

Natural resources; wildlife; genetically engineered organisms; recognize in NREPA and prohibit release of GEOs or nonnative organisms.

NATURAL RESOURCES: Wildlife

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 45901, 45906, 45908, 48701, 48735, and 48738
(MCL 324.45901, 324.45906, 324.45908, 324.48701, 324.48735, and
324.48738), sections 45901, 45906, 45908, 48735, and 48738 as
added by 1995 PA 57 and section 48701 as amended by 2002 PA 434,
and by adding part 413.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 PART 413 TRANSGENIC AND NONNATIVE ORGANISMS
- 2 SEC. 41301. AS USED IN THIS PART:
- 3 (A) "GENETICALLY ENGINEERED" REFERS TO AN ORGANISM WHOSE
- 4 GENOME, CHROMOSOMAL OR EXTRACHROMOSOMAL, IS MODIFIED PERMANENTLY
- 5 AND HERITABLY, USING RECOMBINANT NUCLEIC ACID TECHNIQUES.

(B) "RECOMBINANT NUCLEIC ACID TECHNIQUES" MEANS LABORATORY TECHNIQUES THROUGH WHICH GENETIC MATERIAL IS ISOLATED AND MANIPULATED IN VITRO AND THEN INSERTED INTO AN ORGANISM.

SEC. 41303. (1) UNLESS AUTHORIZED BY A PERMIT ISSUED BY THE DEPARTMENT UNDER THIS SECTION OR SECTION 48735, A PERSON SHALL NOT KNOWINGLY RELEASE OR ALLOW TO BE RELEASED INTO THIS STATE ANY OF THE FOLLOWING THAT IS NOT NATURALIZED IN THE LOCATION OF RELEASE:

(A) A GENETICALLY ENGINEERED ORGANISM.

(B) A NONNATIVE ORGANISM.

(2) A PERSON SHALL APPLY FOR A PERMIT UNDER SUBSECTION (1) ON A FORM DEVELOPED BY THE DEPARTMENT. THE APPLICATION SHALL BE ACCOMPANIED BY A FEE ESTABLISHED BY THE DEPARTMENT BASED ON THE COST OF ADMINISTERING THIS PART.

(3) THE DEPARTMENT MAY REVOKE OR MODIFY A PERMIT ISSUED UNDER THIS SECTION AFTER PROVIDING AN OPPORTUNITY FOR A HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

SEC. 41305. THE DEPARTMENT SHALL PROMULGATE RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, NECESSARY TO IMPLEMENT THIS PART.

SEC. 41307. A PERSON WHO KNOWINGLY VIOLATES THIS PART OR A PERMIT ISSUED UNDER THIS PART IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$250,000.00, OR BOTH. IN ADDITION, THE PERSON IS LIABLE FOR ANY DAMAGES TO THE NATURAL RESOURCES OF THIS STATE RESULTING FROM THE VIOLATION.

1 Sec. 45901. As used in this part: ~~—, "game"~~

2 (A) "GAME fish" includes all species of fish in the families
3 of salmonidae (trout and salmon), thymallidae (grayling), eso-
4 cidae (northern pike and muskellunge), serranidae (white bass and
5 striped bass), centrarchidae (bass, bluegill, and crappie), per-
6 cidae (perch and walleye), acipenseridae (sturgeon), ictaluridae
7 (catfish), and coregonidae (whitefish).

8 (B) "GENETICALLY ENGINEERED" REFERS TO AN ORGANISM WHOSE
9 GENOME, CHROMOSOMAL OR EXTRACHROMOSOMAL, IS MODIFIED PERMANENTLY
10 AND HERITABLY, USING RECOMBINANT NUCLEIC ACID TECHNIQUES.

11 (C) "RECOMBINANT NUCLEIC ACID TECHNIQUES" MEANS LABORATORY
12 TECHNIQUES THROUGH WHICH GENETIC MATERIAL IS ISOLATED AND MANIPU-
13 LATED IN VITRO AND THEN INSERTED INTO AN ORGANISM.

14 Sec. 45906. (1) A person shall not import into this state
15 any live game fish, ~~or~~ INCLUDING viable eggs of any game fish,
16 without a license as provided for in this part. A LICENSE UNDER
17 THIS SUBSECTION DOES NOT APPLY TO A GENETICALLY ENGINEERED VARI-
18 ANT OF A LIVE GAME FISH SPECIES UNLESS THE GENETICALLY ENGINEERED
19 VARIANT IS SPECIFICALLY IDENTIFIED IN THE LICENSE.

