

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5710

(As passed the House, May 25, 2000)

(As amended December 6, 2000)Page 1 of 2

A bill to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 40102, 40117, and 40118 (MCL 324.40102, 324.40117, and 324.40118), and section 40102 as amended by 1999 PA 66; and sections 40117 and 40118 as added by 1995 PA 57 and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 40102. (1) "Animals" means wild birds and wild mammals.

(2) "Bag limit" means the number of animals that may be taken and possessed as determined by the department.

(3) "Bow" means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer's muscles.

(4) "Buy" or "sell" means an exchange or attempt or offer to exchange for money, barter, or anything of value.

(5) "Chase" means to follow animals with dogs or other wild or domestic animals trained for that purpose.

(6) "CROSSBOW" MEANS A WEAPON CONSISTING OF A BOW MOUNTED TRANSVERSELY ON A STOCK OR FRAME AND DESIGNED TO FIRE AN ARROW, BOLT, OR QUARREL BY THE RELEASE OF A BOW STRING WHICH IS CONTROLLED BY A MECHANICAL OR ELECTRIC TRIGGER AND HAS A WORKING SAFETY AND A DRAW WEIGHT OF 100 POUNDS OR GREATER.

(7) ~~(6)~~ "Deer or elk feeding" means the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer or elk. Deer or elk feeding does not include any of the following:

(a) Feeding wild birds or other wildlife if done in such a manner as to exclude wild, free-ranging white-tailed deer and elk from gaining access to the feed.

(b) The scattering of feed solely as the result of normal logging practices or normal agricultural practices.

(c) The storage or use of feed for agricultural purposes if 1 or more of the following apply:

(i) The area is occupied by livestock actively consuming the feed on a daily basis.

(ii) The feed is covered to deter wild, free-ranging white-tailed deer or elk from gaining access to the feed.

(iii) The feed is in a storage facility that is consistent with normal agricultural practices.

(d) Baiting to take game as provided by an order of the commission under section 40113a.

(8) ~~-(7)-~~ "Disability" means a determinable physical characteristic of an individual that may result from disease, injury, congenital condition of birth, or functional disorder.

(9) ~~-(8)-~~ "Feed" means a substance composed of grain, mineral, salt, fruit, vegetable, hay, or any other food material or combination of these materials, whether natural or manufactured, that may attract white-tailed deer or elk. Feed does not include any of the following:

(a) Plantings for wildlife.

(b) Standing farm crops under normal agricultural practices.

(c) Agricultural commodities scattered solely as the result of normal agricultural practices.

(10) ~~-(9)-~~ "Firearm" means a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of a spring or air or gas.

1 Sec. 40117. In ~~all prosecutions for violations~~ A PROSECU-
2 TION FOR A VIOLATION of this part ~~, a department order autho-~~
3 rized under section 40107, or an interim order of the department
4 OR AN ORDER OR INTERIM ORDER ISSUED UNDER THIS PART, the posses-
5 sion of the parts of any game or protected animal, except when
6 the taking is permitted by this part, is prima facie evidence
7 that the animal was taken in violation of this part by the person
8 possessing the animal.

9 Sec. 40118. (1) A person who violates this part, ~~a~~
10 ~~department order authorized under section 40107, an interim order~~

HB 5710, As Passed Senate, December 7, 2000

House Bill No. 5710

2

1 ~~of the department~~ AN ORDER OR INTERIM ORDER ISSUED UNDER THIS
2 PART, or a condition of a permit issued under this part, except
3 for a violation specified in subsections (2) to (12), is guilty
4 of a misdemeanor ~~—~~, punishable by imprisonment for not more than
5 90 days, or a fine of not less than \$50.00 or more than \$500.00,
6 or both, and the costs of prosecution. In addition, a permit
7 issued by the department under this part shall be revoked pursu-
8 ant to the administrative procedures act of 1969, ~~Act No. 306 of~~
9 ~~the Public Acts of 1969, being sections 24.201 to 24.328 of the~~
10 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

11 (2) A person who violates a provision of this part ~~—, a~~
12 ~~department order authorized under section 40107, or an interim~~
13 ~~order of the department,~~ OR AN ORDER OR INTERIM ORDER ISSUED
14 UNDER THIS PART regarding the possession or taking of ~~all~~ ANY
15 game, except deer, bear, wild turkey, moose, or elk, is guilty of
16 a misdemeanor ~~—~~, punishable by imprisonment for not more than 90
17 days, or a fine of not less than \$100.00 or more than \$1,000.00,
18 or both, and the costs of prosecution.

19 (3) A person who violates a provision of this part ~~—, a~~
20 ~~department order authorized under section 40107, or an interim~~
21 ~~order of the department,~~ OR AN ORDER OR INTERIM ORDER ISSUED
22 UNDER THIS PART regarding the possession or taking of deer, bear,
23 or wild turkey is guilty of a misdemeanor ~~—~~, and shall be pun-
24 ished by imprisonment for not less than 5 days or more than
25 90 days, and a fine of not less than \$200.00 or more than
26 \$1,000.00, and the costs of prosecution.

