

HOUSE BILL NO. 4149

February 04, 2021, Introduced by Reps. Damoose and Filler and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 48738 (MCL 324.48738), as amended by 2014 PA
541.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 48738. (1) ~~A person~~**An individual** who violates this part
2 or rules or orders issued to implement this part, if a penalty is
3 not otherwise provided for that violation in this section, is
4 guilty of a misdemeanor punishable by imprisonment for not more

1 than 90 days or a fine of not more than \$500.00, or both.

2 (2) ~~A person~~ **An individual** convicted of using dynamite,
3 nitroglycerin, any other explosive substance, lime, electricity, or
4 poison for the purpose of taking or killing fish, convicted of
5 using nets not authorized by law for taking game fish, or convicted
6 of buying or selling game fish or any parts of game fish is guilty
7 of a misdemeanor punishable by imprisonment for not more than 90
8 days or a fine of not less than \$250.00 or more than \$1,000.00, or
9 both.

10 (3) ~~A person~~ **An individual** who takes or possesses sturgeon in
11 violation of this part or rules or orders issued to implement this
12 part is guilty of a misdemeanor and ~~shall~~ **must** be punished by
13 imprisonment for not less than 30 days or more than 180 days and a
14 fine of not less than \$500.00 or more than \$2,000.00, or both, and
15 the costs of prosecution.

16 (4) ~~A person~~ **An individual** who knowingly violates section
17 48735(2) or (4) or a permit issued under section 48735(2) or (4)
18 with respect to a genetically engineered variant of a fish species
19 is guilty of a felony punishable by imprisonment for not more than
20 5 years or a fine of not more than \$250,000.00, or both. In
21 addition, the ~~person~~ **individual** is liable for any damages to the
22 natural resources resulting from the violation, including, but not
23 limited to, costs incurred to prevent or minimize ~~such~~ **those**
24 damages.

25 (5) **An individual who does either of the following is**
26 **responsible for a state civil infraction and may be ordered to pay**
27 **a civil fine of not more than \$150.00:**

28 (a) **Fails to attach the individual's name and address to tip-**
29 **ups in violation of section 48703(2).**

1 **(b) Fishes with more than the authorized number of lines in**
 2 **violation of section 48703(1) .**

3 **(6) ~~(5)~~** If a ~~person~~ **an individual** is convicted of a violation
 4 of this part or rules or orders issued to implement this part and
 5 it is alleged in the complaint and proved or admitted at trial or
 6 ascertained by the court at the time of sentencing that the ~~person~~
 7 **individual** has been previously convicted 3 or more times of a
 8 violation of this part within the 5 years immediately preceding the
 9 last violation of this part, the ~~person~~ **individual** is guilty of a
 10 misdemeanor punishable by imprisonment for not more than 90 days or
 11 a fine of not more than \$1,000.00, or both, and the costs of
 12 prosecution. This subsection does not apply to the following
 13 violations:

14 (a) Failing to possess or display a valid fishing license
 15 issued ~~pursuant to~~ **under** part 435.

16 (b) Taking or possessing an overlimit of bluegill, sunfish,
 17 crappie, perch, or nongame fish.

18 (c) Taking or possessing not more than 5 undersized fish.

19 (d) Fishing with ~~too many~~ **more than the authorized number of**
 20 lines.

21 (e) Failing to attach the ~~person's~~ **individual's** name and
 22 address to tip-ups or minnow traps.

23 (f) Fishing with lines not under immediate control.

24 **(7) ~~(6)~~** In addition to the penalties provided in this section,
 25 a fishing license issued to a ~~person~~ **an individual** sentenced
 26 ~~pursuant to~~ **under** subsection (2), (3), (4), or ~~(5)~~ **shall** ~~(6) must~~
 27 be revoked, and the ~~person shall~~ **individual must** not be issued a
 28 license during the remainder of the year in which convicted or
 29 during the next 3 succeeding license years.

1 (8) ~~(7)~~ Subject to subsection ~~(8)~~, ~~(9)~~, if any permit or
2 license under this part is ordered to be suspended or revoked under
3 section 41309 and if the department maintains a database of
4 suspensions or revocations of permits or licenses under this part,
5 the department shall not issue a permit or license under this part
6 to the ~~person~~ **individual** for the period provided in the order.

7 (9) ~~(8)~~ If a permit or license under this part is ordered to
8 be suspended under section 41309, the suspension remains in effect
9 until all of the following occur:

10 (a) The suspension period set forth in the court order has
11 elapsed.

12 (b) The ~~person~~ **individual** pays the department a reinstatement
13 fee of \$125.00.

14 (10) ~~(9)~~ Unless ~~a person's~~ **an individual's** permit or license
15 is otherwise suspended, revoked, or denied, the permit or license
16 is immediately reinstated on satisfaction of the requirements of
17 subsection ~~(8)~~ ~~(9)~~.