

INCREASE FINE FOR ILLEGAL TAKING OR POSSESSION OF LAKE STURGEON

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House Bill 4018 (H-2) as reported from committee
Sponsor: Rep. Sue Allor
1st Committee: Natural Resources and Outdoor Recreation
2nd Committee: Judiciary
Complete to 8-28-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4018 would amend Part 487 (Sport Fishing) of the Natural Resources and Environmental Protection Act (NREPA) to increase the fine for illegally taking or possessing lake sturgeon.

FISCAL IMPACT: House Bill 4018 would not affect costs or revenues for the Department of Natural Resources, but new misdemeanor convictions under its provisions could affect costs for county jails or local court systems or result in an increase in penal fine revenue. (See **Fiscal Information**, below, for a more detailed discussion.)

THE APPARENT PROBLEM:

According to committee testimony, lake sturgeon, native Michigan fish that have been around for 136 million years, are considered a threatened species today. Even though sturgeon can live up to 150 years, they grow slowly and don't reach sexual maturity until 12 to 24 years old. Their slow growth and late maturity, coupled with the high value of sturgeon and their eggs (up to \$200 per ounce of sturgeon caviar), leave this prehistoric fish in life-threatening vulnerability. Some believe that because the value of sturgeon and their eggs is much greater than the current penalties for poaching sturgeon, the benefits of poaching sturgeon far outweigh the risk of being punished for the act. Given this, increasing the penalties for illegally taking or possessing lake sturgeon could increase the risk of poaching the fish and thus deter poaching.

THE CONTENT OF THE BILL:

Currently under NREPA, an individual who takes or possesses sturgeon in violation of Part 487, or the rules or orders issued to implement Part 487,¹ is guilty of a misdemeanor punishable by imprisonment for 30 to 180 days and a fine of \$500 to \$2,000, plus the costs of prosecution.

The bill would remove the 30-day imprisonment minimum, keep the 180-day imprisonment maximum, and increase the fine to a range of \$500 to \$5,000 for illegally taking or possessing lake sturgeon.

MCL 324.48738

¹ For current sturgeon season and limit information, see: https://www.michigan.gov/dnr/0,4570,7-350-79119_79146_82434---,00.html

BACKGROUND INFORMATION:

In addition to the penalty described above, section 48740 of NREPA requires a person who is convicted of any of the following to forfeit to the state \$1,500 for each sturgeon illegally taken or possessed:

- Taking sturgeon during a closed season.
- Taking or possessing sturgeon in excess of lawful limits.
- Taking sturgeon by use of an unlawful device.
- Buying or selling sturgeon, or any parts of a sturgeon, that is taken by use of an unlawful device.

FISCAL INFORMATION:

Under the bill, an individual who illegally possesses lake sturgeon would be convicted of a misdemeanor and punished by up to 180 days' imprisonment, a fine of not less than \$500 or more than \$5,000, and the costs of prosecution. New misdemeanor convictions punished by imprisonment would increase costs related to county jails and local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

The bill would not affect costs or revenues for the Department of Natural Resources.

ARGUMENTS:

For:

Supporters of the bill argue that the current penalties for illegally taking or possessing lake sturgeon are not enough to deter poaching. While volunteer service groups have created programs to guard against the poaching of sturgeon, they are unable to monitor the many streams and lakes that sturgeon inhabit. Supporters believe that increasing the penalties should decrease poaching and help stabilize Michigan's great, prehistoric fish.

Against:

A concern was raised during committee testimony that, because the penalties imposed for illegally taking or possessing lake sturgeon are based on strict liability, anyone, including a minor, could face jail time and increased fees for inadvertently catching a lake sturgeon out of season while otherwise lawfully fishing.

POSITIONS:

Representatives of the following entities testified in support of the bill (5-14-19):

- Department of Natural Resources
- Sturgeon for Tomorrow

- Michigan United Conservation Clubs
- National Wildlife Federation

The following entities indicated support for the bill:

- Burt Lake Preservation Association (5-14-19)
- Michigan League of Conservation Voters (5-14-19)
- Michigan Sierra Club (6-11-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.