HB 5710, As Passed Senate, December 7, 2000

House Bill No. 5710

3

1 (4) A person who violates a provision of this part ~~—, a~~
2 ~~department order authorized under section 40107, or an interim~~
3 ~~order of the department,~~ OR AN ORDER OR INTERIM ORDER ISSUED
4 UNDER THIS PART regarding the possession or taking of elk is
5 guilty of a misdemeanor ~~—,~~ punishable by imprisonment for not
6 less than 30 days or more than 180 days, or a fine of not less
7 than \$500.00 or more than \$2,000.00, or both, and the costs of
8 prosecution.

9 (5) A person who violates a provision of this part ~~—, a~~
10 ~~department order authorized under section 40107, or an interim~~
11 ~~order of the department,~~ OR AN ORDER OR INTERIM ORDER ISSUED
12 UNDER THIS PART regarding the possession or taking of moose is
13 guilty of a misdemeanor ~~—,~~ and shall be punished by imprisonment
14 for not less than 90 days or more than 1 year and a fine of not
15 less than \$1,000.00 or more than \$5,000.00, and the costs of
16 prosecution.

17 (6) A person sentenced pursuant to subsection (3), (4), (5),
18 (10), or (11) shall not secure or possess a license of any kind
19 to hunt during the remainder of the year in which convicted and
20 the next 3 succeeding calendar years. A person sentenced pursu-
21 ant to subsection (7) shall not secure or possess a license to
22 hunt during the remainder of the year in which convicted and the
23 next succeeding calendar year.

24 (7) A person who violates section 40113(1) is guilty of a
25 misdemeanor ~~—,~~ punishable by imprisonment for not less than 5
26 days or more than 90 days, or a fine of not less than \$100.00 or
27 more than \$500.00, or both, and the costs of prosecution.

06054'00 (H-2)

HB 5710, As Passed Senate, December 7, 2000

House Bill No. 5710

4

1 (8) A person who violates section 40113(2) is guilty of a
2 misdemeanor ~~—~~, punishable by imprisonment for not more than 90
3 days, or a fine of not less than \$50.00 or more than \$500.00, or
4 both, and the costs of prosecution.

5 (9) A person who violates section 40113(3) is guilty of a
6 misdemeanor and shall be punished by imprisonment for not less
7 than 5 days or more than 90 days and a fine of not less than
8 \$100.00 or more than \$500.00, and the costs of prosecution.

9 (10) A person who violates a provision of this part ~~—, a~~
10 ~~department order authorized under section 40107, or an interim~~
11 ~~order of the department,~~ OR AN ORDER OR INTERIM ORDER ISSUED
12 UNDER THIS PART regarding the taking or possession of an animal
13 that has been designated by the department to be a protected
14 animal, other than an animal that appears on a list prepared pur-
15 suant to section 36505, is guilty of a misdemeanor ~~—~~, punishable
16 by imprisonment for not more than 90 days or a fine of not less
17 than \$100.00 or more than \$1,000.00, or both, and the costs of
18 prosecution.

19 (11) A person who buys or sells game or a protected animal
20 in violation of this part OR AN ORDER OR INTERIM ORDER ISSUED
21 UNDER THIS PART is guilty of a misdemeanor ~~—~~, punishable by
22 imprisonment for not more than 90 days or a fine of not more than
23 \$1,000.00, or both, for the first offense, and is guilty of a
24 felony for each subsequent offense.

25 (12) If a person is convicted of a violation of this part ~~—~~,
26 ~~a department order authorized under section 40107, or an interim~~
27 ~~order of the department~~ OR AN ORDER OR INTERIM ORDER ISSUED

06054'00 (H-2)

HB 5710, As Passed Senate, December 7, 2000

House Bill No. 5710 as amended December 6, 2000

5

1 UNDER THIS PART and it is alleged in the complaint and proved or
2 admitted at trial or ascertained by the court after conviction
3 that the person had been previously convicted 2 times within the
4 preceding 5 years for a violation of this part ~~—, a department~~
5 ~~order authorized under section 40107, or an interim order of the~~
6 ~~department~~ OR AN ORDER OR INTERIM ORDER ISSUED UNDER THIS PART,
7 the person is guilty of a misdemeanor ~~—~~ and shall be punished
8 by imprisonment for not less than 10 days or more than 180 days,
9 and a fine of not less than \$500.00 or more than \$2,000.00, and
10 costs of prosecution.

Enacting section 1. Section 40115 of the natural resources and
environmental protection act, 1994 PA 451, MCL 324.40115, is
repealed effective on the date that the commission of natural
resources issues an order under section 40113a of the natural
resources and environmental protection act, 1994 PA 451, MCL
324.40113a, regulating the use of crossbows for hunting.