

**REPRINT  
HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1283**

(As passed the House, December 2, 1998)

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 36505 (MCL 324.36505), as added by 1995  
PA 59, and by adding section 40107a; and to repeal acts and parts  
of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 36505. (1) Except as otherwise provided in this part,  
2 a person shall not take, possess, transport, import, export, pro-  
3 cess, sell, offer for sale, buy, or offer to buy, and a common or  
4 contract carrier shall not transport or receive for shipment, any  
5 species of fish, plants, or wildlife appearing on the following  
6 lists:

7       (a) The list of fish, plants, and wildlife indigenous to the  
8 state determined to be endangered or threatened within the state  
9 pursuant to section 36503 or subsection (3).

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1 (b) The United States list of endangered or threatened  
2 native fish and wildlife.

3 (c) The United States list of endangered or threatened  
4 plants.

5 (d) The United States list of endangered or threatened for-  
6 eign fish and wildlife.

7 (2) A species of fish, plant, or wildlife appearing on any  
8 of the lists delineated in subsection (1) which enters the state  
9 from another state or from a point outside the territorial limits  
10 of the United States may enter, be transported, possessed, and  
11 sold in accordance with the terms of a federal permit issued pur-  
12 suant to section 10 of the endangered species act of 1973, Public  
13 Law 93-205, 16 U.S.C. 1539, or an applicable permit issued under  
14 the laws of another state.

15 (3) The department may, by rule, treat any species as an  
16 endangered species or threatened species even though it is not  
17 listed pursuant to section 36503, if it finds any of the  
18 following:

19 (a) The species so closely resembles in appearance, at the  
20 point in question, a species which is listed pursuant to section  
21 36503 that enforcement personnel would have substantial diffi-  
22 culty in attempting to differentiate between the listed and  
23 unlisted species.

24 (b) The effect of the substantial difficulty in differenti-  
25 ating between a listed and an unlisted species is an additional  
26 threat to an endangered or threatened species.

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1 (c) The treatment of an unlisted species will substantially  
2 facilitate the enforcement and further the intent of this part.

3 (4) The department may permit the taking, possession, pur-  
4 chase, sale, transportation, exportation, or shipment of species  
5 of fish, plants, or wildlife which appear on the state list of  
6 endangered or threatened species compiled pursuant to section  
7 36503 and subsection (3) for scientific, zoological, or educa-  
8 tional purposes, for propagation in captivity of such fish,  
9 plants, or wildlife to ensure their survival.

10 (5) Upon good cause shown and where necessary to alleviate  
11 damage to property or to protect human health, endangered or  
12 threatened species found on the state list compiled pursuant to  
13 section 36503 and subsection (3) may be removed, captured, or  
14 destroyed, but only pursuant to a permit issued by the  
15 department. Carnivorous animals found on the state list may be  
16 removed, captured, or destroyed by any person in emergency situa-  
17 tions involving an immediate threat to human life, but the remov-  
18 al, capture, or destruction shall be reported to the department  
19 within 24 hours of the act.

20 (6) This section does not prohibit any of the following:

21 (a) The importation of a trophy under a permit issued pursu-  
22 ant to section 10 of the endangered species act of 1973, Public  
23 Law 93-205, 16 U.S.C. 1539, which is not for resale and which was  
24 lawfully taken in a manner permitted by the laws of the state,  
25 territory, or country where the trophy was caught, taken, or  
26 killed.

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1 (b) The taking of a threatened species when the department  
2 has determined that the abundance of the species in the state  
3 justifies a controlled harvest not in violation of federal law.

4 (C) SUBJECT TO ANY PERMITS THAT MAY BE REQUIRED BY THE  
5 DEPARTMENT, THE POSSESSION, TRANSFER, TRANSPORTATION, IMPORTA-  
6 TION, OR EXPORTATION OR THE TRANSPORT OR RECEIPT FOR SHIPMENT BY  
7 A COMMON OR CONTRACT CARRIER OF A RAPTOR OR THE CAPTIVE-BRED  
8 PROGENY OF A RAPTOR, A RAPTOR EGG, OR RAPTOR SEMEN ACQUIRED IN  
9 ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS  
10 WHICH ALLOW RAPTORS, RAPTOR EGGS, OR RAPTOR SEMEN TO BE USED IN  
11 FALCONRY OR IN THE CAPTIVE PROPAGATION OF RAPTORS FOR USE IN  
12 FALCONRY.

