

SENATE BILL No. 1366

September 21, 2000, Introduced by Senator JAYE and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 36505 and 40114 (MCL 324.36505 and
324.40114), section 36505 as amended by 1998 PA 470 and section
40114 as added by 1995 PA 57.

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).

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.

1 (c) The treatment of ~~an~~ THE unlisted species AS AN
2 ENDANGERED OR THREATENED SPECIES will substantially facilitate
3 the enforcement and further the intent of this part.

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

11 (5) Upon good cause shown and where necessary to alleviate
12 damage to property or to protect human health, endangered or
13 threatened species found on the state list compiled pursuant to
14 section 36503 and subsection (3) may be removed, captured, or
15 destroyed, but only pursuant to a permit issued by the
16 department. IF AN ENDANGERED OR THREATENED SPECIES OF WILDLIFE
17 IS TO BE REMOVED FROM OR CAPTURED OR DESTROYED ON LAND UNDER THE
18 CONTROL OF THE DEPARTMENT, THE DEPARTMENT SHALL ISSUE THE PERMIT
19 TO A MEMBER OF THE GENERAL PUBLIC RATHER THAN TO A DEPARTMENT
20 EMPLOYEE OR CONTRACTOR. THE PERMIT SHALL BE OFFERED BY AN AUC-
21 TION CONDUCTED PURSUANT TO RULES PROMULGATED BY THE DEPARTMENT.
22 Carnivorous animals found on the state list may be removed, cap-
23 tured, or destroyed by any person in emergency situations involv-
24 ing an immediate threat to human life, but the removal, capture,
25 or destruction shall be reported to the department within 24
26 hours of the act.

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

2 (a) The importation of a trophy under a permit issued
3 pursuant to section 10 of the endangered species act of 1973,
4 Public Law 93-205, 16 U.S.C. 1539, which is not for resale and
5 which was lawfully taken in a manner permitted by the laws of the
6 state, territory, or country where the trophy was caught, taken,
7 or killed.

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

11 (c) Subject to any permits that may be required by the
12 department, the possession, transfer, transportation, importa-
13 tion, or exportation or the transport or receipt for shipment by
14 a common or contract carrier of a raptor or the captive-bred
15 progeny of a raptor, a raptor egg, or raptor semen acquired in
16 accordance with applicable state and federal laws and regulations
17 which allow raptors, raptor eggs, or raptor semen to be used in
18 falconry or in the captive propagation of raptors for use in
19 falconry.

20 (d) Subject to any permits that may be required by the
21 department, the selling, offering for sale, buying, or offering
22 to buy a raptor that was captive-bred or semen from a raptor that
23 was captive-bred in accordance with applicable state and federal
24 laws and regulations which allow raptors or raptor semen to be
25 used in falconry or in captive propagation of raptors for use in
26 falconry.

1 Sec. 40114. (1) The department may issue a permit to a
2 person who is unable to walk ~~due to being~~ BECAUSE THE PERSON IS
3 a paraplegic or an amputee ~~, or being~~ OR IS permanently dis-
4 abled ~~and unable to walk~~ because of other disease or injury. A
5 permit issued under this subsection authorizes the person to take
6 game during the open season for that game, including deer of
7 either sex, from or upon a standing vehicle if that person holds
8 a license to take that game issued pursuant to part 435 and com-
9 plies with all other laws and rules for the taking of game.

10 (2) The department may issue a permit to a person who is
11 permanently disabled and who has full use of only 1 arm and who
12 upon investigation is unable to hold, aim, and shoot a bow. A
13 permit issued under this subsection authorizes the person to take
14 game during the open season for that game with a bow that has
15 been modified so that the bow may be held, aimed, and shot with 1
16 arm, if that person holds a license to take that game issued pur-
17 suant to part 435 and complies with all other laws and rules for
18 the taking of game.

19 (3) In addition, the department may issue permits authoriz-
20 ing 1 or more of the following:

21 (a) The taking or possession of animals for the purpose of
22 rehabilitating animals.

23 (b) The taking of animals to prevent or control damage and
24 nuisance caused by the animals. IF AN ANIMAL IS TO BE TAKEN PUR-
25 SUANT TO THIS SUBDIVISION ON LAND UNDER THE CONTROL OF THE
26 DEPARTMENT, THE DEPARTMENT SHALL ISSUE THE PERMIT TO A MEMBER OF
27 THE GENERAL PUBLIC, RATHER THAN TO A DEPARTMENT EMPLOYEE OR

1 CONTRACTOR. THE PERMIT SHALL BE OFFERED BY AN AUCTION CONDUCTED
2 PURSUANT TO AN ORDER ISSUED BY THE COMMISSION OF NATURAL
3 RESOURCES UNDER SECTION 40113A IF THE ANIMAL IS GAME OR BY THE
4 DEPARTMENT UNDER SECTION 40107 IF THE ANIMAL IS NOT GAME.

5 (c) The collection, transportation, possession, or disposi-
6 tion of animals and parts of animals for scientific purposes.

7 (d) The public exhibition of animals.

8 (e) Taxidermy.

9 (f) The disposition of accidentally or unlawfully taken or
10 injured animals or animals that are unlawfully possessed.

11 (g) The taking of game with a crossbow by a person who is
12 permanently disabled as provided in section 40115.

13 (4) A permit issued under this section or section 40115 may
14 be suspended, revoked, annulled, withdrawn, recalled, canceled,
15 or amended pursuant to the administrative procedures act of 1969,
16 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
17 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
18 24.328. If the holder of a permit is convicted of violating this
19 section, his or her permit or license may be revoked and any
20 animal and the parts of any animal in his or her possession shall
21 be disposed of in a manner approved by the department.

22 (5) Except as otherwise provided in section 40115 for a
23 permit described in subsection (3)(g), all fees received for per-
24 mits and licenses issued under this section shall be forwarded by
25 the department to the state treasurer to be credited to the game
26 and fish protection fund created in part 435.