

SENATE BILL No. 1248

March 25, 2010, Introduced by Senators KAHN, BIRKHOLZ, McMANUS and BARCIA 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 41301 and 41309 (MCL 324.41301 and 324.41309),
section 41301 as amended by 2009 PA 51 and section 41309 as amended
by 2009 PA 52.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41301. (1) As used in this part:

2 (a) "Genetically engineered" refers to an organism whose
3 genome, chromosomal or extrachromosomal, is modified permanently
4 and heritably, using recombinant nucleic acid techniques, or the
5 progeny of such an organism.

6 (b) "Introduce", with reference to an organism, means to
7 knowingly and willfully ~~stock, place, plant, release, or allow the~~

1 ~~release of the organism~~ **DO ANY OF THE FOLLOWING** in this state at
2 any specific location where the organism is not already
3 naturalized:

4 (i) **STOCK, PLACE, OR PLANT THE ORGANISM.**

5 (ii) **RELEASE OR ALLOW THE RELEASE OF THE ORGANISM.**

6 (iii) **USE THE ORGANISM AS LIVE FISHING BAIT, EXCEPT AT THE**
7 **SPECIFIC LOCATION AT WHICH IT WAS OBTAINED FROM THE ENVIRONMENT, IF**
8 **APPLICABLE.**

9 (c) "Prohibited species", subject to section 41302, means any
10 of the following:

11 (i) Any of the following prohibited aquatic plant species,
12 including a hybrid or genetically engineered variant of the species
13 or a fragment, including a seed or other propagule, of the species
14 or of a hybrid or genetically engineered variant:

15 (A) African oxygen weed (*Lagarosiphon major*).

16 (B) Brazilian elodea (*Egeria densa*).

17 (C) Cyllindro (*Cylindrospermopsis raciborskii*).

18 (D) European frogbit (*Hydrocharis morsus-ranae*).

19 (E) Fanwort (*Cabomba caroliniana*).

20 (F) Giant hogweed (*Heracleum mantegazzianum*).

21 (G) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or
22 *herzogii*).

23 (H) Hydrilla (*Hydrilla verticillata*).

24 (I) Japanese knotweed (*Fallopia japonica*).

25 (J) Parrot's feather (*Myriophyllum aquaticum*).

26 (K) Starry stonewort (*Nitellopsis obtusa*).

27 (L) Water chestnut (*Trapa natans*).

1 (M) Yellow floating heart (*Nymphoides peltata*).

2 (ii) The following prohibited bird species, including a hybrid
3 or genetically engineered variant of the species or an egg of the
4 species or of a hybrid or genetically engineered variant: Eurasian
5 collared dove (*Streptopelia decaocto*).

6 (iii) The following prohibited crustacean species, including a
7 hybrid or genetically engineered variant of the species or an egg
8 of the species or of a hybrid or genetically engineered variant:
9 rusty crayfish (*Orconectes rusticus*).

10 (iv) Any of the following prohibited fish species, including a
11 hybrid or genetically engineered variant of the species or an egg
12 of the species or of a hybrid or genetically engineered variant:

13 (A) Bighead carp (*Hypophthalmichthys nobilis*).

14 (B) Bitterling (*Rhodeus sericeus*).

15 (C) Black carp (*Mylopharyngodon piceus*).

16 (D) Eurasian ruffe (*Gymnocephalus cernuus*).

17 (E) Grass carp (*Ctenopharyngodon idellus*).

18 (F) Ide (*Leuciscus idus*).

19 (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).

20 (H) Round goby (*Neogobius melanostomus*).

21 (I) Rudd (*Scardinius erythrophthalmus*).

22 (J) Silver carp (*Hypophthalmichthys molitrix*).

23 (K) A fish of the snakehead family (family Channidae).

24 (L) Tench (*Tinca tinca*).

25 (M) Tubenose goby (*Proterorhinus marmoratus*).

26 (v) Any of the following prohibited insect species, including
27 a hybrid or genetically engineered variant of the species or an egg

1 of the species or of a hybrid or genetically engineered variant:

2 (A) Asian longhorned beetle (*Anoplophora glabripennis*).