13 (D) SUBJECT TO ANY PERMITS THAT MAY BE REQUIRED BY THE  
14 DEPARTMENT, THE SELLING, OFFERING FOR SALE, BUYING, OR OFFERING  
15 TO BUY A RAPTOR THAT WAS CAPTIVE-BRED OR SEMEN FROM A RAPTOR THAT  
16 WAS CAPTIVE-BRED IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL  
17 LAWS AND REGULATIONS WHICH ALLOW RAPTORS OR RAPTOR SEMEN TO BE  
18 USED IN FALCONRY OR IN CAPTIVE PROPAGATION OF RAPTORS FOR USE IN  
19 FALCONRY.

20 SEC. 40107A. (1) THE DEPARTMENT SHALL ISSUE AN ORDER IN THE  
21 MANNER PROVIDED IN SECTION 40107(2) ESTABLISHING A SEASON OR SEA-  
22 SONS FOR FALCONERS TO TAKE NOT MORE THAN A TOTAL OF 25 LIVE RAP-  
23 TORS PER YEAR IN ANY COMBINATION OF RED-TAILED HAWKS (BUTEO  
24 JAMAICENSIS), COOPER'S HAWKS (ACCIPITER COOPERII), AMERICAN KES-  
25 TRELS (FALCO SPARVERIUS), AND SHARP-SHINNED HAWKS (ACCIPITER  
26 STRIATUS), FOR USE IN FALCONRY. THE ORDER SHALL DESIGNATE THE  
27 NUMBERS OF RAPTORS THAT MAY BE TAKEN AND POSSESSED AND ANY OTHER

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1 CONDITIONS PERTAINING TO THE TAKING AND POSSESSION OF RAPTORS  
2 THAT THE DEPARTMENT CONSIDERS ADVISABLE.

3       (2) THE ORDER SHALL PROHIBIT THE TAKING OF RAPTORS ON  
4 NATIONAL LAKESHORES AND NATIONAL RECREATION AREAS AND ALL STATE  
5 LANDS. THE ORDER SHALL REQUIRE LICENSED FALCONERS TO CONTACT  
6 PROPERTY OWNERS OR LAND MANAGERS AND OBTAIN WRITTEN PERMISSION  
7 BEFORE MAKING DIRECT CONTACT WITH ANY RAPTOR NEST. THE ORDER  
8 SHALL PROVIDE THAT ONLY LICENSED FALCONERS MAY HAVE DIRECT CON-  
9 TACT WITH THE RAPTOR NEST AND THAT A LICENSED FALCONER SHALL  
10 LEAVE IN A NEST A MINIMUM OF 2 HEALTHY YOUNG RAPTORS. A LICENSED  
11 FALCONER SHALL REPORT THE NEST LOCATION FROM WHICH A RAPTOR IS  
12 TAKEN BY TOWNSHIP, RANGE, AND SECTION TO THE DEPARTMENT WITHIN 5  
13 BUSINESS DAYS AFTER THE RAPTOR IS TAKEN. WITHIN 1 YEAR OF THE  
14 ISSUANCE OF THE ORDER, THE DEPARTMENT SHALL ESTABLISH A PUBLIC  
15 EDUCATION PROGRAM REGARDING RAPTORS AND SHALL INSTITUTE A STUDY  
16 TO ESTABLISH SURVEY PROTOCOLS TO MONITOR RAPTOR POPULATIONS  
17 LIKELY TO BE USED FOR FALCONRY PURPOSES.

18       (3) THIS SECTION DOES NOT AND AN ORDER ISSUED UNDER THIS  
19 SECTION SHALL NOT DESIGNATE ANY SPECIES OF RAPTOR AS GAME. THIS  
20 SECTION DOES NOT PROHIBIT THE DEPARTMENT FROM DETERMINING THAT  
21 ANY SPECIES OF RAPTOR IS A PROTECTED ANIMAL.

22       (4) THIS SECTION IS REPEALED EFFECTIVE 5 YEARS AFTER ITS  
23 EFFECTIVE DATE.