

Natural resources; other; genetically engineered organisms;
recognize in aquaculture development act.

NATURAL RESOURCES: Other; NATURAL RESOURCES: Wildlife; NATURAL
RESOURCES: Great Lakes; NATURAL RESOURCES: Inland lakes;
NATURAL RESOURCES: Rivers and streams; AGRICULTURE: Animals;
ANIMALS: Exotic; AGRICULTURE: Agribusiness

A bill to amend 1996 PA 199, entitled
"Michigan aquaculture development act,"
by amending sections 2 and 4 (MCL 286.872 and 286.874).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Aquacultural products" means any products, coproducts,
3 or by-products of aquaculture species.
- 4 (b) "Aquaculture" means the commercial husbandry of aquacul-
5 ture species on the approved list of aquaculture species, includ-
6 ing, but not limited to, the culturing, producing, growing,
7 using, propagating, harvesting, transporting, importing, export-
8 ing, or marketing of aquacultural products under an appropriate
9 permit or registration.
- 10 (c) "Aquaculture facility" means a farm or farm operation
11 engaged in any aspect of aquaculture in privately controlled

1 waters capable of holding all life stages of aquaculture species
2 with a barrier or enclosure to prevent their escape into waters
3 of the state.

4 (d) "Aquaculture facility registration" means a registration
5 issued by the director allowing a facility to engage in
6 aquaculture.

7 (e) "Aquaculture research permit" means a permit issued by
8 the director to researchers to study and culture aquaculture spe-
9 cies not included on the approved list of aquaculture species for
10 the evaluation of aquacultural potential and to provide a scien-
11 tific basis for including the aquaculture species on the approved
12 list.

13 (f) "Aquaculture species" means aquatic animal organisms
14 including, but not limited to, fish, crustaceans, mollusks, rep-
15 tiles, or amphibians reared or cultured under controlled condi-
16 tions in an aquaculture facility.

17 (g) "Aquaculturist" means a person involved in or engaged in
18 any aspect of aquaculture.

19 (h) "Aquarium" means any park, building, cage, enclosure, or
20 other structure or premises in which aquaculture species are kept
21 for public exhibition or viewing, regardless of whether compensa-
22 tion is received.

23 (i) "Confinement research facility" means a facility holding
24 an aquaculture research permit, ~~and~~ enclosed in a secure
25 structure, and separated from other aquaculture facilities AND in
26 which aquaculture species are isolated and maintained in complete
27 and continuous confinement to prevent their escape into the

1 environment and to prevent the release of any possible pathogens
2 into the environment.

3 (j) "Department" means the Michigan department of
4 agriculture.

5 (k) "Director" means the director of the Michigan department
6 of agriculture or his or her designee.

7 (l) "Farm" or "farm operation" means those terms as defined
8 in the Michigan right to farm act, ~~Act No. 93 of the Public Acts~~
9 ~~of 1981, being sections 286.471 to 286.474 of the Michigan~~
10 ~~Compiled Laws~~ 1981 PA 93, MCL 286.471 TO 286.474.

11 (M) "GENETICALLY ENGINEERED ORGANISM" MEANS AN ORGANISM
12 WHOSE GENOME, CHROMOSOMAL OR EXTRACHROMOSOMAL, IS MODIFIED PER-
13 MANENTLY AND HERITABLY USING RECOMBINANT NUCLEIC ACID TECHNIQUES.

14 (N) ~~(m)~~ "Law enforcement officer" means a person appointed
15 by the state or a ~~legal~~ LOCAL governmental unit who is respon-
16 sible for the enforcement of the criminal laws of this state.

17 (O) ~~(n)~~ "Person" means an individual, corporation, limited
18 liability ~~corporation~~ COMPANY, partnership, association, joint
19 venture, or other legal entity.

20 (P) ~~(o)~~ "Privately controlled waters" means waters con-
21 trolled within ponds, vats, raceways, tanks, and any other indoor
22 or outdoor structure wholly within or on ~~the land of an owner or~~
23 ~~lessor~~ LAND OWNED OR LEASED BY AN AQUACULTURIST and used with an
24 aquaculture facility or confinement research facility. Privately
25 controlled waters includes those waters diverted for use in an
26 aquaculture facility by an aquaculturist exercising his or her
27 riparian rights.

1 (Q) "RECOMBINANT NUCLEIC ACID TECHNIQUES" MEANS LABORATORY
2 TECHNIQUES THROUGH WHICH GENETIC MATERIAL IS ISOLATED AND MANIPU-
3 LATED IN VITRO AND THEN INSERTED INTO AN ORGANISM.

