

SENATE BILL No. 800

February 19, 2014, Introduced by Senators WALKER, KOWALL, JANSEN, CASPERSON, EMMONS, GREEN, MOOLENAAR, HANSEN, MEEKHOF, SCHUITMAKER, RICHARDVILLE and BIEDA 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 41305, 41309, 43559, and 47361 (MCL 324.41305, 324.41309, 324.43559, and 324.47361), sections 41305 and 41309 as amended by 2009 PA 52, section 43559 as amended by 2013 PA 37, and section 47361 as added by 1995 PA 57.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41305. A person shall not introduce a prohibited species,
2 a restricted species, or a genetically engineered or nonnative
3 aquatic plant, bird, crustacean, fish, **INSECT**, mammal, or mollusk
4 unless the introduction is authorized by 1 of the following, as
5 applicable:

6 (a) For a fish, by a permit issued by the department of

1 natural resources under section 48735.

2 (b) For an insect or plant, by a permit issued by the
3 department of agriculture **AND RURAL DEVELOPMENT** under section
4 41306.

5 (c) For any other species, by a permit issued by the
6 department of natural resources under section 41306.

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

9 (2) A person who violates section 41303(1), or a condition of
10 a permit issued under this part, with respect to a restricted
11 species is subject to a civil fine of not more than \$5,000.00. A
12 person who violates section 41303(1), or a condition of a permit
13 issued under this part, with respect to a prohibited species is
14 subject to a civil fine of not more than \$10,000.00.

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

19 (a) For a violation involving a restricted species, the person
20 is guilty of a misdemeanor and may be imprisoned for not more than
21 1 year and shall be fined not less than \$1,000.00 or more than
22 \$10,000.00.

23 (b) For a violation involving a prohibited species, the person
24 is guilty of a felony and may be imprisoned for not more than 2
25 years and shall be fined not less than \$2,000.00 or more than
26 \$20,000.00.

27 (4) A person who, with intent to damage natural, agricultural,

1 or silvicultural resources or human health:

2 (a) Violates section 41303(1) with respect to a restricted
3 species or possesses a nonnative aquatic plant, bird, crustacean,
4 fish, insect, mammal, or mollusk is guilty of a felony and may be
5 imprisoned for not more than 2 years and shall be fined not less
6 than \$1,000.00 or more than \$250,000.00.

7 (b) Violates section 41303(1) with respect to a prohibited
8 species or possesses a genetically engineered aquatic plant, bird,
9 crustacean, fish, insect, mammal, or mollusk is guilty of a felony
10 and may be imprisoned for not more than 4 years and shall be fined
11 not less than \$2,000.00 or more than \$500,000.00.

12 (5) A person who sells or offers to sell a restricted species
13 is subject to a civil fine of not less than \$1,000.00 or more than
14 \$10,000.00. A person who sells or offers to sell a prohibited
15 species is subject to a civil fine of not less than \$2,000.00 or
16 more than \$20,000.00.

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

18 (a) For a violation involving a restricted species or a
19 nonnative aquatic plant, bird, crustacean, fish, insect, mammal, or
20 mollusk, the person is guilty of a misdemeanor and may be
21 imprisoned for not more than 6 months and shall be fined not less
22 than \$500.00 or more than \$5,000.00.

23 (b) For a violation involving a prohibited species or a
24 genetically engineered aquatic plant, bird, crustacean, fish,
25 insect, mammal, or mollusk, the person is guilty of a misdemeanor
26 and may be imprisoned for not more than 1 year and shall be fined
27 not less than \$1,000.00 or more than \$10,000.00.

1 (7) A person who violates section 41305 with respect to a
2 restricted species or nonnative aquatic plant, bird, crustacean,
3 fish, insect, mammal, or mollusk and who knows or should know the
4 identity of the restricted species or that the organism, whether a
5 restricted species or other aquatic plant, bird, crustacean, fish,
6 insect, mammal, or mollusk, is nonnative is guilty of a misdemeanor
7 and may be imprisoned for not more than 1 year and shall be fined
8 not less than \$1,000.00 or more than \$10,000.00.

