

Legislative Analysis



MINNOWS, WIGGLERS, AND CRAYFISH

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<http://www.house.mi.gov/hfa>

House Bill 4242 as enacted

Public Act 30 of 2022

Sponsor: Rep. Julie Alexander

House Committee: Natural Resources and Outdoor Recreation

Senate Committee: Natural Resources

Complete to 7-27-22

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

SUMMARY:

House Bill 4242 amends the Natural Resources and Environmental Protection Act (NREPA) to allow minnows, wigglers, or crayfish¹ taken from Michigan waters to be exported from the state under certain circumstances. In addition, the bill increases the fee for a permit enabling a licensed minnow dealer to export minnows, wigglers, or crayfish, from \$25 to \$500, and requires the permit holder to report monthly on how many exported minnows, wigglers, and crayfish were taken from Michigan waters.

Part 487 (Sport Fishing) of NREPA prohibits a person from exporting minnows, wigglers, or crayfish from Michigan unless the person is a licensed minnow dealer that has a permit from the Department of Natural Resources (DNR) allowing the dealer to export them.

Before the bill was enacted, such a permit allowed a person to export from Michigan only minnows, wigglers, or crayfish that were harvested from waters outside of Michigan and imported wholesale into the state. Minnows, wigglers, and crayfish taken from Michigan waters could not be exported from Michigan.

The bill allows permit holders to export from Michigan minnows, wigglers, and crayfish taken from Michigan waters.

The bill also increases the permit fee from \$25 to \$500 and requires a permit holder to provide a monthly report in a manner and format determined by the DNR that includes at least the quantity of exported minnows, wigglers, or crayfish (by species) that were taken from Michigan waters.

MCL 324.48729

BACKGROUND AND DISCUSSION:

In *Hughes v. Oklahoma* (1979), the U.S. Supreme Court ruled that an Oklahoma statute that prohibited the exportation of minnows collected from its waters was a restriction of interstate commerce in violation of the Commerce Clause. Despite the state's interest in protecting the wildlife within its borders and thus having the latitude to determine how to do so, the court

¹ **Minnows** means chubs, shiners, suckers, when of a size ordinarily used for bait in hook and line fishing, dace, stonerollers, muddlers, and mudminnows; **wigglers** means mayfly nymphs or any other aquatic insect nymphs or larvae; and **crayfish** means any arthropod of the decapoda family.

nonetheless found that prohibiting the exportation of minnows from the state's waters was a regulation of interstate commerce. In the words of the decision, "[w]hen any animal... is lawfully killed for the purposes of food or other uses of man, it becomes an article of commerce, and its use cannot be limited to the citizens of one State to the exclusion of citizens of another State." Those findings led to the ruling that the Oklahoma statute discriminated against interstate commerce on its face, that the statute did not serve a legitimate local purpose, and that there were alternative means of promoting the local purpose without discriminating against interstate commerce.

Proponents of House Bill 4242 argued not only that it is imperative for Michigan to align its laws with the rulings of highest court in the nation, but also that doing so would enable Michigan to open up more economic opportunities for Michiganders.

Critics of the bill noted that Michigan had restricted the sale of minnows, wigglers, and crayfish from Michigan waters since the 1920s in recognition of the harm that unrestricted harvesting for export could cause. These small, seemingly insignificant creatures are vital to Michigan's aquatic ecosystems. Allowing the exportation of minnows, wigglers, and crayfish harvested from Michigan waters could deplete them, with devastating ripple effects for fish populations, plant growth in Michigan waterways, and the overall makeup of the Great Lakes and Michigan rivers. Such a change would obviously have a large negative effect on Michigan's economy.

FISCAL IMPACT:

The bill is likely to increase revenue for the Department of Natural Resources by raising the minnow, wiggler, or crayfish export permit from \$25 to \$500. The extent of this revenue increase is likely to hinge on the number of permits sold under this new license price tag. Revenue from hunting- and fishing-related permits is credited to the Game and Fish Protection Fund, which received \$87.0 million in FY 2021-22 revenue. The department primarily uses this fund to support programs in the Wildlife Division and Fisheries Division, whose FY 2021-22 appropriations total \$46.7 million Gross (\$4.5 million GF/GP) and \$32.9 million Gross (\$541,700 GF/GP), respectively.

Departmental costs, local government revenues, and local government costs are unlikely to be directly affected.

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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.