20 (2) The department may promulgate rules under this part to
21 prohibit or restrict the importation of ANY SPECIES OF game fish
22 or ~~any~~ other ~~species of~~ fish when the importation of that
23 species would endanger the public fishery resources of this
24 state. A PROHIBITION OR RESTRICTION IN RULES PROMULGATED UNDER
25 THIS SUBSECTION APPLIES TO A GENETICALLY ENGINEERED ORGANISM THAT
26 IS A VARIANT OF THE SPECIES UNLESS THE RESTRICTION OR PROHIBITION
27 SPECIFICALLY PROVIDES OTHERWISE. A PROHIBITION OR RESTRICTION IN

1 RULES PROMULGATED UNDER THIS SUBSECTION MAY BE LIMITED TO A
2 GENETICALLY ENGINEERED ORGANISM.

3 Sec. 45908. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A
4 person ~~violating~~ WHO VIOLATES this part or the rules promul-
5 gated under this part is guilty of a misdemeanor ~~—~~, punishable
6 by imprisonment for not more than 90 days ~~—~~, or a fine of not
7 more than \$100.00, or both. In addition to the penalty, any
8 license issued under this part may be revoked.

9 (2) A PERSON WHO KNOWINGLY VIOLATES SECTION 45906 OR A RULE
10 PROMULGATED UNDER SECTION 45906 WITH RESPECT TO A GENETICALLY
11 ENGINEERED ORGANISM OR WITH RESPECT TO ANY SPECIES THAT IS NOT
12 NATURALIZED IN THIS STATE IS GUILTY OF A MISDEMEANOR PUNISHABLE
13 BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE
14 THAN \$1,000.00, OR BOTH. IN ADDITION, ANY LICENSE ISSUED TO THE
15 PERSON UNDER THIS PART MAY BE REVOKED, AND THE PERSON IS LIABLE
16 FOR DAMAGES TO NATURAL RESOURCES RESULTING FROM THE VIOLATION.

17 (3) Any license issued under this part may be suspended or
18 revoked by the department after a hearing, upon reasonable
19 notice, when any of the operations under it fail to comply with
20 the requirements of this part or the rules promulgated under this
21 part. Whenever any license is suspended or revoked, the fish
22 held under the license shall be disposed of only in a manner
23 approved by the department.

24 Sec. 48701. As used in this part:

25 (a) "Amphibian" means any frog, toad, or salamander of the
26 class amphibia.

1 (b) "Crustacea" means any freshwater crayfish, shrimp, or
2 prawn of the order decapoda.

3 (c) "Game fish" includes all of the following:

4 (i) Mackinaw or lake trout (~~Christivomer~~ SALVELINUS
5 namaycush).

6 (ii) Brook or speckled trout (Salvelinus fontinalis).

7 (iii) Brown and Loch Leven trout (Salmo trutta).

8 (iv) Rainbow and steelhead trout (~~Salmo gairdnerii~~
9 ONCORHYNCHUS MYKISS).

10 (v) Landlocked salmon (Salmo salar sebago).

11 (vi) Grayling (Thymallus ~~tricolor and Thymallus montanus~~
12 ARCTICUS).

13 (vii) Largemouth black bass (~~Huro~~ MICROPTERUS salmoides).

14 (viii) Smallmouth black bass (Micropterus dolomieu).

15 (ix) Bluegill (Lepomis macrochirus).

16 (x) Pumpkinseed or common sunfish (Lepomis gibbosus).

17 (xi) Black crappie and white crappie, also known as calico
18 bass and strawberry bass (Pomoxis ~~sparoides and pomoxis~~
19 NIGROMACULATUS AND POMOXIS annularis).

20 (xii) Yellow perch, commonly called perch (Perca
21 flavescens).

22 (xiii) Pike-perch, commonly called walleyed pike
23 (Stizostedion vitreum).

24 (xiv) Northern pike, also known as grass pike or pickerel
25 (Esox lucius).

26 (xv) Muskellunge (Esox masquinongy).

1 (xvi) Sturgeon (*Acipenser fulvescens*).

2 (xvii) Splake (*Salvelinus namaycush* x *Salvelinus*
3 *fontinalis*).

4 (xviii) Coho salmon (*Oncorhynchus kisutch*).

5 (xix) Chinook (King) salmon (*Oncorhynchus tshawytscha*).

6 (xx) Pink salmon (*Oncorhynchus gorbuscha*).

7 (D) "GENETICALLY ENGINEERED" REFERS TO AN ORGANISM WHOSE
8 GENOME, CHROMOSOMAL OR EXTRACHROMOSOMAL, IS MODIFIED PERMANENTLY
9 AND HERITABLY, USING RECOMBINANT NUCLEIC ACID TECHNIQUES.

