

SUBSTITUTE FOR
HOUSE BILL NO. 4716

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 41309 (MCL 324.41309), as added by 2003 PA 270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41309. (1) A person who violates section ~~41303 or who~~
2 ~~knowingly violates section 41305 or a permit issued under section~~
3 ~~41305 is guilty of a felony punishable by imprisonment for not more~~
4 ~~than 5 years or a fine of not more than \$250,000.00, or both. In~~
5 ~~addition, the person~~ 41303(2) IS SUBJECT TO A CIVIL FINE OF NOT
6 MORE THAN \$100.00.

7 (2) A PERSON WHO VIOLATES SECTION 41303(1), OR A CONDITION OF
8 A PERMIT ISSUED UNDER THIS PART, WITH RESPECT TO A RESTRICTED
9 SPECIES IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$5,000.00. A
10 PERSON WHO VIOLATES SECTION 41303(1), OR A CONDITION OF A PERMIT
11 ISSUED UNDER THIS PART, WITH RESPECT TO A PROHIBITED SPECIES IS

1 SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$10,000.00.

2 (3) A PERSON WHO VIOLATES SECTION 41303(1) KNOWING THE
3 POSSESSION IS UNLAWFUL OR WHO WILLFULLY OR IN A GROSSLY NEGLIGENT
4 MANNER VIOLATES A CONDITION OF A PERMIT ISSUED UNDER THIS PART IS
5 GUILTY AS FOLLOWS:

6 (A) FOR A VIOLATION INVOLVING A RESTRICTED SPECIES, THE PERSON
7 IS GUILTY OF A MISDEMEANOR AND MAY BE IMPRISONED FOR NOT MORE THAN
8 1 YEAR AND SHALL BE FINED NOT LESS THAN \$1,000.00 OR MORE THAN
9 \$10,000.00.

10 (B) FOR A VIOLATION INVOLVING A PROHIBITED SPECIES, THE PERSON
11 IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 2
12 YEARS AND SHALL BE FINED NOT LESS THAN \$2,000.00 OR MORE THAN
13 \$20,000.00.

14 (4) A PERSON WHO, WITH INTENT TO DAMAGE NATURAL, AGRICULTURAL,
15 OR SILVICULTURAL RESOURCES:

16 (A) VIOLATES SECTION 41303(1) WITH RESPECT TO A RESTRICTED
17 SPECIES OR POSSESSES A NONNATIVE FISH OR AQUATIC PLANT IS GUILTY OF
18 A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 2 YEARS AND SHALL
19 BE FINED NOT LESS THAN \$1,000.00 OR MORE THAN \$250,000.00.

20 (B) VIOLATES SECTION 41303(1) WITH RESPECT TO A PROHIBITED
21 SPECIES OR POSSESSES A GENETICALLY ENGINEERED FISH OR AQUATIC PLANT
22 IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 4
23 YEARS AND SHALL BE FINED NOT LESS THAN \$2,000.00 OR MORE THAN
24 \$500,000.00.

25 (5) A PERSON WHO SELLS OR OFFERS TO SELL A RESTRICTED SPECIES
26 IS SUBJECT TO A CIVIL FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN
27 \$10,000.00. A PERSON WHO SELLS OR OFFERS TO SELL A PROHIBITED

1 SPECIES IS SUBJECT TO A CIVIL FINE OF NOT LESS THAN \$2,000.00 OR
2 MORE THAN \$20,000.00.

3 (6) A PERSON WHO VIOLATES SECTION 41305 IS GUILTY AS FOLLOWS:

4 (A) FOR A VIOLATION INVOLVING A RESTRICTED SPECIES OR A
5 NONNATIVE FISH OR AQUATIC PLANT, THE PERSON IS GUILTY OF A
6 MISDEMEANOR AND MAY BE IMPRISONED FOR NOT MORE THAN 6 MONTHS AND
7 SHALL BE FINED NOT LESS THAN \$500.00 OR MORE THAN \$5,000.00.

8 (B) FOR A VIOLATION INVOLVING A PROHIBITED SPECIES OR A
9 GENETICALLY ENGINEERED FISH OR AQUATIC PLANT, THE PERSON IS GUILTY
10 OF A MISDEMEANOR AND MAY BE IMPRISONED FOR NOT MORE THAN 1 YEAR AND
11 SHALL BE FINED NOT LESS THAN \$1,000.00 OR MORE THAN \$10,000.00.

