S.B. 214)
Senator Tony Stamas (S.B. 213)
Senator Liz Brater (S.B. 214)
Senator Jud Gilbert, II (S.B. 215)
Senator Bruce Patterson (S.B. 216)
Senator Jason E. Allen (S.B. 217)

Committee: Natural Resources and Environmental Affairs

CONTENT

The bills would amend Part 413 (Transgenic and Nonnative Organisms) of the Natural Resources and Environmental Protection Act to do the following:

- Prohibit and prescribe civil and criminal penalties for various activities involving a prohibited species, restricted species, or genetically engineered or nonnative fish or aquatic plant.
- Create the "Invasive Species Fund", which would receive permit fees and civil fines and could be used for the administration of Part 413 and related public education.
- Require the Department of Natural Resources to post certain information on its website.
- Create the Invasive Species Advisory Council, and prescribe its responsibilities.

The bills are tie-barred to each other.

Senate Bill 211 (S-2) would define "prohibited species" as "prohibited aquatic plant species", "prohibited insect species", or "prohibited fish species", and define those terms.

The bill also would define "restricted species" as a "restricted aquatic plant species", and define that term.

Under the bill, with reference to an organism, the term "introduce" would mean knowingly and willfully to stock, place, plant, release or allow the release of the organism in this State at any specific location where the organism is not already naturalized.

Additionally, the bill would revise the definition of "genetically engineered" to refer to an organism, rather than a fish.

Senate Bill 212 (S-3) would prohibit a person from knowingly possessing a prohibited or restricted species, except for identification, lawful eradication or control, or research

purposes. The bill would delete the current prohibition against possessing or releasing a live prohibited species.

Under the bill, a person who was presented with a specimen for identification or similar purposes, or who possessed a prohibited species in conjunction with lawful eradication or control activity would have to notify the Department of Natural Resources (DNR), the Michigan Department of Agriculture (MDA), or the Department of Environmental Quality (DEQ) if the prohibited species were found at a location where it was not known previously to be present.

Senate Bill 213 (S-2) would prohibit a person from introducing a prohibited or restricted species, or a genetically engineered or nonnative fish, insect, or aquatic plant, unless authorized by a permit from the DNR or MDA. The bill would delete the current prohibition against releasing a nonnaturalized genetically engineered or nonnative fish without a permit.

Senate Bill 214 (S-3) would revise the penalties under Part 413, and the violations subject to those penalties.

Currently, a person who possesses or releases a live prohibited species, or knowingly releases a genetically engineered or nonnative fish is guilty of a felony punishable by imprisonment for up to five years and/or a maximum fine of \$250,000. The bill would delete this provision, and instead prescribe civil and criminal penalties for violations involving the possession of a restricted or prohibited species, or the introduction of a prohibited or restricted species or a genetically engineered or nonnative fish or aquatic plant without a permit, or for violating the conditions of a permit issued under Part 413. The penalties would depend in part on whether the violator acted knowingly, willfully or in a grossly negligent manner, or with the intent to damage natural, agricultural, or silvicultural resources. The penalties would range from a \$100 civil fine for failing to report a prohibited or restricted species (as Senate Bill 212 (S-3) would require) to a felony penalty of up to five years' imprisonment and a maximum fine of \$1.0 million for introducing a prohibited species or genetically engineered fish or aquatic plant (as Senate Bill 213 (S-2) would prohibit) with intent to damage natural, agricultural, or silvicultural resources.

Senate Bill 215 (S-3) would create the "Invasive Species Fund" within the State Treasury, and require the DNR to forward to the State Treasurer for deposit into the Fund the civil fines and permit fees collected under Part 413. The DNR could spend Fund money, upon appropriation, on the administration of Part 413 and public education about prohibited and restricted species, and other nonnative species and genetically engineered organisms.

The bill also would require the DNR to post on its website information on the requirements of Part 413 applicable to the public; the penalties for violating the requirements of Part 413; a list of prohibited and restricted species, along with a description and picture of each species; and each annual report issued by the Invasive Species Advisory Council (as proposed by Senate Bill 216 (S-2)).

Senate Bill 216 (S-2) would create the Invasive Species Advisory Council within the DNR. The Council would consist of the Directors of the DNR, the MDA, and the DEQ, or their designees. The Council would have to consult with representatives of businesses affected by Part 413, academic experts, public interest group representatives, government officials, and others as necessary to exercise its powers and perform its duties under Part 413.

The section creating the Council would be repealed five years after the bill's effective date.

Senate Bill 217 (S-5) would require the Invasive Species Advisory Council to establish criteria for identifying waterbodies infested by prohibited species, and monitor and promote

efforts to rescind the U.S. Environmental Protection Agency's exemption for ballast water discharges from the Federal Clean Water Act's requirement for a National Pollutant Discharge Elimination System permit.

Additionally, within six months after the bill's effective date, the Council would have to submit to the Governor and the Legislature a report making recommendations on additions to or deletions from the lists of prohibited and restricted species. By March 1 of each year beginning in 2006, the Council also would have to submit to the Governor and the Legislature a report making additional recommendations

The section added by the bill would be repealed five years after its effective date.

MCL 324.41301 (S.B. 211)

324.41303 (S.B. 212)

324.41305 (S.B. 213)

324.41309 (S.B. 214)

Proposed MCL 324.41313 (S.B. 215)

Proposed MCL 324.41321 (S.B. 216)

Proposed MCL 324.41323 (S.B. 217)

Legislative Analyst: Julie Koval

FISCAL IMPACT

Senate Bills 211 (S-2) through 214 (S-3)

The bills would have an indeterminate fiscal impact on State and local government.

The bills would create a new permit program regulating the possession or introduction of prohibited and restricted species. The new program would increase costs for the State; however, the DEQ and the MDA could collect permit fees to cover the cost of administering the permit program. It is unknown how many permits would be issued.

There are no data to indicate how many additional offenders would be convicted for violating Sections 41303, 41305, and 41309 under the proposed changes. Local governments incur the cost misdemeanor probation and incarceration in local facilities, which vary by county. The State incurs the cost of felony probation at an average annual cost of \$2,000 per offender, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000 per offender. Public libraries would benefit from any additional penal fine revenue collected. Civil fine revenue collected for violations of Part 413 would be deposited into the proposed Invasive Species Fund.

Senate Bills 215 (S-3), 216 (S-2), and 217 (S-5)

The State would incur minimal costs related to posting information on the DNR website and reimbursing Council members for actual and necessary expenses for performance of official duties.

Date Completed: 6-8-05

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.