9 (8) A person who violates section 41305 with respect to a
10 prohibited species or a genetically engineered aquatic plant, bird,
11 crustacean, fish, insect, mammal, or mollusk and who knows or
12 should know the identity of the prohibited species or that the
13 aquatic plant, bird, crustacean, fish, insect, mammal, or mollusk
14 is genetically engineered, respectively, is guilty of a felony and
15 may be imprisoned for not more than 2 years and shall be fined not
16 less than \$2,000.00 or more than \$20,000.00.

17 (9) A person who violates section 41305 knowing the
18 introduction is unlawful, is guilty as follows:

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

24 (b) For a violation involving a prohibited species or a
25 genetically engineered aquatic plant, bird, crustacean, fish,
26 insect, mammal, or mollusk, the person is guilty of a felony and
27 may be imprisoned for not more than 4 years and shall be fined not

1 less than \$2,000.00 or more than \$500,000.00.

2 (10) A person who, with intent to damage natural,
3 agricultural, or silvicultural resources or human health, violates
4 section 41305 is guilty as follows:

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

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

15 (11) A VEHICLE, EQUIPMENT, OR OTHER PROPERTY USED IN A
16 CRIMINAL VIOLATION OF THIS PART OR A RULE PROMULGATED OR PERMIT
17 ISSUED UNDER THIS PART THAT INVOLVES AN AQUATIC SPECIES IS SUBJECT
18 TO SEIZURE AND FORFEITURE AS PROVIDED IN CHAPTER 47 OF THE REVISED
19 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO 600.4709.

20 (12) IF A PERSON COMMITS A CRIMINAL VIOLATION OF THIS PART OR
21 A RULE PROMULGATED OR ORDER ISSUED UNDER THIS PART OR KNOWINGLY
22 COMMITS A VIOLATION DESCRIBED IN SUBSECTION (5), AND IF THE
23 VIOLATION INVOLVES AN AQUATIC SPECIES, THE COURT SHALL ORDER THAT
24 ANY HUNTING, FISHING, OR TRAPPING LICENSE UNDER PART 435 AND ANY
25 COMMERCIAL FISHING LICENSE OR PERMIT UNDER PART 473 ISSUED TO THE
26 PERSON BE SUSPENDED FOR 1 YEAR AND THAT THE PERSON IS NOT ELIGIBLE
27 TO BE ISSUED ANY SUCH LICENSE OR PERMIT FOR 1 YEAR. IF THE

1 REMAINING TERM OF AN EXISTING LICENSE OR PERMIT IS LESS THAN 1
2 YEAR, THE COURT SHALL ORDER THAT THE LICENSE OR PERMIT BE REVOKED
3 AND THAT THE PERSON IS NOT ELIGIBLE TO BE ISSUED ANY SUCH LICENSE
4 FOR 1 YEAR. FOR A SECOND VIOLATION DESCRIBED IN THIS SUBSECTION,
5 THE COURT SHALL ORDER THAT ANY SUCH LICENSE OR PERMIT ISSUED TO THE
6 PERSON BE REVOKED AND THAT THE PERSON IS PERMANENTLY INELIGIBLE TO
7 BE ISSUED ANY SUCH LICENSE OR PERMIT. AN ORDER UNDER THIS
8 SUBSECTION IS SELF-EFFECTUATING. THE CLERK OF THE COURT SHALL SEND
9 A COPY OF THE ORDER TO THE DEPARTMENT.

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

15 (14) ~~(12)~~—This part does not apply to activities authorized
16 under the Michigan aquaculture development act, 1996 PA 199, MCL
17 286.871 to 286.884.