3 (B) Emerald ash borer (*Agrilus planipennis*).

4 (vi) The following prohibited mammal species, including a
5 hybrid or genetically engineered variant: nutria (*Myocastor*
6 *coypus*).

7 (vii) Any of the following prohibited mollusk species,
8 including a hybrid or genetically engineered variant of the species
9 or an egg of the species or of a hybrid or genetically engineered
10 variant:

11 (A) Brown garden snail (*Helix aspersa*).

12 (B) Carthusian snail (*Monacha cartusiana*).

13 (C) Giant African snail (*Achatina fulica*).

14 (D) Girdled snail (*Hygromia cinctella*).

15 (E) Heath snail (*Xerolenta obvia*).

16 (F) Wrinkled dune snail (*Candidula intersecta*).

17 (d) "Recombinant nucleic acid techniques" means laboratory
18 techniques through which genetic material is isolated and
19 manipulated in vitro and then inserted into an organism.

20 (e) "Restricted species", subject to section 41302, means any
21 of the following:

22 (i) Any of the following restricted aquatic plant species,
23 including a hybrid or genetically engineered variant of the species
24 or a fragment, including a seed or other propagule, of the species
25 or of a hybrid or genetically engineered variant:

26 (A) Curly leaf pondweed (*Potamogeton crispus*).

27 (B) Eurasian watermilfoil (*Myriophyllum spicatum*).

1 (C) Flowering rush (*Butomus umbellatus*).

2 (D) Phragmites or common reed (*Phragmites australis*).

3 (E) Purple loosestrife (*Lythrum salicaria*), except that
4 cultivars of purple loosestrife developed and recognized to be
5 sterile and approved by the director of the department of
6 agriculture under section 16a of the insect pest and plant disease
7 act, 1931 PA 189, MCL 286.216a, are not a restricted species.

8 (ii) Any of the following restricted mollusk species, including
9 a hybrid or genetically engineered variant of the species or an egg
10 of the species or of a hybrid or genetically engineered variant:

11 (A) Quagga mussel (*Dreissena bugensis*).

12 (B) Zebra mussel (*Dreissena polymorpha*).

13 (2) For the purposes of this part:

14 (a) A person is not considered to possess a live organism
15 simply because the organism is present on land or in waters owned
16 by that person unless the person has knowingly introduced that live
17 organism on that land or in those waters.

18 (b) A person is not considered to possess a live organism if
19 the organism was obtained from the environment and the person only
20 possesses the organism at the specific location at which it was
21 obtained from the environment.

22 (c) A person is not considered to possess a live organism if
23 the possession is for the purpose of promptly destroying the
24 organism.

25 Sec. 41309. (1) A person who violates section 41303(2) is
26 subject to a civil fine of not more than \$100.00.

27 (2) A person who violates section 41303(1), or a condition of

1 a permit issued under this part, with respect to a restricted
2 species is subject to a civil fine of not more than \$5,000.00. A
3 person who violates section 41303(1), or a condition of a permit
4 issued under this part, with respect to a prohibited species is
5 subject to a civil fine of not more than \$10,000.00.

6 (3) A person who violates section 41303(1) knowing the
7 possession is unlawful or who willfully or in a grossly negligent
8 manner violates a condition of a permit issued under this part is
9 guilty as follows:

10 (a) For a violation involving a restricted species, the person
11 is guilty of a misdemeanor and may be imprisoned for not more than
12 1 year and shall be fined not less than \$1,000.00 or more than
13 \$10,000.00.

14 (b) For a violation involving a prohibited species, the person
15 is guilty of a felony and may be imprisoned for not more than 2
16 years and shall be fined not less than \$2,000.00 or more than
17 \$20,000.00.

18 (4) A person who, with intent to damage natural, agricultural,
19 or silvicultural resources or human health:

20 (a) Violates section 41303(1) with respect to a restricted
21 species or possesses a nonnative aquatic plant, bird, crustacean,
22 fish, insect, mammal, or mollusk is guilty of a felony and may be
23 imprisoned for not more than 2 years and shall be fined not less
24 than \$1,000.00 or more than \$250,000.00.

