



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**HARASSMENT OF HUNTERS  
AND FISHERS**

AS ENROLLED

**House Bill 5775 (Substitute H-1)  
Sponsor: Rep. David Jaye  
Committee: Conservation, Environment  
and Great Lakes**

**Senate Bills 963, 965, and 966 as passed  
the Senate  
Sponsor: Senator Robert Geake  
Committee: Conservation, Environment  
and Great Lakes  
Senate Committee: Natural Resources  
and Environmental Affairs**

**First Analysis (5-15-96)**

***THE APPARENT PROBLEM:***

Part 401 of the Natural Resources and Environmental Protection Act prohibits a person from obstructing or interfering with the lawful taking of animals by another person with the intent to prevent that lawful taking. The prohibition was passed in 1990 because some hunters reportedly were concerned that certain radical groups, in the name of animal rights, would launch organized attempts to interfere with hunters' legal right to take game. Although at the time no incidents of hunter harassment apparently had been documented in Michigan, some other states reportedly had experienced confrontations between hunters and animal rights activists. In order to ensure that Michigan's hunters had unimpeded access to hunting areas and the wildlife in those areas, some felt that techniques of hunter harassment and impairment should be statutorily prohibited.

Now some people believe that it is necessary to extend to the state's sport and commercial fishers the type of protection against harassment and interference that Michigan hunters are afforded. Reportedly, a nationally recognized animal rights organization, People for the Ethical Treatment of Animals (PETA), has launched a campaign to ban sportfishing in the United States. According to some, it is in the state's best interest to protect fishing since the industry contributes significantly to the state's economy, provides quality outdoor recreation, and supports the management of Michigan's aquatic resources.

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

The Natural Resources and Environmental Protection Act (NREPA) prohibits a person from obstructing or interfering with the lawful taking of animals by another person with the intent to prevent that lawful taking. House Bill 5775 and Senate Bills 963, 965, and 966 would amend the NREPA to extend the prohibition to the obstruction or interference with the lawful taking of fish and aquatic species and to provide additional penalties for a violation of provisions against harassing hunters and fishers.

House Bill 5775 and Senate Bill 963 would add new sections to Part 487 of NREPA ((MCL 324.48702b and MCL 324.48702a, respectively), concerning sport fishing, to prohibit a person from obstructing or interfering in the lawful taking of aquatic species by another person. Senate Bill 963 would define "aquatic species" to mean fish, reptiles, mollusks, crustacea, minnows, wigglers, and amphibians of the class Amphibia. "Take" and "taking" would mean to fish for by any lawful method, catch, kill, capture, trap, or shoot any species of fish, reptiles, amphibians, mollusks, wigglers, or crustacea regulated under Part 487, or to attempt to engage in any such activity. "Vessel" would mean every description of watercraft used or capable of being used as a means of transportation on water. A person would be in violation of this prohibition if he or she intentionally or knowingly operated a vessel or device or waded or swam in order to significantly alter the behavior of

House Bill 5775 and Senate Bills 963, 965, and 966 (5-15-96)

aquatic species; attempted to hinder or prevent the lawful taking of an aquatic species by throwing a stone or other inert material, or driving, herding, or disturbing an aquatic species, or by blocking, impeding, or harassing a person engaged in lawfully taking an aquatic species; using a visual, aural, olfactory, gustatory, or physical stimulus to affect aquatic species; erecting barriers to deny ingress or egress to fishing areas (unless the barriers were erected to prevent trespassing on private property); interjecting himself or herself into the area where nets, fishing lines, or traps could be placed; affecting the condition or placement of personal or private property intended for use by a person lawfully taking aquatic species; entering or remaining upon private lands without the permission of the owner or the owner's agent, or engaging in any other act or behavior in order to violate these provisions.

