

SENATE BILL No. 1235

August 15, 2012, Introduced by Senators BOOHER, CASPERSON, HUNE, PAVLOV, JANSEN, COLBECK, MOOLENAAR, KOWALL and HILDENBRAND and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 41301 and 41302 (MCL 324.41301 and 324.41302),
section 41301 as amended by 2009 PA 51 and section 41302 as added
by 2009 PA 52.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 41301. (1) As used in this part:

(a) "Genetically engineered" refers to an organism whose
genome, chromosomal or extrachromosomal, is modified permanently
and heritably, using recombinant nucleic acid techniques, or the
progeny of such an organism.

(b) "Introduce", with reference to an organism, means to
knowingly and willfully stock, place, plant, release, or allow the
release of the organism in this state at any specific location

1 where the organism is not already naturalized.

2 (C) "LIVESTOCK" MEANS THOSE SPECIES OF ANIMALS UNDER HUSBANDRY
3 OF HUMANS AND USED TO PROVIDE FOOD, FIBER, OR SERVICE TO HUMANS.
4 LIVESTOCK INCLUDES, BUT IS NOT LIMITED TO, CATTLE, SHEEP, NEW WORLD
5 CAMELIDS, GOATS, BISON, PRIVATELY OWNED CERVIDS, RATITES, SWINE,
6 EQUINE SPECIES, POULTRY, AQUACULTURE SPECIES, AND RABBITS.
7 LIVESTOCK DOES NOT INCLUDE DOGS AND CATS.

8 (D) "NATIVE TO THIS STATE" INCLUDES ORGANISMS THAT ARE EITHER
9 OF THE FOLLOWING:

10 (i) BORN OR HATCHED AND RAISED IN THIS STATE UNDER THE
11 HUSBANDRY OF HUMANS.

12 (ii) IMPORTED INTO THIS STATE IN COMPLIANCE WITH ENTRY
13 REQUIREMENTS PRESCRIBED BY THE DIRECTOR OF THE DEPARTMENT OF
14 AGRICULTURE AND RURAL DEVELOPMENT AND MAINTAINED IN THIS STATE FOR
15 AT LEAST 45 DAYS.

16 (E) ~~(e)~~ "Prohibited species" ~~, subject to section 41302,~~ means
17 any of the following:

18 (i) Any of the following prohibited aquatic plant species,
19 including a hybrid or genetically engineered variant of the species
20 or a fragment, including a seed or other propagule, of the species
21 or of a hybrid or genetically engineered variant:

22 (A) African oxygen weed (*Lagarosiphon major*).

23 (B) Brazilian elodea (*Egeria densa*).

24 (C) Cyllindro (*Cylindrospermopsis raciborskii*).

25 (D) European frogbit (*Hydrocharis morsus-ranae*).

26 (E) Fanwort (*Cabomba caroliniana*).

27 (F) Giant hogweed (*Heracleum mantegazzianum*).

1 (G) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or
2 *herzogii*).

3 (H) Hydrilla (*Hydrilla verticillata*).

4 (I) Japanese knotweed (*Fallopia japonica*).

5 (J) Parrot's feather (*Myriophyllum aquaticum*).

6 (K) Starry stonewort (*Nitellopsis obtusa*).

7 (L) Water chestnut (*Trapa natans*).

8 (M) Yellow floating heart (*Nymphoides peltata*).

9 (ii) The following prohibited bird species, including a hybrid
10 or genetically engineered variant of the species or an egg of the
11 species or of a hybrid or genetically engineered variant: Eurasian
12 collared dove (*Streptopelia decaocto*).

13 (iii) The following prohibited crustacean species, including a
14 hybrid or genetically engineered variant of the species or an egg
15 of the species or of a hybrid or genetically engineered variant:
16 rusty crayfish (*Orconectes rusticus*).

17 (iv) Any of the following prohibited fish species, including a
18 hybrid or genetically engineered variant of the species or an egg
19 of the species or of a hybrid or genetically engineered variant:

20 (A) Bighead carp (*Hypophthalmichthys nobilis*).

