

SUBSTITUTE FOR
SENATE BILL NO. 1070

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 48714a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 48714A. (1) BEGINNING MARCH 1, 2019, AN INDIVIDUAL SHALL
2 NOT ACT AS A COMMERCIAL FISHING GUIDE ON THE INLAND WATERS OF THIS
3 STATE UNLESS THAT INDIVIDUAL POSSESSES BOTH OF THE FOLLOWING:

4 (A) A VALID LICENSE ISSUED UNDER SUBSECTION (2).

5 (B) A VALID FISHING LICENSE.

6 (2) TO OBTAIN A LICENSE TO ACT AS A COMMERCIAL FISHING GUIDE,
7 AN INDIVIDUAL SHALL SUBMIT THE APPLICATION FEE DESCRIBED IN SECTION
8 48714B AND AN APPLICATION TO THE DEPARTMENT. THE APPLICATION SHALL
9 BE IN A FORM AND FORMAT DETERMINED BY THE DEPARTMENT. THE

1 DEPARTMENT SHALL ONLY GRANT A LICENSE TO AN INDIVIDUAL IF THE
2 DEPARTMENT DETERMINES ALL OF THE FOLLOWING:

3 (A) THAT THE INDIVIDUAL HOLDS A VALID CERTIFICATION IN FIRST
4 AID AND CARDIOPULMONARY RESUSCITATION ISSUED BY THE AMERICAN RED
5 CROSS, THE AMERICAN HEART ASSOCIATION, OR A COMPARABLE ORGANIZATION
6 AS APPROVED BY THE DEPARTMENT.

7 (B) THAT THE INDIVIDUAL IS COVERED BY COMMERCIAL GENERAL
8 LIABILITY INSURANCE WITH LIMITS OF NOT LESS THAN \$300,000.00 PER
9 CLAIM AND \$1,000,000.00 AGGREGATE, FOR THE PERIOD THAT THE LICENSE
10 IS VALID.

11 (C) THE PERSON HAS A VALID, LAWFULLY OBTAINED MICHIGAN DRIVER
12 LICENSE ISSUED UNDER THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
13 257.1 TO 257.923, AN OFFICIAL STATE PERSONAL IDENTIFICATION CARD
14 ISSUED UNDER 1972 PA 222, MCL 28.291 TO 28.300, OR A SPORTCARD
15 ISSUED UNDER SECTION 43522.

16 (D) UNTIL FEBRUARY 29, 2020, THE INDIVIDUAL HAS NOT BEEN
17 CONVICTED OF ANY OF THE FOLLOWING WITHIN THE PAST 2 YEARS:

18 (i) A VIOLATION OF THIS PART OR PART 401, 411, 413, 435, OR
19 445.

20 (ii) A VIOLATION OF AN ORDER OR INTERIM ORDER ISSUED UNDER
21 THIS PART OR PART 401, 411, 413, 435, OR 445.

22 (iii) ANY FELONY.

23 (iv) A VIOLATION OF A LAW OF A PARTICIPATING STATE
24 SUBSTANTIALLY CORRESPONDING TO A VIOLATION DESCRIBED IN
25 SUBPARAGRAPHS (i) TO (iii).

26 (E) BEGINNING MARCH 1, 2020, THE INDIVIDUAL HAS NOT BEEN
27 CONVICTED OF ANY OF THE FOLLOWING WITHIN THE PAST 3 YEARS:

1 (i) A VIOLATION OF THIS PART OR PART 401, 411, 413, 435, OR
2 445.

3 (ii) A VIOLATION OF AN ORDER OR INTERIM ORDER ISSUED UNDER
4 THIS PART OR PART 401, 411, 413, 435, OR 445.

5 (iii) ANY FELONY.

6 (iv) A VIOLATION OF A LAW OF A PARTICIPATING STATE
7 SUBSTANTIALLY CORRESPONDING TO A VIOLATION DESCRIBED IN
8 SUBPARAGRAPHS (i) TO (iii).

9 (3) AN INDIVIDUAL SHALL NOT ACT AS A COMMERCIAL FISHING GUIDE
10 ON COMMERCIAL FORESTLAND.