10 (E) ~~-(d)-~~ "Inland waters of this state" means the waters
11 within the jurisdiction of the state except Saginaw river, Lakes
12 Michigan, Superior, Huron, and Erie, and the bays and the con-
13 necting waters. The connecting waters between Lake Superior and
14 Lake Huron are that part of the Straits of St. Mary in this state
15 extending from a line drawn from Birch Point Range front light to
16 the most westerly point of Round Island, thence following the
17 shore of Round Island to the most northerly point thereof, thence
18 from the most northerly point of Round Island to Point Aux Pins
19 light, Ontario, to a line drawn due east and west from the most
20 southerly point of Little Lime Island. The connecting waters of
21 Lake Huron and Lake Erie are all of the St. Clair river, all of
22 Lake St. Clair, and all of the Detroit river extending from Fort
23 Gratiot light in Lake Huron to a line extending due east and west
24 of the most southerly point of Celeron Island in the Detroit
25 river.

26 (F) ~~-(e)-~~ "Mollusks" means any mollusk of the classes
27 bivalvia and gastropoda.

1 (G) ~~(f)~~ "Nongame fish" includes all kinds of fish except
2 game fish.

3 (H) ~~(g)~~ "Nonresident" means a person who is not a
4 resident.

5 (I) ~~(h)~~ "Nontrout streams" means all streams or portions
6 of streams other than trout streams.

7 (J) ~~(i)~~ "Open season" means the time during which fish may
8 be legally taken or killed and includes both the first and last
9 day of the season or period designated by this part.

10 (K) "RECOMBINANT NUCLEIC ACID TECHNIQUES" MEANS LABORATORY
11 TECHNIQUES THROUGH WHICH GENETIC MATERIAL IS ISOLATED AND MANIPU-
12 LATED IN VITRO AND THEN INSERTED INTO AN ORGANISM.

13 (L) ~~(j)~~ "Reptiles" means any turtle, snake, or lizard of
14 the class reptilia.

15 (M) ~~(k)~~ "Resident" means either of the following:

16 (i) A person who resides in a settled or permanent home or
17 domicile with the intention of remaining in this state.

18 (ii) A student who is enrolled in a full-time course at a
19 college or university within this state.

20 (N) ~~(l)~~ "Trout lake" means a lake designated by the
21 department in which brook trout, brown trout, or rainbow trout
22 are the predominating species of game fish. ~~found in the lake.~~
23 The department may designate certain trout lakes in which certain
24 species of fish are not desired and in which it is unlawful to
25 use live fish of any kind for bait.

26 (O) ~~(m)~~ "Trout stream" means any stream or portion of a
27 stream that contains a significant population of any species of

1 trout or salmon as determined by the department. The department
2 shall designate not more than 212 miles of trout streams in which
3 only lures or baits as the department prescribes may be used in
4 fishing, and the department may prescribe the size and number of
5 fish that may be taken from those trout streams. The department
6 shall not restrict children under 12 years old from taking a min-
7 imum of 1 fish, except for sturgeon (*Acipenser fulvescens*), in
8 any trout stream. Any trout stream in a county that includes a
9 city with a population of 750,000 or more shall be so
10 designated. In addition, the department shall issue an order
11 adopting criteria for determining which trout streams should be
12 so designated. Before the department issues the order, the
13 department shall submit the proposed order to the commission.
14 The commission shall receive public comment on the proposed
15 order. The department shall consider any guidance provided by
16 the commission on the proposed order and may make changes to the
17 proposed order based on that guidance.

18 Sec. 48735. (1) ~~A~~ SUBJECT TO SUBSECTION (2), A person
19 shall not take from any of the inland waters of this state any
20 fish in any manner for the purpose of fish culture or scientific
21 investigation without first obtaining a permit from the depart-
22 ment, except that a person who is operating a private fish pond
23 may take fish from his or her own pond for the purpose of propa-
24 gation, scientific investigation, or sale under part 459.

25 (2) The department may issue permits to possess live game
26 fish in public or private ponds, pools, or aquariums under rules

1 and regulations as the department prescribes. THIS SUBSECTION IS
2 SUBJECT TO SUBSECTION (5).

3 (3) The department may cause to be taken from the inland
4 waters of this state any species of fish for the purpose of
5 obtaining spawn for fish culture or scientific investigation or
6 for the protection of the inland waters from ecological damage or
7 imbalance. In addition, the department may cause to be taken
8 from the inland waters of this state species of fish that are not
9 required to maintain the fishery resources of the inland waters.
10 All fish taken under this ~~section~~ SUBSECTION shall be taken
11 under the supervision of a deputy of the department appointed for
12 that purpose and in accordance with the regulations of the
13 department of agriculture, and the fish may be sold or trans-
14 ferred by the department.

