

# Legislative Analysis



## COMMERCIAL FISHING REGULATIONS

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**Senate Bill 251 (S-1) as reported from House committee**

**Sponsor: Sen. Ed McBroom**

**House Committee: Natural Resources and Outdoor Recreation**

**Senate Committee: Natural Resources**

**Complete to 3-1-22**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 34 of 2022)*

**BRIEF SUMMARY:** Senate Bill 251 would amend Part 473 (Commercial Fishing) of the Natural Resources and Environmental Protection Act (NREPA) to revise certain commercial fishing regulations. The bill would increase the depth at which certain nets can be set, remove a prohibition against licensing a trawl, change the dates during which whitefish can be taken, and allow a designee of the Department of Natural Resources (DNR) to take fish for the purpose of fish culture or scientific investigation.

**FISCAL IMPACT:** Senate Bill 251 is unlikely to directly increase or decrease costs or revenues for the Department of Natural Resources. Fisheries Division is responsible for managing and regulating Michigan's fish populations; this division is funded at \$32.9 million Gross in the current fiscal year. Law Enforcement Division is responsible for protecting Michigan's natural resources, including fish populations; this division is funded at \$45.8 million Gross in the current fiscal year. The bill is unlikely to affect costs or revenues for local governments.

### **THE APPARENT PROBLEM:**

As expressed by the bill sponsor during committee testimony, there is a consensus that commercial fishing regulations need to be changed, yet there are vastly different opinions regarding what the changes should look like. Commercial fishing has experienced many changes in both practices and enforcements since the first commercial fishing laws of substance were enacted in 1928.<sup>1</sup> The most recent attempt to overhaul the current commercial fishing laws was made in the 2019-20 legislative session. Despite ongoing and extensive discussions, a consensus could not be reached.<sup>2</sup> Then, DNR Fisheries Order 243.21 went into effect on January 8, 2021. The order reduced the currently practiced allowable fishing depth of 150 feet to 80 feet and shortened commercial fishing seasons,<sup>3</sup> which prompted a lawsuit by the industry against the DNR. In February 2021, the DNR reversed the order.<sup>4</sup>

Some believe that to move forward in making appropriate changes, current statutes should mirror current practices. The bill seeks to align the law with the currently enforced commercial fishing practices.

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<sup>1</sup> "History of state-licensed Great Lakes commercial fishing": [https://www.michigan.gov/dnr/0,4570,7-350-79136\\_79236\\_80538\\_80541-424724--,00.html](https://www.michigan.gov/dnr/0,4570,7-350-79136_79236_80538_80541-424724--,00.html).

<sup>2</sup> House Bills 4567, 4568, and 4569: <http://legislature.mi.gov/doc.aspx?2019-HB-4567>

<sup>3</sup> DNR Fisheries Order 243.21: [https://www.michigan.gov/documents/dnr/FO\\_243.21\\_Commercial\\_Fishing\\_FINAL\\_11.12\\_708175\\_7.pdf](https://www.michigan.gov/documents/dnr/FO_243.21_Commercial_Fishing_FINAL_11.12_708175_7.pdf).

<sup>4</sup> <https://www.mlive.com/news/saginaw-bay-city/2021/02/it-is-full-steam-ahead-for-us-says-great-lakes-fishing-company-after-michigan-dnr-lifts-2021-restrictions.html>.

## ***THE CONTENT OF THE BILL:***

### Trap nets and trawls

NREPA now generally prohibits a person from possessing a pound or trap net, gill net, seine, or any kind of fixed, set, or movable net on a boat licensed under Part 473, and from using such a net in the waters and bays of the Great Lakes under Michigan jurisdiction, except for certain nets of specified sizes that are allowed under certain circumstances.

Currently, trap nets of specific mesh sizes (generally not smaller than 4-1/2 inches, with exceptions in the lead and for the purpose of shoaling fish) may be used to take whitefish and lake trout in Lakes Erie and Huron as long as no trap net or any part of the webbing of the net is set in water of a depth greater than *80 feet*. The bill would increase this maximum depth to *150 feet*. Similarly, trap nets with the same meshes and with no part of the lifting pot or crib over 15 feet in depth may be used to take whitefish and lake trout in Lakes Superior and Michigan in water of a depth no greater than *80 feet*. The bill also would increase this maximum depth to *150 feet*.

In addition, under specific circumstances, trap nets may be used to take all legal fish *except* whitefish and lake trout if the nets have meshes that are 3-1/2 inches or smaller in the lifting pot or crib and the tunnel inside the pot or crib and have meshes that are 3-1/2 inches or larger in the heart and lead and the part of the tunnel outside the pot or crib. However, in Lakes Huron and Erie, no such trap net and no part of the webbing of the net can be set in water of a depth greater than *80 feet*. The bill would increase this maximum depth to *150 feet*.

Additionally, a trawl of any kind is currently prohibited from licensure. The bill would remove this provision.

### Dates when taking whitefish is prohibited

NREPA currently prohibits a person from taking whitefish from Lake Huron and Lake Michigan from October 1 to December 10 and from Lake Superior from November 1 to November 26. The bill would amend this provision to prohibit the taking of whitefish from Lakes Huron, Michigan, and Superior from November 1 to November 30.

### DNR designee allowed to take fish under permit

Finally, the DNR may currently take fish in any manner, at any time, and in any of the waters mentioned in Part 473 (generally, the Great Lakes and their bays and connecting waters) for the purpose of fish culture *and* scientific investigation. The bill would amend this to provide that the DNR, *or a designee of the DNR acting in compliance with a permit issued by the DNR*, may take fish in any manner, at any time, and in any of those waters for the purpose of fish culture *or* scientific investigation.

MCL 324.47309 et seq.

## ***HOUSE COMMITTEE ACTION:***

The House Natural Resources and Outdoor Recreation committee reported the Senate-passed version of the bill without amendment..

***ARGUMENTS:***

***For:***

As described above, there is a consensus that commercial fishing regulations need to be updated to better serve the industry and Michigan. However, conflicting opinions and differences surrounding the topic have stalled previous efforts to revise the relevant laws. Supporters of the bill argued that it would create even ground for appropriate discussions and negotiations to begin, as a first step toward facilitating meaningful changes in commercial fishing regulations.

***Against:***

No arguments against the bill were presented in House committee.

***POSITIONS:***

The Department of Natural Resources indicated a neutral position on the bill. (12-2-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.