

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 229

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
5 aquaculture species on the approved list of aquaculture species,
6 including, but not limited to, the culturing, producing, growing,
7 using, propagating, harvesting, transporting, importing,
8 exporting, or marketing of aquacultural products under an
9 appropriate 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
9 species not included on the approved list of aquaculture species
10 for the evaluation of aquacultural potential and to provide a
11 scientific basis for including the aquaculture species on the
12 approved list.

13 (f) "Aquaculture species" means aquatic animal organisms
14 including, but not limited to, fish, crustaceans, mollusks,
15 reptiles, or amphibians reared or cultured under controlled
16 conditions 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
22 compensation 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" refers to an organism whose**
12 **genome, chromosomal or extrachromosomal, is modified permanently**
13 **and heritably using recombinant nucleic acid techniques, or the**
14 **progeny thereof.**

15 (n) ~~-(m)-~~ "Law enforcement officer" means a person appointed
16 by the state or a ~~legal~~ **local** governmental unit who is
17 responsible for the enforcement of the criminal laws of this
18 state.

19 (o) ~~-(n)-~~ "Person" means an individual, corporation, limited
20 liability ~~corporation~~ **company**, partnership, association, joint
21 venture, or other legal entity.

22 (p) ~~-(o)-~~ "Privately controlled waters" means waters
23 controlled within ponds, vats, raceways, tanks, and any other
24 indoor or outdoor structure wholly within or on ~~the land of an~~
25 ~~owner or lesser~~ **land owned or leased by an aquaculturist** and
26 used with an aquaculture facility or confinement research
27 facility. Privately controlled waters includes those waters

1 diverted for use in an aquaculture facility by an aquaculturist
2 exercising his or her riparian rights.

3 **(q) "Recombinant nucleic acid techniques" means laboratory**
4 **techniques through which genetic material is isolated and**
5 **manipulated in vitro and then inserted into an organism.**

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

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

19 **(t) —(r)— "Waters of the state" means groundwaters, lakes,**
20 **rivers, and streams and all other watercourses and waters within**
21 **the jurisdiction of the state and also the Great Lakes bordering**
22 **the state.**

23 **(u) —(s)— "Zoo" means any park, building, cage, enclosure, or**
24 **other structure or premises in which a live animal is kept for**
25 **public exhibition or viewing, regardless of whether compensation**
26 **is received.**

27 Sec. 4. (1) Aquaculture is an agricultural enterprise and

1 is ~~considered to be~~ part of the farming and agricultural
2 industry of this state. The director shall assure that
3 aquaculture is afforded all rights, privileges, opportunities,
4 and responsibilities of other agricultural enterprises.

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

8 (3) Aquacultural products lawfully taken, produced,
9 purchased, possessed, or acquired from within this state or
10 imported into this state are the exclusive and private property
11 of the aquaculturist.

12 (4) This act does not prohibit an aquaculturist from
13 exercising riparian rights for water diversion. ~~Water~~ **If water**
14 **is** discharged back into the waters of the state, **the discharge**
15 shall be pursuant to any appropriate permit issued by the
16 department of environmental quality, if such a permit is
17 required.

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

1 (6) This act does not give an aquaculturist authority to take
2 wild species from the waters of the state and held in trust, in
3 violation of ~~Act No. 451 of the Public Acts of 1994, being~~
4 ~~sections 324.101 to 324.90106 of the Michigan Compiled Laws~~ **the**
5 **natural resources and environmental protection act, 1994 PA 451,**
6 **MCL 324.101 to 324.90106,** unless under a permit issued by the
7 department of natural resources.

8 (7) This act does not give an aquaculturist authority to
9 release any aquaculture species into any waters of the state that
10 are not an aquaculture facility unless the aquaculturist first
11 obtains an appropriate permit from the director of the department
12 of natural resources. It is intended that the department of
13 natural resources shall consider a registration issued under this
14 act as the equivalent of a game fish breeders license issued
15 under part ~~487 of Act No. 451 of the Public Acts of 1994, being~~
16 ~~sections 324.48701 to 324.48740 of the Michigan Compiled Laws~~
17 **459 of the natural resources and environmental protection act,**
18 **1994 PA 451, MCL 324.45901 to 324.45908.**

19 (8) Any movement, importing, or exporting of aquaculture
20 species shall be in compliance with the animal industry act, ~~of~~
21 ~~1987, Act No. 466 of the Public Acts of 1988, being sections~~
22 ~~287.701 to 287.747 of the Michigan Compiled Laws~~ **1988 PA 466,**
23 **MCL 287.701 to 287.745,** for purposes of obtaining a planting
24 permit.

25 (9) For the purposes of this act, each genetically engineered
26 variant of an aquaculture species shall be considered a distinct
27 aquaculture species. A genetically engineered variant of an

1 aquaculture species is not included on the list of approved
2 aquaculture species under section 5 unless specifically
3 identified on the list or specifically identified in a rule
4 promulgated under section 12 as being included on the list. A
5 genetically engineered organism that is a variant of an
6 aquaculture species is not covered by an aquaculture research
7 permit under section 8 unless specifically identified in the
8 permit. An entry on the list of approved aquaculture species
9 under section 5, a rule promulgated under section 12, or an
10 aquaculture research permit under section 8 may be limited to a
11 genetically engineered organism.