

**SUBSTITUTE FOR
SENATE BILL NO. 800**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 41309, 47361, and 48738 (MCL 324.41309,
324.47361, and 324.48738), section 41309 as amended by 2009 PA 52,
section 47361 as added by 1995 PA 57, and section 48738 as amended
by 2003 PA 270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41309. (1) A person who violates section 41303(2) is
2 subject to a civil fine of not more than \$100.00.

3 (2) A person who violates section 41303(1), or a condition of
4 a permit issued under this part, with respect to a restricted
5 species is subject to a civil fine of not more than \$5,000.00. A
6 person who violates section 41303(1), or a condition of a permit

1 issued under this part, with respect to a prohibited species is
2 subject to a civil fine of not more than \$10,000.00.

3 (3) A person who violates section 41303(1) knowing the
4 possession is unlawful or who willfully or in a grossly negligent
5 manner violates a condition of a permit issued under this part is
6 guilty as follows:

7 (a) For a violation involving a restricted species, the person
8 is guilty of a misdemeanor and may be imprisoned for not more than
9 1 year and shall be fined not less than \$1,000.00 or more than
10 \$10,000.00.

11 (b) For a violation involving a prohibited species **THAT IS NOT**
12 **AN AQUATIC SPECIES**, the person is guilty of a felony and may be
13 imprisoned for not more than 2 years and shall be fined not less
14 than \$2,000.00 or more than \$20,000.00.

15 **(C) FOR A VIOLATION INVOLVING A PROHIBITED SPECIES THAT IS AN**
16 **AQUATIC SPECIES, THE PERSON IS GUILTY OF A FELONY AND MAY BE**
17 **IMPRISONED FOR NOT MORE THAN 3 YEARS AND SHALL BE FINED NOT LESS**
18 **THAN \$2,000.00 OR MORE THAN \$100,000.00.**

19 (4) A person who, with intent to damage natural, agricultural,
20 or silvicultural resources or human health:

21 (a) Violates section 41303(1) with respect to a restricted
22 species or possesses a nonnative ~~aquatic plant~~, bird, crustacean,
23 fish, insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT** is guilty of a
24 felony and may be imprisoned for not more than 2 years and shall be
25 fined not less than \$1,000.00 or more than \$250,000.00.

26 (b) Violates section 41303(1) with respect to a prohibited
27 species or possesses a genetically engineered ~~aquatic plant~~, bird,

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1 crustacean, fish, insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT** is
2 guilty of a felony and may be imprisoned for not more than 4 years
3 and shall be fined not less than \$2,000.00 or more than
4 \$500,000.00.

5 (5) A person who sells or offers to sell a restricted species
6 is subject to a civil fine of not less than \$1,000.00 or more than
7 \$10,000.00. A person who sells or offers to sell a prohibited
8 species [**OR WHO VIOLATES SECTION 41303(3)**] is subject to a civil fine of
9 not less than \$2,000.00 or
more than \$20,000.00.

10 (6) A person who violates section 41305 is guilty as follows:

11 (a) For a violation involving a restricted species or a
12 nonnative ~~aquatic plant~~, bird, crustacean, fish, insect, mammal, ~~or~~
13 mollusk, **OR AQUATIC PLANT**, the person is guilty of a misdemeanor
14 and may be imprisoned for not more than 6 months and shall be fined
15 not less than \$500.00 or more than \$5,000.00.

16 (b) For a violation involving a prohibited species or a
17 genetically engineered ~~aquatic plant~~, bird, crustacean, fish,
18 insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT**, the person is guilty
19 of a misdemeanor and may be imprisoned for not more than 1 year and
20 shall be fined not less than \$1,000.00 or more than \$10,000.00.

21 (7) A person who violates section 41305 with respect to a
22 restricted species or nonnative ~~aquatic plant~~, bird, crustacean,
23 fish, insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT** and who ~~knows or~~
24 ~~should know~~ **HAS ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF** the identity of
25 the restricted species or that the organism, whether a restricted
26 species or other ~~aquatic plant~~, bird, crustacean, fish, insect,
27 mammal, ~~or~~ mollusk, **OR AQUATIC PLANT**, is nonnative is guilty of a

1 misdemeanor and may be imprisoned for not more than 1 year and
2 shall be fined not less than \$1,000.00 or more than \$10,000.00.

