

# SENATE BILL No. 445

June 20, 2013, Introduced by Senators BOOHER, CASPERSON, HUNE, PAVLOV and KOWALL 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 41302 (MCL 324.41301 and 324.41302), section 41301 as amended by 2009 PA 51 and section 41302 as added 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  
8 release of the organism in this state at any specific location

1 where the organism is not already naturalized.

2 (C) "LIVESTOCK" MEANS ANIMALS UNDER HUSBANDRY OF HUMANS AND  
 3 USED TO PROVIDE FOOD, FIBER, OR SERVICE TO HUMANS. LIVESTOCK MAY  
 4 INCLUDE, BUT IS NOT LIMITED TO, CATTLE, SHEEP, NEW WORLD CAMELIDS,  
 5 GOATS, BISON, PRIVATELY OWNED CERVIDS, RATITES, SWINE, EQUINE  
 6 SPECIES, POULTRY, AQUACULTURE SPECIES, AND RABBITS. LIVESTOCK DOES  
 7 NOT INCLUDE DOGS AND CATS.

8 (D) ~~(e)~~ "Prohibited species" ~~, subject to section 41302,~~ means  
 9 any of the following:

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

- 14 (A) African oxygen weed (*Lagarosiphon major*).
- 15 (B) Brazilian elodea (*Egeria densa*).
- 16 (C) Cyllindro (*Cylindrospermopsis raciborskii*).
- 17 (D) European frogbit (*Hydrocharis morsus-ranae*).
- 18 (E) Fanwort (*Cabomba caroliniana*).
- 19 (F) Giant hogweed (*Heracleum mantegazzianum*).
- 20 (G) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or  
 21 *herzogii*).
- 22 (H) Hydrilla (*Hydrilla verticillata*).
- 23 (I) Japanese knotweed (*Fallopia japonica*).
- 24 (J) Parrot's feather (*Myriophyllum aquaticum*).
- 25 (K) Starry stonewort (*Nitellopsis obtusa*).
- 26 (L) Water chestnut (*Trapa natans*).
- 27 (M) Yellow floating heart (*Nymphoides peltata*).

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

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

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

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

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

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

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

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

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

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

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

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

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

22           (K) A fish of the snakehead family (family *Channidae*).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (D) Phragmites or common reed (Phragmites australis).

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

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

10 (A) Quagga mussel (Dreissena bugensis).

11 (B) Zebra mussel (Dreissena polymorpha).

12 (G) **"SPECIES" INCLUDES ALL SUBSPECIES, DISTINCT POPULATIONS,**  
13 **AND ORGANISMS THAT ARE BIOLOGICALLY CAPABLE OF INTERBREEDING AND OF**  
14 **PRODUCING FERTILE OFFSPRING.**

15 (2) For the purposes of this part:

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

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

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

27 Sec. 41302. ~~(1) The commission of natural resources may by~~

~~1 order add to or delete from the list of prohibited species or  
2 restricted species under section 41301 any species other than an  
3 insect or plant species. Before issuing an order under this  
4 subsection, the commission of natural resources shall consult with  
5 the department of agriculture. After the consultation, and at least  
6 30 days before the commission of natural resources issues the  
7 order, the department of natural resources shall post a copy of the  
8 proposed order on the department of natural resources' website and  
9 shall submit a copy of the proposed order to all of the following:~~

~~10 — (a) The legislature.~~

~~11 — (b) The standing committees of the senate and house of  
12 representatives with primary responsibility for any of the  
13 following:~~

~~14 — (i) Agricultural issues.~~

~~15 — (ii) Environmental issues.~~

~~16 — (iii) Natural resources issues.~~

~~17 — (2) The commission of agriculture may by order add to or  
18 delete from the list of prohibited species or restricted species  
19 under section 41301 any insect or plant species. Before issuing an  
20 order under this subsection, the commission of agriculture shall  
21 consult with the department of natural resources. After the  
22 consultation, and at least 30 days before the commission of  
23 agriculture issues the order, the department of agriculture shall  
24 post a copy of the proposed order on the department of  
25 agriculture's website and shall submit a copy of the proposed order  
26 to all of the following:~~

~~27 — (a) The legislature.~~

1 ~~—— (b) The standing committees of the senate and house of~~  
 2 ~~representatives with primary responsibility for any of the~~  
 3 ~~following:~~

4 ~~—— (i) Agricultural issues.~~

5 ~~—— (ii) Environmental issues.~~

6 ~~—— (iii) Natural resources issues.~~

7 ~~—— (3) The commission of natural resources or the commission of~~  
 8 ~~agriculture, as applicable, shall list a species as a prohibited~~  
 9 ~~species or restricted species if the commission of natural~~  
 10 ~~resources or commission of agriculture, respectively, determines~~  
 11 ~~the following:~~

