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Senate Bill 251 (as introduced 3-17-21)  
Sponsor: Senator Ed McBroom  
Committee: Natural Resources

Date Completed: 3-23-21

### **CONTENT**

**The bill would amend Part 467 (Modification of Commercial Fishing Laws) and Part 473 (Commercial Fishing) of the Natural Resources and Environmental Protection Act to do the following:**

- **Allow the Department of Natural Resources (DNR) to suspend, abridge, extend, or modify a State law governing commercial fish by emergency order, if the Director of the DNR, in concurrence with the Natural Resources Commission, made scientific findings that an imminent danger existed to the protection, preservation, maintenance and harvesting of fish.**
- **Specify the length of time an emergency order could remain in effect.**
- **Allow certain pound and trap nets to be set at depth of no more than 150, instead of 80, feet.**
- **Require the DNR to issue a permit for a trawl to a commercial fisher if that fisher had been issued a permit for a trawl before January 1, 1970.**
- **Prohibit a person from taking whitefish from Lake Michigan or Lake Huron from November 1, instead of October 1, to December 10.**
- **Allow a designee of the DNR acting in compliance with a permit issued by the DNR to take fish for the purpose of fish culture and scientific investigation, to hold fish in order to take spawn from the fish, and to sell ripe or unripe fish to defray expenses incurred in taking, fertilizing, and planting spawn from the fish.**

#### Part 467; Modification of Commercial Fishing Laws

Currently, Part 467 specifies that notwithstanding any other Act or part to the contrary, any statute or law of the State governing commercial fishing may be suspended, abridged, extended, or modified by the DNR when, in its opinion, that action is necessary for the better protection, preservation, maintenance, and harvesting of the fish. The existing statutes and laws regulating commercial fishing must remain in full force and effect unless suspended, abridged, extended, or modified by order of the DNR in the manner provided under Part 467 or by subsequent acts of the Legislature. The bill would remove this language.

Instead, under the bill, notwithstanding any other Act or part to the contrary, if the Director of the DNR made scientific findings that an imminent danger existed to the protection, preservation, maintenance, and harvesting of fish, and the Commission concurred with the findings, the DNR could suspend, abridge, extend, or modify any State law governing commercial fishing by emergency order, subject to Section 46702 of the Act.

(Section 46702 of the Act specifies that the effective date of any order issued by the DNR under Part 467 must be no less than 30 days from and after the date of its issuance. Within 10 days after the date of its issuance, a copy of the order must be sent by first-class mail to all persons of record licensed under Part 473.)

An emergency order would remain in effect until the earliest of the following dates:

- The date an identical or similar rule was promulgated.
- The date an identical or similar bill was enacted into law.
- The date 180 days after the order was adopted.
- The date indicated in the emergency order.

#### Part 437; Commercial Fishing

Net Depth. Currently, Part 473 prohibits a person from possessing on a boat licensed under Part 473 or using in the waters of Lakes Michigan, Superior, Huron, and Erie, and the bays of those lakes, within the jurisdiction of the State, certain nets that are different from those specified in the Act.

Pound nets having meshes no less than 4-1/2 inches in the lifting pot, crib, or pocket and in the heart and tunnel, and having meshes not less than five inches in the lead, must be used for taking whitefish and lake trout. A pound net or any part of the webbing of the net may not be set in water that is more than 80 feet deep. Under the bill, the depth limit would be increased to 150 feet.

Trap nets having meshes no less than 4-1/2 inches in the lifting pot, crib, or pocket and in the heart and tunnel and having meshes not less than five inches in the lead must be used for taking whitefish or lake trout. These traps nests may not be used in any other waters except in Lakes Huron and Erie, and only in a manner that no trap net or any part of the webbing of the net is set at a depth of more than 80 feet. Under the bill, the depth limit would be increased to 150 feet.

Trap nets having meshes as described above and with no part of the lifting pot or crib over 15 feet in depth may be used to take whitefish and lake trout in Lakes Superior and Michigan in water of a depth not greater than 80 feet. The bill would increase that depth to 150 feet.

Trawls. Part 473 prohibits the licensure of a trawl of any kind. Under the bill, the DNR would have to issue a permit for a trawl to a commercial fisher if that commercial fisher had been issued a permit for a trawl before January 1, 1970.

Taking of Whitefish. A person is prohibited from taking whitefish in Lakes Huron and Michigan from October 1 to December 10. Under the bill, a person would be prohibited from taking whitefish from those lakes from November 1 to December 10.

Currently, the DNR may take fish in any manner, in any of the waters covered under Part 473, at any and all seasons of the year, for the purpose of fish culture and scientific investigation; may hold and hold ripe and unripe fish in order to take spawn from the fish; may sell all of those ripe and unripe fish; and may devote the proceeds of the sales exclusively toward defraying the expenses incurred in taking the fish and fertilizing and planting the spawn from the fish. The bill would extend the provision to a designee of the DNR who acted in compliance with a permit issued by the DNR.

MCL 324.46701 et al.

Legislative Analyst: Dana Adams

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.