3 (8) A person who violates section 41305 with respect to a
4 prohibited species **THAT IS NOT AN AQUATIC SPECIES** or **WITH RESPECT**
5 **TO** a genetically engineered ~~aquatic plant~~, bird, crustacean, fish,
6 insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT** and who ~~knows or~~
7 ~~should know~~ **HAS ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF** the identity of
8 the prohibited species or that the ~~aquatic plant~~, bird, crustacean,
9 fish, insect, mammal, ~~or mollusk~~, **OR AQUATIC PLANT** is genetically
10 engineered, respectively, is guilty of a felony and may be
11 imprisoned for not more than 2 years and shall be fined not less
12 than \$2,000.00 or more than \$20,000.00.

13 (9) **A PERSON WHO VIOLATES SECTION 41305 WITH RESPECT TO A**
14 **PROHIBITED SPECIES THAT IS AN AQUATIC SPECIES AND WHO HAS ACTUAL OR**
15 **CONSTRUCTIVE KNOWLEDGE OF THE IDENTITY OF THE PROHIBITED SPECIES IS**
16 **GUILTY OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 3 YEARS**
17 **AND SHALL BE FINED NOT LESS THAN \$2,000.00 OR MORE THAN**
18 **\$100,000.00.**

19 (10) ~~(9)~~ A person who violates section 41305 knowing the
20 introduction is unlawful, is guilty as follows:

21 (a) For a violation involving a restricted species or
22 nonnative ~~aquatic plant~~, bird, crustacean, fish, insect, mammal, ~~or~~
23 mollusk, **OR AQUATIC PLANT**, the person is guilty of a felony and may
24 be imprisoned for not more than 2 years and shall be fined not less
25 than \$1,000.00 or more than \$250,000.00.

26 (b) For a violation involving a prohibited species or a
27 genetically engineered ~~aquatic plant~~, bird, crustacean, fish,

1 insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT**, the person is guilty
2 of a felony and may be imprisoned for not more than 4 years and
3 shall be fined not less than \$2,000.00 or more than \$500,000.00.

4 (11) ~~(10)~~—A person who, with intent to damage natural,
5 agricultural, or silvicultural resources or human health, violates
6 section 41305 is guilty as follows:

7 (a) For a violation involving a restricted species or
8 nonnative ~~aquatic plant~~, bird, crustacean, fish, insect, mammal, ~~or~~
9 mollusk, **OR AQUATIC PLANT**, the person is guilty of a felony and may
10 be imprisoned for not more than 3 years and shall be fined not less
11 than \$1,000.00 or more than \$500,000.00.

12 (b) For a violation involving a prohibited species or a
13 genetically engineered ~~aquatic plant~~, bird, crustacean, fish,
14 insect, mammal, ~~or~~ mollusk, **OR AQUATIC PLANT**, the person is guilty
15 of a felony and may be imprisoned for not more than 5 years and
16 shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

17 (12) IF A PERSON COMMITS A CRIMINAL VIOLATION OF THIS PART OR
18 A RULE PROMULGATED OR PERMIT ISSUED UNDER THIS PART OR KNOWINGLY
19 COMMITS A VIOLATION DESCRIBED IN SUBSECTION (5) AND IF THE
20 VIOLATION INVOLVES A PROHIBITED SPECIES THAT IS AN AQUATIC SPECIES,
21 THE COURT SHALL ORDER THAT ANY PERMIT OR LICENSE ISSUED TO THE
22 PERSON UNDER PART 473 OR 487 BE SUSPENDED FOR 1 YEAR, AND THAT THE
23 PERSON IS NOT ELIGIBLE TO BE ISSUED ANY PERMIT OR LICENSE UNDER
24 PART 473 OR 487 FOR 1 YEAR. IF THE REMAINING TERM OF AN EXISTING
25 PERMIT OR LICENSE UNDER PART 473 OR 487 IS LESS THAN 1 YEAR, THE
26 COURT SHALL ORDER THAT THE PERMIT OR LICENSE BE REVOKED AND THAT
27 THE PERSON IS NOT ELIGIBLE TO BE ISSUED ANY PERMIT OR LICENSE UNDER