11 (4) A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR 3 YEARS
12 AFTER THE DATE IT IS ISSUED. THE DEPARTMENT SHALL, FOR EACH YEAR
13 THAT A LICENSE UNDER THIS SECTION IS VALID, INCLUDE A PUBLIC
14 BOATING ACCESS ENTRY PASS REQUIRED UNDER SECTION 78105(3) WITH ANY
15 LICENSE ISSUED UNDER THIS SECTION. THE DEPARTMENT MAY REVOKE A
16 LICENSE UNDER THIS SECTION, AFTER NOTICE AND OPPORTUNITY FOR
17 HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
18 PA 306, MCL 24.201 TO 24.328, FOR EITHER OF THE FOLLOWING REASONS:

19 (A) THE DEPARTMENT DETERMINES THAT AN INDIVIDUAL IS NOT
20 ELIGIBLE TO HOLD A LICENSE UNDER THIS SECTION.

21 (B) THE INDIVIDUAL PROVIDES FALSE INFORMATION UNDER THIS
22 SECTION.

23 (5) A COMMERCIAL FISHING GUIDE SHALL FILE MONTHLY REPORTS TO
24 THE DEPARTMENT, IN A FORMAT DETERMINED BY THE DEPARTMENT, THAT
25 CONTAIN INFORMATION RELATED TO ALL OF THE FOLLOWING:

26 (A) THE COUNTIES OF THIS STATE WHERE THE INDIVIDUAL ACTED AS A
27 COMMERCIAL FISHING GUIDE.

1 (B) THE SPECIES OF FISH FOR WHICH THE INDIVIDUAL ACTED AS A
2 COMMERCIAL FISHING GUIDE.

3 (C) THE NUMBER OF CLIENTS THAT THE COMMERCIAL FISHING GUIDE
4 HAD FOR EACH FISHING TRIP AND THE NUMBER OF HOURS FISHED FOR EACH
5 FISHING TRIP.

6 (D) THE NUMBER OF FISH CAUGHT AND RELEASED AND THE NUMBER OF
7 FISH HARVESTED BY THE CLIENTS OF THE COMMERCIAL FISHING GUIDE.

8 (E) THE BODIES OF WATER WHERE THE INDIVIDUAL ACTED AS A
9 COMMERCIAL FISHING GUIDE.

10 (F) ANY ADDITIONAL INFORMATION THE DEPARTMENT REQUIRES
11 REGARDING THE FISHING ACTIVITY OR BIOLOGICAL CHARACTERISTICS OF THE
12 FISH CAUGHT AND RELEASED OR HARVESTED.

13 (G) FOR ANY MONTH THAT THE GUIDE DID NOT ACT AS A COMMERCIAL
14 FISHING GUIDE, A REPORT STATING THAT THE INDIVIDUAL DID NOT ACT AS
15 A COMMERCIAL FISHING GUIDE DURING THAT MONTH.

16 (6) IF AN INDIVIDUAL FAILS TO FILE A MONTHLY REPORT UNDER
17 SUBSECTION (5) AND THAT REPORT REMAINS UNFILED FOR MORE THAN 90
18 DAYS AFTER THE DATE IT IS DUE, THE INDIVIDUAL IS SUBJECT TO THE
19 FOLLOWING:

20 (A) FOR THE FIRST VIOLATION, A \$100.00 CIVIL FINE.

21 (B) FOR THE SECOND VIOLATION, A \$200.00 CIVIL FINE.

22 (C) FOR A THIRD VIOLATION, A \$500.00 CIVIL FINE.

23 (D) FOR A FOURTH VIOLATION, AFTER NOTICE AND AN OPPORTUNITY
24 FOR HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
25 1969 PA 306, MCL 24.201 TO 24.328, A REVOCATION OF THE INDIVIDUAL'S
26 LICENSE UNDER THIS SECTION.

27 (7) INFORMATION SUBMITTED IN REPORTS UNDER SUBSECTION (5) IS

1 CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF
2 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

3 (8) THE DEPARTMENT SHALL ANNUALLY POST ON ITS WEBSITE ALL OF
4 THE FOLLOWING:

5 (A) THE NUMBER OF APPLICATIONS SUBMITTED UNDER SUBSECTION (2)
6 IN THE PREVIOUS YEAR.