21 (B) Bitterling (*Rhodeus sericeus*).

22 (C) Black carp (*Mylopharyngodon piceus*).

23 (D) Eurasian ruffe (*Gymnocephalus cernuus*).

24 (E) Grass carp (*Ctenopharyngodon idellus*).

25 (F) Ide (*Leuciscus idus*).

26 (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).

27 (H) Round goby (*Neogobius melanostomus*).

(I) Rudd (*Scardinius erythrophthalmus*).

(J) Silver carp (*Hypophthalmichthys molitrix*).

(K) A fish of the snakehead family (family Channidae).

(L) Tench (*Tinca tinca*).

(M) Tubenose goby (*Proterorhinus marmoratus*).

(v) Any of the following prohibited insect species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:

(A) Asian longhorned beetle (*Anoplophora glabripennis*).

(B) Emerald ash borer (*Agrilus planipennis*).

(vi) The following prohibited mammal species, including a hybrid or genetically engineered variant: nutria (*Myocastor coypus*).

(vii) Any of the following prohibited mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:

(A) Brown garden snail (*Helix aspersa*).

(B) Carthusian snail (*Monacha cartusiana*).

(C) Giant African snail (*Achatina fulica*).

(D) Girdled snail (*Hygromia cinctella*).

(E) Heath snail (*Xerolenta obvia*).

(F) Wrinkled dune snail (*Candidula intersecta*).

(F) ~~(d)~~—"Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism.

(G) ~~(e)~~—"Restricted species" ~~, subject to section 41302,~~ means

1 any of the following:

2 (i) Any of the following restricted aquatic plant species,
3 including a hybrid or genetically engineered variant of the species
4 or a fragment, including a seed or other propagule, of the species
5 or of a hybrid or genetically engineered variant:

6 (A) Curly leaf pondweed (*Potamogeton crispus*).

7 (B) Eurasian watermilfoil (*Myriophyllum spicatum*).

8 (C) Flowering rush (*Butomus umbellatus*).

9 (D) Phragmites or common reed (*Phragmites australis*).

10 (E) Purple loosestrife (*Lythrum salicaria*), except that
11 cultivars of purple loosestrife developed and recognized to be
12 sterile and approved by the director of the department of
13 agriculture under section 16a of the insect pest and plant disease
14 act, 1931 PA 189, MCL 286.216a, are not a restricted species.

15 (ii) Any of the following restricted mollusk species, including
16 a hybrid or genetically engineered variant of the species or an egg
17 of the species or of a hybrid or genetically engineered variant:

18 (A) Quagga mussel (*Dreissena bugensis*).

19 (B) Zebra mussel (*Dreissena polymorpha*).

20 (H) **"SPECIES" INCLUDES ALL SUBSPECIES, DISTINCT POPULATIONS,**
21 **AND ORGANISMS THAT ARE BIOLOGICALLY CAPABLE OF INTERBREEDING AND OF**
22 **PRODUCING FERTILE OFFSPRING.**

23 (2) For the purposes of this part:

24 (a) A person is not considered to possess a live organism
25 ~~simply~~ **MERELY** because the organism is present on land or in waters
26 owned by that person unless the person has knowingly introduced
27 that live organism on that land or in those waters.

1 (b) A person is not considered to possess a live organism if
2 the organism was obtained from the environment and the person only
3 possesses the organism at the specific location at which it was
4 obtained from the environment.

5 (c) A person is not considered to possess a live organism if
6 the possession is for the purpose of promptly destroying the
7 organism.