1 PART 473 OR 487 FOR 1 YEAR. FOR A SECOND VIOLATION DESCRIBED IN
2 THIS SUBSECTION, THE COURT SHALL ORDER THAT ANY PERMIT OR LICENSE
3 ISSUED TO THE PERSON UNDER PART 473 OR 487 BE REVOKED AND THAT THE
4 PERSON IS PERMANENTLY INELIGIBLE TO BE ISSUED ANY PERMIT OR LICENSE
5 UNDER PART 473 OR 487. AN ORDER UNDER THIS SUBSECTION IS SELF-
6 EFFECTUATING. THE CLERK OF THE COURT SHALL SEND A COPY OF THE ORDER
7 TO THE DEPARTMENT OF NATURAL RESOURCES.

8 (13) ~~(11)~~—In addition to any other civil or criminal sanction
9 imposed under this section, a person who violates this part is
10 liable for any damages to natural resources resulting from the
11 violation, including, but not limited to, costs incurred to prevent
12 or minimize such damages.

13 (14) ~~(12)~~—This part does not apply to activities authorized
14 under the Michigan aquaculture development act, 1996 PA 199, MCL
15 286.871 to 286.884.

16 Sec. 47361. (1) A person who violates sections 47335 to 47360
17 is guilty of a misdemeanor, punishable by imprisonment for not more
18 than 30 days, or a fine of not less than \$10.00 or more than
19 \$100.00 and costs of prosecution, or both. The license of any
20 person convicted of 3 violations of this part or other acts or
21 parts regulating commercial fishing in any 1 license year shall be
22 automatically revoked and canceled for the balance of the license
23 year for which issued, and such a revocation prohibits the use of
24 boats, nets, or other gear by any person during the balance of the
25 year for which the license was issued.

26 (2) SUBJECT TO SUBSECTION (3), IF ANY PERMIT OR LICENSE UNDER
27 THIS PART IS ORDERED TO BE SUSPENDED OR REVOKED UNDER SECTION 41309

1 AND IF THE DEPARTMENT MAINTAINS A DATABASE OF SUSPENSIONS OR
2 REVOCATIONS OF PERMITS OR LICENSES UNDER THIS PART, THE DEPARTMENT
3 SHALL NOT ISSUE A PERMIT OR LICENSE UNDER THIS PART TO THE PERSON
4 FOR THE PERIOD PROVIDED IN THE ORDER.

5 (3) IF A PERMIT OR LICENSE UNDER THIS PART IS ORDERED TO BE
6 SUSPENDED UNDER SECTION 41309, THE SUSPENSION REMAINS IN EFFECT
7 UNTIL ALL OF THE FOLLOWING OCCUR:

8 (A) THE SUSPENSION PERIOD SET FORTH IN THE COURT ORDER HAS
9 ELAPSED.

10 (B) THE PERSON PAYS THE DEPARTMENT A REINSTATEMENT FEE OF
11 \$125.00.

12 (4) UNLESS A PERSON'S PERMIT OR LICENSE IS OTHERWISE
13 SUSPENDED, REVOKED, OR DENIED, THE PERMIT OR LICENSE IS IMMEDIATELY
14 REINSTATED ON SATISFACTION OF THE REQUIREMENTS OF SUBSECTION (3).

15 Sec. 48738. (1) A person who violates this part or rules or
16 orders issued to implement this part, if a penalty is not otherwise
17 provided for that violation in this section, is guilty of a
18 misdemeanor punishable by imprisonment for not more than 90 days or
19 a fine of not more than \$500.00, or both.

20 (2) A person convicted of using dynamite, nitroglycerin, ~~lime,~~
21 ~~electricity,~~ any other explosive substance, **LIME, ELECTRICITY,** or
22 poison for the purpose of taking or killing fish, convicted of
23 using nets not authorized by law for taking game fish, or convicted
24 of buying or selling game fish or any parts of game fish is guilty
25 of a misdemeanor punishable by imprisonment for not more than 90
26 days or a fine of not less than \$250.00 or more than \$1,000.00, or
27 both.