7 (B) THE NUMBER OF LICENSES ISSUED UNDER THIS SECTION IN THE
8 PREVIOUS YEAR.

9 (C) A LIST OF INDIVIDUALS WHO HAVE VALID LICENSES UNDER THIS
10 SECTION.

11 (9) AN INDIVIDUAL SHALL CARRY HIS OR HER COMMERCIAL FISHING
12 GUIDE LICENSE AND SHALL EXHIBIT THE LICENSE UPON THE DEMAND OF A
13 CONSERVATION OFFICER, A LAW ENFORCEMENT OFFICER, A TRIBAL
14 CONSERVATION OFFICER, OR THE OWNER OR OCCUPANT OF ANY LAND WHERE
15 THE INDIVIDUAL IS ACTING AS A COMMERCIAL FISHING GUIDE.

16 (10) AN INDIVIDUAL WHO ACTS AS A COMMERCIAL FISHING GUIDE
17 WITHOUT A VALID PERMIT ISSUED UNDER THIS SECTION IS SUBJECT TO A
18 CIVIL FINE OF \$2,000.00. AN INDIVIDUAL WHO ACTS AS A COMMERCIAL
19 FISHING GUIDE WITHOUT A VALID LICENSE ISSUED UNDER THIS SECTION A
20 SECOND OR SUBSEQUENT TIME IS SUBJECT TO A CIVIL FINE OF \$4,000.00.
21 A CIVIL FINE COLLECTED UNDER THIS SUBSECTION OR SUBSECTION (6)
22 SHALL BE DEPOSITED IN THE GAME AND FISH PROTECTION ACCOUNT
23 ESTABLISHED IN SECTION 2010.

24 (11) AN INDIVIDUAL WHO PROVIDES FALSE INFORMATION TO THE
25 DEPARTMENT UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE
26 BY IMPRISONMENT FOR NOT MORE THAN 180 DAYS OR A FINE OF NOT LESS
27 THAN \$1,000.00 OR MORE THAN \$2,500.00, OR BOTH, AND THE COSTS OF

1 PROSECUTION.

2 (12) AS USED IN THIS SECTION:

3 (A) "COMMERCIAL FISHING GUIDE" MEANS AN INDIVIDUAL WHO, FOR A
4 FEE OR OTHER CONSIDERATION, PROVIDES ASSISTANCE TO ANOTHER
5 INDIVIDUAL IN PURSUING, CAPTURING, CATCHING, KILLING, TAKING, OR
6 ATTEMPTING TO TAKE FISH. COMMERCIAL FISHING GUIDE DOES NOT INCLUDE
7 AN EMPLOYEE OR MEMBER OF AN ORGANIZATION CONDUCTING A NOT-FOR-
8 PROFIT ACTIVITY TO RECRUIT, RETAIN, OR PROMOTE FISHING, WHILE
9 PROVIDING ASSISTANCE TO ANOTHER INDIVIDUAL IN TAKING FISH DURING
10 THAT ACTIVITY, OR THE OWNER OF PRIVATE LAND WHILE PROVIDING
11 ASSISTANCE TO ANOTHER INDIVIDUAL IN PURSUING, CAPTURING, CATCHING,
12 KILLING, TAKING, OR ATTEMPTING TO TAKE FISH ON THAT PRIVATE LAND.

13 (B) "CONSIDERATION OF VALUE" MEANS AN ECONOMIC BENEFIT,
14 INDUCEMENT, RIGHT, OR PROFIT, INCLUDING MONETARY PAYMENT ACCRUING
15 TO AN INDIVIDUAL OR PERSON. CONSIDERATION OF VALUE DOES NOT INCLUDE
16 A VOLUNTARY SHARING OF THE ACTUAL EXPENSES OF THE GUIDING ACTIVITY,
17 BY MONETARY CONTRIBUTION OR DONATION OF FUEL, FOOD, BEVERAGE, OR
18 OTHER SUPPLIES.

19 (C) "PARTICIPATING STATE" MEANS THAT TERM AS DEFINED IN
20 SECTION 1615.

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

23 Enacting section 2. This amendatory act does not take effect
24 unless all of the following bills of the 98th Legislature are
25 enacted into law:

26 (a) Senate Bill No. 1071.

27 (b) Senate Bill No. 1072.