

NONNATIVE SPECIES: ADD PLANTS AND INSECTS

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House Bill 4710

Sponsor: Rep. Daniel Acciavatti

House Bill 4711

Sponsor: Rep. David Palsrok

House Bill 4714

Sponsor: Rep. Phil Pavlov

House Bill 4712

Sponsor: Rep. Tim Moore

House Bill 4715

Sponsor: Rep. Goeff Hansen

House Bill 4713

Sponsor: Rep. John Proos

House Bill 4716

Sponsor: Rep. David Farhat

Committee: Natural Resources, Great Lakes, Land Use, and Environment

Complete to 6-1-05

A SUMMARY OF HOUSE BILLS 4710-4716 AS INTRODUCED 5-3-05

Part 413 (Transgenic and Nonnative Organisms) of the Natural Resources and Environmental Protection Act prohibits the possession or release of certain nonnative, invasive species of fish, such as the bighead carp, and requires a permit issued by the Department of Natural Resources to release a genetically engineered fish or other nonnative fish. The bills would make a variety of amendments to Part 413, including, most notably, extending its application to invasive species of aquatic plants and insects, and establishing an advisory council.

House Bill 4710 (MCL 324.41301)

The act includes a list of "prohibited species" of fish that a person is prohibited from possessing or releasing, including the bighead carp, bitterling, black carp, grass carp, ide, Japanese weatherfish, rudd, silver carp, a fish of the snakehead family, and tench. The bill would redefine "prohibited species" to mean a prohibited aquatic plant species, prohibited fish species, or a prohibited insect species. The bill would re-label the list of fish as being "prohibited fish species" and add definitions for prohibited aquatic plant species and prohibited insect species.

The bill would define "prohibited aquatic plant species" to generally mean the following aquatic plants, including a hybrid or genetically engineered variant: African oxygen weed, Brazilian elodea, curly leaf pondweed, Eurasian watermilfoil, European frogbit, flowering rush, giant salvinia, hydrilla, Japanese knotweed, parrot's feather, purple loosestrife, water chestnut, yellow flag iris, and yellow floating heart.

The bill would define "prohibited insect species" to mean the Asian longhorned beetle and the Emerald Ash Borer, including any eggs, or a hybrid or genetically engineered variant.

House Bill 4711 (MCL 324.41303)

The act prohibits a person from possessing or releasing those species of fish included in the definition of "prohibited species." The bill, instead, provides that a person would be prohibited from knowingly possessing a prohibited fish, plant, or insect species, except as authorized by a permit issued for research purposes, and prohibit a person from releasing a prohibited fish, plant, or insect species in an area where it is not already naturalized.

House Bill 4712 (MCL 324.41305)

The act prohibits a person from knowingly releasing a genetically engineered or nonnative fish into any area where it is not already naturalized, except as authorized under a permit. The bill would also prohibit the release of a genetically engineered or nonnative insect or aquatic plant into any area where it is not already naturalized, except as authorized under a permit.

House Bill 4713 (MCL 324.41313)

The bill would require the Department of Natural Resources to post on its Internet website (www.michigan.gov/dnr) information regarding the requirements of Part 413, penalties that may be imposed for violating Part 413, and a list of all prohibited fish, aquatic plant, and insect species.

House Bill 4714 (MCL 324.41321)

The bill would establish a seven-member Nonnative Species Advisory Council. Four of the seven members would be appointed by the Senate Majority Leader and the other three members would be appointed by the Speaker of the House of Representatives. Members would have to be appointed within 60 days after the bill's effective date. The bill contains other standard provisions relating to vacancies, terms of office, removal from office, selection of officers, and meetings. Members would serve without compensation, though they could be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

The council would be subject to the Open Meetings Act and Freedom of Information Act.

House Bill 4715 (MCL 324.41323)

The bill would specify the duties of the advisory council established by House Bill 4714. Specifically, the council would do the following:

- Annually submit a report to the legislature recommending species that could be added to the list of prohibited fish, aquatic plant, and insect species.

- Establish criteria for identifying bodies of water infested by prohibited species.
- Annually submit to the DNR and legislature a list of infested bodies of waters, identified by species.
- Recommend to the DNR ways it may prevent violations of Part 413 and control or eradicate prohibited species from terrestrial or aquatic habitats.
- Monitor and promote efforts to rescind the exemption under 40 CFR 122.3(a) for ballast water discharges.

[That regulation, promulgated by the federal Environmental Protection Agency under its authority to administer the federal Clean Water Act, specifically exempts, among other things, any discharge incidental to the normal operation of a marine vessel from the National Pollutant Discharge Elimination System (NPDES) permit requirements. The exemption has been used by the EPA to exempt ballast water discharges from the NPDES permit requirements. These discharges, it should be noted, are the single largest source of the unintentional introduction of aquatic nuisance species, such as the zebra mussel, into the waters of the Great Lakes. A federal district court in California recently ruled that the exemption contradicts with the Clean Water Act and ordered that the regulation be repealed. See also House Bill 4603 and Senate Bill 332 for other legislation related to ballast water discharges and aquatic nuisance species.]

House Bill 4716 (MCL 324.41309)

The bill would update language in Part 413 describing penalties for violating various provisions in the act to reflect changes in other provisions.

Legislative Analyst: Mark Wolf

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