25 (b) Violates section 41303(1) with respect to a prohibited
26 species or possesses a genetically engineered aquatic plant, bird,
27 crustacean, fish, insect, mammal, or mollusk is guilty of a felony

1 and may be imprisoned for not more than 4 years and shall be fined
2 not less than \$2,000.00 or more than \$500,000.00.

3 (5) A person who sells or offers to sell a restricted species
4 is subject to a civil fine of not less than \$1,000.00 or more than
5 \$10,000.00. A person who sells or offers to sell a prohibited
6 species is subject to a civil fine of not less than \$2,000.00 or
7 more than \$20,000.00.

8 (6) A person who violates section 41305 is guilty as follows:

9 (a) For a violation involving a restricted species or a
10 nonnative aquatic plant, bird, crustacean, fish, insect, mammal, or
11 mollusk, the person is guilty of a misdemeanor and may be
12 imprisoned for not more than 6 months and shall be fined not less
13 than \$500.00 or more than \$5,000.00.

14 (b) For a violation involving a prohibited species or a
15 genetically engineered aquatic plant, bird, crustacean, fish,
16 insect, mammal, or mollusk, the person is guilty of a misdemeanor
17 and may be imprisoned for not more than 1 year and shall be fined
18 not less than \$1,000.00 or more than \$10,000.00.

19 (7) A person who violates section 41305 with respect to a
20 restricted species or nonnative aquatic plant, bird, crustacean,
21 fish, insect, mammal, or mollusk and who knows or should know the
22 identity of the restricted species or that the organism, whether a
23 restricted species or other aquatic plant, bird, crustacean, fish,
24 insect, mammal, or mollusk, is nonnative is guilty of a misdemeanor
25 and may be imprisoned for not more than 1 year and shall be fined
26 not less than \$1,000.00 or more than \$10,000.00.

27 (8) A person who violates section 41305 with respect to a

1 prohibited species or a genetically engineered aquatic plant, bird,
2 crustacean, fish, insect, mammal, or mollusk and who knows or
3 should know the identity of the prohibited species or that the
4 aquatic plant, bird, crustacean, fish, insect, mammal, or mollusk
5 is genetically engineered, respectively, is guilty of a felony and
6 may be imprisoned for not more than 2 years and shall be fined not
7 less than \$2,000.00 or more than \$20,000.00.

8 (9) A person who violates section 41305 knowing the
9 introduction is unlawful, is guilty as follows:

10 (a) For a violation involving a restricted species or
11 nonnative aquatic plant, bird, crustacean, fish, insect, mammal, or
12 mollusk, the person is guilty of a felony and may be imprisoned for
13 not more than 2 years and shall be fined not less than \$1,000.00 or
14 more than \$250,000.00.

15 (b) For a violation involving a prohibited species or a
16 genetically engineered aquatic plant, bird, crustacean, fish,
17 insect, mammal, or mollusk, the person is guilty of a felony and
18 may be imprisoned for not more than 4 years and shall be fined not
19 less than \$2,000.00 or more than \$500,000.00.

20 (10) A person who, with intent to damage natural,
21 agricultural, or silvicultural resources or human health, violates
22 section 41305 is guilty as follows:

23 (a) For a violation involving a restricted species or
24 nonnative aquatic plant, bird, crustacean, fish, insect, mammal, or
25 mollusk, the person is guilty of a felony and may be imprisoned for
26 not more than 3 years and shall be fined not less than \$1,000.00 or
27 more than \$500,000.00.

1 (b) For a violation involving a prohibited species or a
2 genetically engineered aquatic plant, bird, crustacean, fish,
3 insect, mammal, or mollusk, the person is guilty of a felony and
4 may be imprisoned for not more than 5 years and shall be fined not
5 less than \$2,000.00 or more than \$1,000,000.00.

6 (11) In addition to any other civil or criminal sanction
7 imposed under this section, a person who violates this part is
8 liable for any damages to natural resources resulting from the
9 violation, including, but not limited to, costs incurred to prevent
10 or minimize ~~such~~ **THOSE** damages.

11 (12) This part does not apply to activities authorized under
12 the Michigan aquaculture development act, 1996 PA 199, MCL 286.871
13 to 286.884.