15 (4) A person shall not import or bring any live game fish,
16 ~~or~~ INCLUDING viable eggs of any game fish, from outside of this
17 state except under a permit from the department or under part 459
18 and the rules promulgated in accordance with that part. A person
19 shall not plant any spawn, fry, or fish of any kind in any of the
20 public waters of this state or any other waters under the juris-
21 diction of this state without first obtaining a permit from the
22 department that states the species, number, and approximate size
23 or age of the spawn, fry, or fish to be planted and the name and
24 location of the waters where the spawn, fry, or fish shall be
25 planted. A permit is not required to plant spawn, fry, or fish
26 furnished by the federal or state government. ~~All permits~~ THIS
27 SUBSECTION IS SUBJECT TO SUBSECTION (5).

1 (5) A PERMIT UNDER SUBSECTION (2) OR (4) DOES NOT INCLUDE A
2 GENETICALLY ENGINEERED VARIANT OF A SPECIES IDENTIFIED IN THE
3 PERMIT UNLESS THE GENETICALLY ENGINEERED VARIANT IS SPECIFICALLY
4 IDENTIFIED IN THE PERMIT.

5 (6) A PERMIT UNDER THIS SECTION shall be exhibited upon the
6 request of any law enforcement officer.

7 (7) ~~—(2)—~~ The department shall annually report to the legis-
8 lature all fish sold or transferred pursuant to this part.

9 Sec. 48738. (1) A person who violates this part or rules or
10 orders issued to implement this part, if a penalty is not other-
11 wise provided for that violation in this section, is guilty of a
12 misdemeanor ~~—~~ punishable by imprisonment for not more than 90
13 days ~~—~~ or a fine of not more than \$500.00, or both.

14 (2) A person convicted of using dynamite, nitroglycerin,
15 lime, electricity, any other explosive substance, or poison for
16 the purpose of taking or killing fish, convicted of using nets
17 not authorized by law for taking game fish, or convicted of
18 buying or selling game fish or any parts of game fish is guilty
19 of a misdemeanor ~~—~~ punishable by imprisonment for not more than
20 90 days ~~—~~ or a fine of not less than \$250.00 or more than
21 \$1,000.00, or both.

22 (3) A person who takes or possesses sturgeon in violation of
23 this part or rules or orders issued to implement this part is
24 guilty of a misdemeanor ~~—, punishable—~~ AND SHALL BE PUNISHED by
25 imprisonment for not less than 30 days or more than 180 days ~~—~~
26 ~~or—~~ AND a fine of not less than \$500.00 or more than \$2,000.00,
27 or both, and the costs of prosecution.

1 (4) A PERSON WHO KNOWINGLY VIOLATES SECTION 48735(2) OR (4)
2 OR A PERMIT ISSUED UNDER SECTION 48735(2) OR (4) WITH RESPECT TO
3 A GENETICALLY ENGINEERED ORGANISM THAT IS A VARIANT OF A SPECIES
4 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
5 THAN 5 YEARS OR A FINE OF NOT MORE THAN \$250,000.00, OR BOTH. IN
6 ADDITION, THE PERSON IS LIABLE FOR ANY DAMAGES TO THE NATURAL
7 RESOURCES OF THIS STATE RESULTING FROM THE VIOLATION.

8 (5) ~~-(4)-~~ If a person is convicted of a violation of this
9 part or rules or orders issued to implement this part and it is
10 alleged in the complaint and proved or admitted at trial or
11 ascertained by the court at the time of sentencing that the
12 person ~~had~~ HAS been previously convicted 3 or more times of a
13 violation of this part within the 5 years immediately preceding
14 the last violation of this part, the person is guilty of a misde-
15 meanor ~~—~~ punishable by imprisonment for not more than 90 days
16 ~~—~~ or a fine of not more than \$1,000.00, or both, and the costs
17 of prosecution. This subsection does not apply to the following
18 violations:

19 (a) Failing to possess or display a valid fishing license or
20 trout and salmon license issued pursuant to part 435.

21 (b) Taking or possessing an overlimit of bluegill, sunfish,
22 crappie, perch, or nongame fish.

23 (c) Taking or possessing not more than 5 undersized fish.

24 (d) Fishing with too many lines.

25 (e) Failing to attach the person's name and address to
26 tip-ups or minnow traps.

1 (f) Fishing with lines not under immediate control.
2 (6) ~~—(5)—~~ In addition to the penalties provided in this
3 section, a fishing license issued to a person sentenced pursuant
4 to ~~—subsections—~~ SUBSECTION (2), (3), ~~—or—~~ (4), OR (5) shall be
5 revoked, and the person shall not be issued a license during the
6 remainder of the year in which convicted or during the next 3
7 succeeding license years.