



**House
Legislative
Analysis
Section**

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**ENDANGERED SPECIES: AMEND
PENALTIES FOR VIOLATIONS**

**House Bill 4963 as introduced
First Analysis (9-28-95)**

**Sponsor: Rep. Sandra Hill
Committee: Judiciary and Civil Rights**

THE APPARENT PROBLEM:

The Endangered Species Act (Public Act 203 of 1974) recently was repealed and reincorporated into the recodification of the environmental code, the Natural Resources and Environmental Protection Act (Public Act 451 of 1994). As enacted, and as reincorporated into NREPA, violations of endangered species protection provisions -- as well the failure to procure permits under these provisions -- were made misdemeanors. The misdemeanor penalties, moreover, were mandatory, and included the possibility of imprisonment for more than 90 days. However, it appears that the penalties were intended by the legislature to be permissive rather than mandatory, and that the term of imprisonment was intended to have a 90-day ceiling rather than a 90-day floor. Legislation has been introduced that would correct the law as originally enacted.

THE CONTENT OF THE BILL:

Currently, the penalty provisions for the Endangered Species Protection part of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994, formerly the Endangered Species Act of 1974) make it a misdemeanor to violate any provision of, or to fail to procure a permit under, that part of the act. The act says that violators "shall be fined not more than \$1,000.00 nor less than \$100.00, or imprisoned for more than 90 days, or both." The bill would amend this section of the act to say instead that endangered species violations or failure to obtain permits required under this part of the act would be misdemeanors "punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000.00 or less than \$100.00, or both" (emphasis added).

MCL 324.36507

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal implications. (9-25-95)

ARGUMENTS:

For:

According to the House Legislative Analysis Section analysis (dated 7-19-74) of the Endangered Species Act as enrolled, "Violation of the act would be punishable by a fine of not less than \$100 nor more than \$1,000 and/or imprisonment up to 90 days." Clearly, the misdemeanor penalties were not meant to be mandatory, nor was the term of imprisonment meant to include a minimum of 90 days. The bill would correct this technical oversight.

POSITIONS:

The Department of Natural Resources supports the bill. (9-27-95)

HOUSE BILL 4963 (9-28-95)