1 (3) A person who takes or possesses sturgeon in violation of
2 this part or rules or orders issued to implement this part is
3 guilty of a misdemeanor and shall be punished by imprisonment for
4 not less than 30 days or more than 180 days and a fine of not less
5 than \$500.00 or more than \$2,000.00, or both, and the costs of
6 prosecution.

7 (4) A person who knowingly violates section 48735(2) or (4) or
8 a permit issued under section 48735(2) or (4) with respect to a
9 genetically engineered variant of a fish species is guilty of a
10 felony punishable by imprisonment for not more than 5 years or a
11 fine of not more than \$250,000.00, or both. In addition, the person
12 is liable for any damages to the natural resources resulting from
13 the violation, including, but not limited to, costs incurred to
14 prevent or minimize such damages.

15 (5) If a person is convicted of a violation of this part or
16 rules or orders issued to implement this part and it is alleged in
17 the complaint and proved or admitted at trial or ascertained by the
18 court at the time of sentencing that the person has been previously
19 convicted 3 or more times of a violation of this part within the 5
20 years immediately preceding the last violation of this part, the
21 person is guilty of a misdemeanor punishable by imprisonment for
22 not more than 90 days or a fine of not more than \$1,000.00, or
23 both, and the costs of prosecution. This subsection does not apply
24 to the following violations:

25 (a) Failing to possess or display a valid fishing license ~~or~~
26 ~~trout and salmon license~~ issued pursuant to part 435.

27 (b) Taking or possessing an overlimit of bluegill, sunfish,

1 crappie, perch, or nongame fish.

2 (c) Taking or possessing not more than 5 undersized fish.

3 (d) Fishing with too many lines.

4 (e) Failing to attach the person's name and address to tip-ups
5 or minnow traps.

6 (f) Fishing with lines not under immediate control.

7 (6) In addition to the penalties provided in this section, a
8 fishing license issued to a person sentenced pursuant to subsection
9 (2), (3), (4), or (5) shall be revoked, and the person shall not be
10 issued a license during the remainder of the year in which
11 convicted or during the next 3 succeeding license years.

12 (7) SUBJECT TO SUBSECTION (8), IF ANY PERMIT OR LICENSE UNDER
13 THIS PART IS ORDERED TO BE SUSPENDED OR REVOKED UNDER SECTION 41309
14 AND IF THE DEPARTMENT MAINTAINS A DATABASE OF SUSPENSIONS OR
15 REVOCATIONS OF PERMITS OR LICENSES UNDER THIS PART, THE DEPARTMENT
16 SHALL NOT ISSUE A PERMIT OR LICENSE UNDER THIS PART TO THE PERSON
17 FOR THE PERIOD PROVIDED IN THE ORDER.

18 (8) IF A PERMIT OR LICENSE UNDER THIS PART IS ORDERED TO BE
19 SUSPENDED UNDER SECTION 41309, THE SUSPENSION REMAINS IN EFFECT
20 UNTIL ALL OF THE FOLLOWING OCCUR:

21 (A) THE SUSPENSION PERIOD SET FORTH IN THE COURT ORDER HAS
22 ELAPSED.

23 (B) THE PERSON PAYS THE DEPARTMENT A REINSTATEMENT FEE OF
24 \$125.00.

25 (9) UNLESS A PERSON'S PERMIT OR LICENSE IS OTHERWISE
26 SUSPENDED, REVOKED, OR DENIED, THE PERMIT OR LICENSE IS IMMEDIATELY
27 REINSTATED ON SATISFACTION OF THE REQUIREMENTS OF SUBSECTION (8).

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.

3 Enacting section 2. This amendatory act does not take effect
4 unless all of the following bills of the 97th Legislature are
5 enacted into law:

6 (a) Senate Bill No. 795.

7 (b) Senate Bill No. 796.

8 (c) Senate Bill No. 797.

9 (d) Senate Bill No. 799.