4 (R) ~~(p)~~ "Retail bait outlet" means a facility that sells
5 DIRECTLY TO THE CONSUMER any live or dead organism, edible or
6 digestible material, organic or processed food, or scented mate-
7 rial each of which may be used to attract fish, including, but
8 not limited to, worms, leeches, aquatic insects, crayfish,
9 amphibians, fish eggs, minnows or other fish, marshmallows,
10 cheese, pork rinds, or any part thereof. ~~, directly to the~~
11 ~~consumer.~~

12 (S) ~~(q)~~ "Retail ornamental fish facility" means a facility
13 in which a person sells, imports or exports at wholesale or
14 retail, leases, or loans ornamental species of aquatic organisms
15 that may live in fresh, brackish, or saltwater environments to
16 the general public for home or public display purposes.

17 (T) ~~(r)~~ "Waters of the state" means groundwaters, lakes,
18 rivers, and streams and all other watercourses and waters within
19 the jurisdiction of the state and also the Great Lakes bordering
20 the state.

21 (U) ~~(s)~~ "Zoo" means any park, building, cage, enclosure,
22 or other structure or premises in which a live animal is kept for
23 public exhibition or viewing, regardless of whether compensation
24 is received.

25 Sec. 4. (1) Aquaculture is an agricultural enterprise and
26 is ~~considered to be~~ part of the farming and agricultural
27 industry of this state. The director shall assure that

1 aquaculture is afforded all rights, privileges, opportunities,
2 and responsibilities of other agricultural enterprises.

3 (2) Aquaculture is a form of agriculture. Aquaculture
4 facilities and aquaculture uses are considered to be a form of
5 agricultural facilities and uses.

6 (3) Aquacultural products lawfully taken, produced, pur-
7 chased, possessed, or acquired from within this state or imported
8 into this state are the exclusive and private property of the
9 aquaculturist.

10 (4) This act does not prohibit an aquaculturist from exer-
11 cising riparian rights for water diversion. ~~Water~~ IF WATER IS
12 discharged back into the waters of the state, THE DISCHARGE shall
13 be pursuant to any appropriate permit issued by the department of
14 environmental quality, if such a permit is required.

15 (5) An aquaculturist harvesting aquaculture species from a
16 registered aquaculture facility or a permitted confinement
17 research facility is exempt from size, catch, and possession
18 limits, closed seasons, and any other restriction imposed in
19 parts 459 ~~(propagation of game fish in private waters)~~ and 487
20 ~~(sport fishing)~~ of the natural resources and environmental pro-
21 tection act, ~~Act No. 451 of the Public Acts of 1994, being sec-~~
22 ~~tions 324.45901 to 324.45908 and 324.48701 to 324.48740 of the~~
23 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.45901 TO 324.45908
24 AND 324.48701 TO 324.48740.

25 (6) This act does not give an aquaculturist authority to
26 take wild species from the waters of the state and held in trust,
27 in violation of ~~Act No. 451 of the Public Acts of 1994, being~~

1 ~~sections 324.101 to 324.90106 of the Michigan Compiled Laws~~ THE
2 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
3 MCL 324.101 TO 324.90106, unless under a permit issued by the
4 department of natural resources.

5 (7) This act does not give an aquaculturist authority to
6 release any aquaculture species into any waters of the state that
7 are not an aquaculture facility unless the aquaculturist first
8 obtains an appropriate permit from the director of the department
9 of natural resources. It is intended that the department of nat-
10 ural resources shall consider a registration issued under this
11 act as the equivalent of a game fish breeders license issued
12 under part ~~487 of Act No. 451 of the Public Acts of 1994, being~~
13 ~~sections 324.48701 to 324.48740 of the Michigan Compiled Laws~~
14 459 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
15 1994 PA 451, MCL 324.45901 TO 324.45908.

16 (8) Any movement, importing, or exporting of aquaculture
17 species shall be in compliance with the animal industry act, ~~of~~
18 ~~1987, Act No. 466 of the Public Acts of 1988, being sections~~
19 ~~287.701 to 287.747 of the Michigan Compiled Laws~~ 1988 PA 466,
20 MCL 287.701 TO 287.746, for purposes of obtaining a planting
21 permit.

22 (9) FOR THE PURPOSES OF THIS ACT, EACH GENETICALLY ENGI-
23 NEERED ORGANISM THAT IS A VARIANT OF AN AQUACULTURE SPECIES SHALL
24 BE CONSIDERED A DISTINCT AQUACULTURE SPECIES. A GENETICALLY
25 ENGINEERED ORGANISM THAT IS A VARIANT OF AN AQUACULTURE SPECIES
26 IS NOT INCLUDED ON THE LIST OF APPROVED AQUACULTURE SPECIES UNDER
27 SECTION 5 UNLESS SPECIFICALLY IDENTIFIED ON THE LIST OR

1 SPECIFICALLY IDENTIFIED IN A RULE PROMULGATED UNDER SECTION 12 AS
2 BEING INCLUDED ON THE LIST. A GENETICALLY ENGINEERED ORGANISM
3 THAT IS A VARIANT OF AN AQUACULTURE SPECIES IS NOT COVERED BY AN
4 AQUACULTURE RESEARCH PERMIT UNDER SECTION 8 UNLESS SPECIFICALLY
5 IDENTIFIED IN THE PERMIT.