8 Sec. 41302. ~~(1) The commission of natural resources may by~~
9 ~~order add to or delete from the list of prohibited species or~~
10 ~~restricted species under section 41301 any species other than an~~
11 ~~insect or plant species. Before issuing an order under this~~
12 ~~subsection, the commission of natural resources shall consult with~~
13 ~~the department of agriculture. After the consultation, and at least~~
14 ~~30 days before the commission of natural resources issues the~~
15 ~~order, the department of natural resources shall post a copy of the~~
16 ~~proposed order on the department of natural resources' website and~~
17 ~~shall submit a copy of the proposed order to all of the following:~~

18 ~~—— (a) The legislature.~~

19 ~~—— (b) The standing committees of the senate and house of~~
20 ~~representatives with primary responsibility for any of the~~
21 ~~following:~~

22 ~~—— (i) Agricultural issues.~~

23 ~~—— (ii) Environmental issues.~~

24 ~~—— (iii) Natural resources issues.~~

25 ~~—— (2) The commission of agriculture may by order add to or~~
26 ~~delete from the list of prohibited species or restricted species~~
27 ~~under section 41301 any insect or plant species. Before issuing an~~

~~order under this subsection, the commission of agriculture shall consult with the department of natural resources. After the consultation, and at least 30 days before the commission of agriculture issues the order, the department of agriculture shall post a copy of the proposed order on the department of agriculture's website and shall submit a copy of the proposed order to all of the following:~~

~~—— (a) The legislature.~~

~~—— (b) The standing committees of the senate and house of representatives with primary responsibility for any of the following:~~

~~—— (i) Agricultural issues.~~

~~—— (ii) Environmental issues.~~

~~—— (iii) Natural resources issues.~~

~~(3) The commission of natural resources or the commission of agriculture, as applicable, shall list a species as a prohibited species or restricted species if the commission of natural resources or commission of agriculture, respectively, determines the following:~~

(1) ~~(a) For a~~ THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT, AFTER CONSULTATION WITH THE DEPARTMENT OF NATURAL RESOURCES, MAY RECOMMEND TO THE LEGISLATURE THAT A PLANT, INSECT, OR LIVESTOCK SPECIES BE ADDED TO OR DELETED FROM THE DEFINITION OF PROHIBITED SPECIES OR RESTRICTED SPECIES. THE DEPARTMENT OF NATURAL RESOURCES, AFTER CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT, MAY RECOMMEND TO THE LEGISLATURE THAT A SPECIES OTHER THAN A PLANT, INSECT, OR LIVESTOCK SPECIES BE ADDED

1 TO OR DELETED FROM THE DEFINITION OF PROHIBITED SPECIES OR
2 RESTRICTED SPECIES.

3 (2) FOR THE PURPOSE OF RECOMMENDATIONS UNDER SUBSECTION (1), A
4 SPECIES SHOULD BE INCLUDED IN THE DEFINITION OF prohibited species,
5 IF all of the following requirements are met:

6 (i) The organism is not native to this state.

7 (ii) The organism is not naturalized in this state or, if
8 naturalized, is not widely distributed in this state.

9 (iii) One or more of the following apply:

10 (A) The organism has the potential to harm human health or to
11 severely harm natural, agricultural, or silvicultural resources.

12 (B) Effective management or control techniques for the
13 organism are not available.

14 (iv) ~~(b) For a~~ THE ORGANISM IS NOT DOMESTICATED OR UNDER HUMAN
15 CONTROL.

16 (v) HUMANS DO NOT DEPEND ON THE ORGANISM FOR SURVIVAL,
17 MAINTAINING A DESIRABLE QUALITY OF LIFE, OR ECONOMIC SECURITY.

18 (3) FOR THE PURPOSES OF RECOMMENDATIONS UNDER SUBSECTION (1),
19 A SPECIES SHOULD BE INCLUDED IN THE DEFINITION OF restricted
20 species, IF all of the following requirements are met:

21 (i) The organism is not native to this state.

22 (ii) The organism is naturalized and widely distributed in this
23 state.

24 (iii) One or more of the following apply:

25 (A) The organism has the potential to harm human health or to
26 harm natural, agricultural, or silvicultural resources.

27 (B) Effective management or control techniques for the

1 organism are available.