House Bill 5775 would add a new section to the NREPA to specify that a violation of the provisions of Senate Bill 963 would be a misdemeanor, punishable by imprisonment for up to 93 days, a fine of no less than \$500 or more than \$1,000, or both, and the costs of prosecution. A second or subsequent violation would be a misdemeanor, punishable by imprisonment for up to one year, a fine of at least \$1,000 but not more than \$2,500, or both, and the costs of prosecution. In addition, any permit or license issued by the department authorizing the person to take aquatic species would be revoked. If petitioned by an aggrieved person or one who reasonably could be aggrieved by a violation of the provisions of Senate 963, a court of competent jurisdiction could enjoin the conduct, upon a showing that a person was engaged in and threatened to continue to engage in illegal conduct. In addition, the bill would specify that a prosecution under the bill would not preclude prosecution or other action under any other criminal or civil statute. The bill would also specify that the provisions of Senate Bill 963 would not apply to a peace officer performing his or her lawful duties.

Senate Bill 963 and House Bill 5775 are tie-barred to each other.

Senate Bill 965 would amend Part 401 of the NREPA (MCL 324.40112), concerning wildlife conservation, to add to the list of activities that constitute a violation of the prohibition against interfering with the lawful taking of animals "knowingly or intentionally engaging in any other act or behavior for the purpose of violating the prohibition." The bill would also increase, from 90 to 93 days, the maximum jail sentence for a violation of the prohibition, and would specify that the penalty for

a second or subsequent violation would be imprisonment for up to one year, a fine of at least \$1,000 but not more than \$2,500, or both, plus the costs of prosecution. In addition, the bill would specify that a prosecution under the bill would not preclude prosecution or other action under any other criminal or civil statute.

Senate Bill 966 would add a new section (MCL 324.47301a) to Part 473 of the NREPA, concerning commercial fishing, to prohibit a person from obstructing or interfering in the lawful taking of fish by a person licensed under that part of the code. The bill contains the same provisions as House Bill 5775 and Senate Bill 963, except that the maximum fine for a first violation of the prohibition against taking fish would be \$5,000, and the maximum fine for a second and subsequent violation would be \$10,000. The bill would also specify that its provisions would not apply to a peace officer performing his or her lawful duties.

#### **FISCAL IMPLICATIONS:**

The House Fiscal Agency estimates that the bills would have an indeterminate impact on state funds, depending on the volume, location, and nature of enforcement actions. (5-10-96)

#### **ARGUMENTS:**

##### **For:**

Fishing has long been a popular outdoor activity in Michigan, and the right of people to engage in that activity should be protected by law. Fishing in Michigan, which has more freshwater coastline than any other state in the continental U.S. and boasts more than 36,000 miles of rivers and 11,000 inland lakes, is enjoyed by about 2 million resident anglers and countless more tourists from all over the world. The industry generates almost \$2 billion in expenditures every year and subsidizes the management of the state's aquatic resources through license fees. The financial commitment of sport fishers has resulted in many world class Michigan fisheries, including walleye, steelhead, brown trout, and a resurgent salmon population. In addition, fishing enthusiasts maintain that the fees collected from anglers benefit not only the fish, but also the habitat. Anti-anglers, on the other hand, do not contribute to the conservation of these resources. In the same manner, animal rights activists, who, according to reports, harass farmers in the act of hunting stray deer on their lands, contribute nothing to land conservation. Clearly, then, the positive contributions that sport and commercial fishing have made to Michigan's economy

and environment and to the enjoyment of its residents and tourists should be encouraged. The bills would provide just such encouragement by precluding the harassment of, and interference with, the sport and commercial fishers in Michigan.

***Against:***

Supporters of animal welfare rights maintain that fish and animals experience pain, and that these bills constitute harassment.

***POSITIONS:***

The Department of Natural Resources indicated its support of the bills to the committee. (5-14-96)

The Michigan Farm Bureau supports Senate Bill 965. (5-14-96)

The Michigan United Conservation Clubs (MUCC) supports the bills. (5-14-96)

The Michigan Sportsmen Congress supports the bills, but proposes stiffer penalties, including a mandatory jail sentence, for a person convicted of harassing a hunter or angler who is a minor. (5-14-96)

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