18 Sec. 43559. (1) If a person is convicted of violating this
19 part, or another law relative to hunting, fishing, or trapping that
20 does not otherwise require the revocation of, or prohibit the
21 securing of, 1 or more licenses, the court may order the revocation
22 of 1 or more of the person's licenses and may by order provide that
23 the person shall not secure 1 or more licenses for not less than
24 the remainder of the year in which convicted and during the next
25 succeeding year, or longer in the discretion of the court.

26 (2) The department shall comply with a suspension order issued
27 as provided in the support and parenting time enforcement act, 1982

1 PA 295, MCL 552.601 to 552.650, within 7 days after receipt of the
2 suspension order.

3 (3) An order rescinding a suspension order issued under the
4 support and parenting time enforcement act, 1982 PA 295, MCL
5 552.601 to 552.650, is effective upon its entry by the court and
6 purchase by the licensee of a replacement license.

7 (4) SUBJECT TO SUBSECTION (5), IF ANY LICENSE UNDER THIS PART
8 IS ORDERED TO BE SUSPENDED OR REVOKED UNDER SECTION 41309 AND IF
9 THE DEPARTMENT MAINTAINS A DATABASE OF SUSPENSIONS OR REVOCATIONS
10 OF LICENSES UNDER THIS PART, THE DEPARTMENT SHALL NOT ISSUE A
11 LICENSE UNDER THIS PART TO THE PERSON FOR THE PERIOD PROVIDED IN
12 THE ORDER.

13 (5) IF A LICENSE UNDER THIS PART IS ORDERED TO BE SUSPENDED
14 UNDER SECTION 41309, THE SUSPENSION REMAINS IN EFFECT UNTIL ALL OF
15 THE FOLLOWING OCCUR:

16 (A) THE SUSPENSION PERIOD SET FORTH IN THE COURT ORDER HAS
17 ELAPSED.

18 (B) THE PERSON PAYS THE DEPARTMENT A REINSTATEMENT FEE OF
19 \$125.00.

20 (6) UNLESS A PERSON'S LICENSE IS OTHERWISE SUSPENDED, REVOKED,
21 OR DENIED, THE LICENSE IS IMMEDIATELY REINSTATED ON SATISFACTION OF
22 THE REQUIREMENTS OF SUBSECTION (5).

23 (7) ~~(4)~~—If a person is charged with, or convicted of, a
24 violation of this part, or another law relative to hunting,
25 fishing, or trapping, and the person fails to answer a citation or
26 a notice to appear in court, or for any matter pending, or fails to
27 comply with an order or judgment of the court, the court shall

1 immediately give notice by first-class mail sent to the person's
2 last known address that if the person fails to appear within 7 days
3 after the notice is issued, or fails to comply with the order or
4 judgment of the court within 14 days after the notice is issued,
5 the department shall suspend the person's hunting, fishing, and
6 trapping licenses. If the person fails to appear within the 7-day
7 period, or fails to comply with the order or judgment of the court
8 within the 14-day period, the court shall immediately inform the
9 department. The department shall immediately suspend the person's
10 hunting, fishing, and trapping licenses and notify the person of
11 the suspension by first-class mail sent to the person's last known
12 address.

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

23 (2) **SUBJECT TO SUBSECTION (3), IF ANY LICENSE OR PERMIT UNDER**
24 **THIS PART IS ORDERED TO BE SUSPENDED OR REVOKED UNDER SECTION 41309**
25 **AND IF THE DEPARTMENT MAINTAINS A DATABASE OF SUSPENSIONS OR**
26 **REVOCATIONS OF LICENSES OR PERMITS UNDER THIS PART, THE DEPARTMENT**
27 **SHALL NOT ISSUE A LICENSE OR PERMIT UNDER THIS PART TO THE PERSON**

1 FOR THE PERIOD PROVIDED IN THE ORDER.

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

5 (A) THE SUSPENSION PERIOD SET FORTH IN THE COURT ORDER HAS
6 ELAPSED.

7 (B) THE PERSON PAYS THE DEPARTMENT A REINSTATEMENT FEE OF
8 \$125.00.

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