12 (7) A PERSON WHO VIOLATES SECTION 41305 WITH RESPECT TO A
13 RESTRICTED SPECIES OR NONNATIVE FISH OR AQUATIC PLANT AND WHO KNOWS
14 OR SHOULD KNOW THE IDENTITY OF THE RESTRICTED SPECIES OR THAT THE
15 ORGANISM, WHETHER A RESTRICTED SPECIES OR OTHER FISH OR AQUATIC
16 PLANT, IS NONNATIVE IS GUILTY OF A MISDEMEANOR AND MAY BE
17 IMPRISONED FOR NOT MORE THAN 1 YEAR AND SHALL BE FINED NOT LESS
18 THAN \$1,000.00 OR MORE THAN \$10,000.00.

19 (8) A PERSON WHO VIOLATES SECTION 41305 WITH RESPECT TO A
20 PROHIBITED SPECIES OR A GENETICALLY ENGINEERED FISH OR AQUATIC
21 PLANT AND WHO KNOWS OR SHOULD KNOW THE IDENTITY OF THE PROHIBITED
22 SPECIES OR THAT THE FISH OR AQUATIC PLANT IS GENETICALLY
23 ENGINEERED, RESPECTIVELY, IS GUILTY OF A FELONY AND MAY BE
24 IMPRISONED FOR NOT MORE THAN 2 YEARS AND SHALL BE FINED NOT LESS
25 THAN \$2,000.00 OR MORE THAN \$20,000.00.

26 (9) A PERSON WHO VIOLATES SECTION 41305 KNOWING THE
27 INTRODUCTION IS UNLAWFUL, IS GUILTY AS FOLLOWS:

1 (A) FOR A VIOLATION INVOLVING A RESTRICTED SPECIES OR
2 NONNATIVE FISH OR AQUATIC PLANT, THE PERSON IS GUILTY OF A FELONY
3 AND MAY BE IMPRISONED FOR NOT MORE THAN 2 YEARS AND SHALL BE FINED
4 NOT LESS THAN \$1,000.00 OR MORE THAN \$250,000.00.

5 (B) FOR A VIOLATION INVOLVING A PROHIBITED SPECIES OR A
6 GENETICALLY ENGINEERED FISH OR AQUATIC PLANT, THE PERSON IS GUILTY
7 OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 4 YEARS AND
8 SHALL BE FINED NOT LESS THAN \$2,000.00 OR MORE THAN \$500,000.00.

9 (10) A PERSON WHO, WITH INTENT TO DAMAGE NATURAL,
10 AGRICULTURAL, OR SILVICULTURAL RESOURCES, VIOLATES SECTION 41305 IS
11 GUILTY AS FOLLOWS:

12 (A) FOR A VIOLATION INVOLVING A RESTRICTED SPECIES OR
13 NONNATIVE FISH OR AQUATIC PLANT, THE PERSON IS GUILTY OF A FELONY
14 AND MAY BE IMPRISONED FOR NOT MORE THAN 3 YEARS AND SHALL BE FINED
15 NOT LESS THAN \$1,000.00 OR MORE THAN \$500,000.00.

16 (B) FOR A VIOLATION INVOLVING A PROHIBITED SPECIES OR A
17 GENETICALLY ENGINEERED FISH OR AQUATIC PLANT, THE PERSON IS GUILTY
18 OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 5 YEARS AND
19 SHALL BE FINED NOT LESS THAN \$2,000.00 OR MORE THAN \$1,000,000.00.

20 (11) SUBSECTIONS (3), (4), AND (9) DO NOT APPLY BEFORE
21 NOVEMBER 1, 2005 TO VIOLATIONS INVOLVING SPECIES OTHER THAN FISH.
22 SUBSECTIONS (6), (7), (8), AND (10) DO NOT APPLY BEFORE NOVEMBER 1,
23 2005.

24 (12) IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL SANCTION
25 IMPOSED UNDER THIS SECTION, A PERSON WHO VIOLATES THIS PART
26 is liable for any damages to natural resources resulting from the
27 violation, including, but not limited to, costs incurred to prevent

1 or minimize such damages.

2 (13) THIS PART DOES NOT APPLY TO ACTIVITIES AUTHORIZED UNDER
3 THE MICHIGAN AQUACULTURE DEVELOPMENT ACT, 1996 PA 199, MCL 286.871
4 TO 286.884.

5 Enacting section 1. This amendatory act does not take effect
6 unless all of the following bills of the 93rd Legislature are
7 enacted into law:

- 8 (a) Senate Bill No. 211 or House Bill No. 4710.
9 (b) Senate Bill No. 212 or House Bill No. 4711.
10 (c) Senate Bill No. 213 or House Bill No. 4712.
11 (d) Senate Bill No. 215 or House Bill No. 4713.
12 (e) Senate Bill No. 216 or House Bill No. 4714.
13 (f) Senate Bill No. 217 or House Bill No. 4715.