

SENATE BILL No. 18

January 19, 2011, Introduced by Senator JONES and referred to the Committee on Natural Resources, Environment and Great Lakes.

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.**

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

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

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

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

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

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

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

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

19 (G) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or
 20 *herzogii*).

21 (H) Hydrilla (*Hydrilla verticillata*).

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

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

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

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

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

27 (ii) The following prohibited bird species, including a hybrid

1 or genetically engineered variant of the species or an egg of the
2 species or of a hybrid or genetically engineered variant: Eurasian
3 collared dove (*Streptopelia decaocto*).

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

8 (iv) Any of the following prohibited fish species, including a
9 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) Bighead carp (*Hypophthalmichthys nobilis*).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) For the purposes of this part:

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

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

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

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

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

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

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

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

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

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

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

23 (b) Violates section 41303(1) with respect to a prohibited
24 species or possesses a genetically engineered aquatic plant, bird,
25 crustacean, fish, insect, mammal, or mollusk is guilty of a felony
26 and may be imprisoned for not more than 4 years and shall be fined
27 not less than \$2,000.00 or more than \$500,000.00.

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

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

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

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

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

25 (8) A person who violates section 41305 with respect to a
26 prohibited species or a genetically engineered aquatic plant, bird,
27 crustacean, fish, insect, mammal, or mollusk and who knows or

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

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

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

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

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

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

26 (b) For a violation involving a prohibited species or a
27 genetically engineered aquatic plant, bird, crustacean, fish,

1 insect, mammal, or mollusk, the person is guilty of a felony and
2 may be imprisoned for not more than 5 years and shall be fined not
3 less than \$2,000.00 or more than \$1,000,000.00.

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

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