12 (1) ~~(a) For a~~ **THE DEPARTMENT OF AGRICULTURE AND RURAL**  
 13 **DEVELOPMENT, AFTER CONSULTATION WITH THE DEPARTMENT OF NATURAL**  
 14 **RESOURCES, MAY RECOMMEND TO THE LEGISLATURE THAT A PLANT, INSECT,**  
 15 **OR LIVESTOCK SPECIES BE ADDED TO OR DELETED FROM THE DEFINITION OF**  
 16 **PROHIBITED SPECIES OR RESTRICTED SPECIES. THE DEPARTMENT OF NATURAL**  
 17 **RESOURCES, AFTER CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE**  
 18 **AND RURAL DEVELOPMENT, MAY RECOMMEND TO THE LEGISLATURE THAT A**  
 19 **SPECIES OTHER THAN A PLANT, INSECT, OR LIVESTOCK SPECIES BE ADDED**  
 20 **TO OR DELETED FROM THE DEFINITION OF PROHIBITED SPECIES OR**  
 21 **RESTRICTED SPECIES.**

22 (2) **FOR THE PURPOSE OF SUBSECTION (1), A SPECIES SHALL BE**  
 23 **RECOMMENDED FOR INCLUSION IN THE DEFINITION OF prohibited species** 7  
 24 **IF all of the following requirements are met:**

25 **(A) ~~(i) The organism SPECIES is not native to this state. EITHER~~**  
 26 **OF THE FOLLOWING:**

27 **(i) AN ANIMAL BORN OR HATCHED AND RAISED IN THIS STATE UNDER**

1 THE HUSBANDRY OF HUMANS.

2 (ii) IMPORTED INTO THIS STATE IN COMPLIANCE WITH ENTRY  
3 REQUIREMENTS PRESCRIBED BY THE DIRECTOR OF THE DEPARTMENT OF  
4 AGRICULTURE AND RURAL DEVELOPMENT AND MAINTAINED IN THIS STATE FOR  
5 AT LEAST 45 DAYS.

6 (B) ~~(ii)~~—The ~~organism~~ SPECIES is not naturalized in this state  
7 or, if naturalized, is not widely distributed in this state.

8 (C) ~~(iii)~~—One or more of the following apply:

9 (i) ~~(A)~~—The ~~organism~~ SPECIES has the potential to harm human  
10 health or to severely harm natural, agricultural, or silvicultural  
11 resources.

12 (ii) ~~(B)~~—Effective management or control techniques for the  
13 ~~organism~~ SPECIES are not available.

14 (D) ~~(b)~~ For a THE SPECIES IS NOT UNDER THE HUSBANDRY OR  
15 CONTROL OF HUMANS.

16 (E) HUMANS DO NOT DEPEND ON THE SPECIES FOR SURVIVAL,  
17 MAINTAINING A DESIRABLE QUALITY OF LIFE, OR ECONOMIC SECURITY.

18 (3) FOR THE PURPOSES OF SUBSECTION (1), A SPECIES SHALL BE  
19 RECOMMENDED FOR INCLUSION IN THE DEFINITION OF restricted species 7  
20 IF all of the following requirements are met:

21 (A) ~~(i)~~—The ~~organism~~ SPECIES is not native to this state. EITHER  
22 OF THE FOLLOWING:

23 (i) AN ANIMAL BORN OR HATCHED AND RAISED IN THIS STATE UNDER  
24 THE HUSBANDRY OF HUMANS.

25 (ii) IMPORTED INTO THIS STATE IN COMPLIANCE WITH ENTRY  
26 REQUIREMENTS PRESCRIBED BY THE DIRECTOR OF THE DEPARTMENT OF  
27 AGRICULTURE AND RURAL DEVELOPMENT AND MAINTAINED IN THIS STATE FOR

1 **AT LEAST 45 DAYS.**

2 (B) ~~(ii)~~—The ~~organism~~**SPECIES** is naturalized and widely  
3 distributed in this state.

4 (C) ~~(iii)~~—One or more of the following apply:

5 (i) ~~(A)~~—The ~~organism~~**SPECIES** has the potential to harm human  
6 health or to harm natural, agricultural, or silvicultural  
7 resources.

8 (ii) ~~(B)~~—Effective management or control techniques for the  
9 ~~organism~~**SPECIES** are available.

10 (D) **THE SPECIES IS NOT UNDER THE HUSBANDRY OR CONTROL OF**  
11 **HUMANS.**

12 (E) **HUMANS DO NOT DEPEND ON THE SPECIES FOR SURVIVAL,**  
13 **MAINTAINING A DESIRABLE QUALITY OF LIFE, OR ECONOMIC SECURITY.**