

HOUSE BILL NO. 5285

August 18, 2021, Introduced by Reps. Anthony, Weiss, Aiyash, Hood, Brixie and Brabec and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 41401 (MCL 324.41401), as added by 2018 PA 671,
and by adding sections 41404, 41405, 41406, and 41407; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 41401. As used in this part:
- 2 (a) "Aquatic invasive plant species" means an aquatic plant
- 3 species, hybrid, or genotype that is not native and whose

1 introduction causes, or is likely to cause, economic or
2 environmental harm or harm to human health.

3 (b) "Aquatic invasive species" means an aquatic species that
4 is not native and whose introduction causes, or is likely to cause,
5 economic or environmental harm or harm to human health. Aquatic
6 invasive species includes, but is not limited to, an aquatic
7 invasive plant species.

8 (c) "Council" means the aquatic invasive species sales
9 advisory council created in section 41404.

10 (d) ~~(b)~~ "Department" means the department of ~~environmental~~
11 ~~quality~~. **environment, Great Lakes, and energy.**

12 (e) ~~(c)~~ "Eligible applicant" means a person that meets the
13 requirements under section 41402.

14 (f) ~~(d)~~ "Eligible project" means a project that meets the
15 requirements under section 41402.

16 (g) ~~(e)~~ "Fund" means the inland lake aquatic invasive plant
17 species control and eradication fund created in section 41403.

18 (h) ~~(f)~~ "Grant" means an inland lake aquatic invasive plant
19 species control or eradication grant issued through the program.

20 (i) ~~(g)~~ "Program" means the inland lake aquatic invasive plant
21 species control and eradication program established in section
22 41402.

23 **Sec. 41404. (1) The aquatic invasive species sales advisory**
24 **council is created within the department.**

25 (2) The council shall consist of the following members:

26 (a) The director of the department or his or her designee.

27 (b) The director of the department of natural resources or his
28 or her designee.

29 (c) The director of the department of agriculture and rural

1 development or his or her designee.

2 (d) The director of the state transportation department or his
3 or her designee.

4 (e) The attorney general or his or her designee.

5 (f) The following members appointed by the governor:

6 (i) A representative of the United States Department of the
7 Interior, United States Fish and Wildlife Service.

8 (ii) A representative of the aquarium industry.

9 (iii) A representative of an association of Great Lakes shipping
10 companies.

11 (iv) A representative of the horticulture industry.

12 (v) A representative of a regional association of businesses
13 that has an international port operator as a member.

14 (vi) A representative of a statewide private conservation
15 organization.

16 (vii) A representative of the Great Lakes Commission.

17 (viii) A representative of a statewide association of
18 businesses.

19 (ix) A representative of an association of Indian tribes.

20 (x) A representative of a public university with an aquatic
21 research center.

22 (xi) A representative of a regional or national private
23 conservation organization.

24 (xii) A representative of an association of industries in the
25 Great Lakes region.

26 (xiii) A representative of a statewide association of local
27 units of government.

28 (xiv) A representative of a statewide association of

1 aquaculture businesses.

2 (xv) A representative of a statewide nursery and landscape
3 association.

4 (3) The members first appointed to the council must be
5 appointed within 30 days after the effective date of this section.

6 (4) Members of the council shall serve for the life of the
7 council.

8 (5) If a vacancy occurs on the council, the vacancy must be
9 filled in the same manner as the original appointment.

10 (6) The governor may remove a member of the council for
11 incompetence, dereliction of duty, malfeasance, misfeasance, or
12 nonfeasance in office, or any other good cause.

13 (7) The first meeting of the council shall be called by the
14 director of the department. At the first meeting, the council shall
15 elect from among its members a chairperson and other officers as it
16 considers necessary or appropriate. After the first meeting, the
17 council shall meet at least quarterly, or more frequently at the
18 call of the chairperson or if requested by 3 or more members.

19 (8) A majority of the members of the council constitute a
20 quorum for the transaction of business at a meeting of the council.
21 The council may adopt bylaws governing its organization and
22 procedure. Unless otherwise provided in the council's bylaws, a
23 majority of the members present and serving are required for
24 official action of the council.

25 (9) The business that the council may perform must be
26 conducted at a public meeting of the council held in compliance
27 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

28 (10) A writing prepared, owned, used, in the possession of, or
29 retained by the council in the performance of an official function

1 is subject to the freedom of information act, 1976 PA 442, MCL
2 15.231 to 15.246.

3 (11) Members of the council shall serve without compensation.
4 However, members of the council may be reimbursed for their actual
5 and necessary expenses incurred in the performance of their
6 official duties as members of the council.

7 (12) The council may appoint technical advisory committees of
8 individuals with relevant specific technical, scientific, or legal
9 expertise, or relevant expertise in a trade listed in section
10 41405, or may appoint such individuals as adjunct members of the
11 council without voting rights.

12 Sec. 41405. (1) Within 240 days of the effective date of the
13 amendatory act that added this section, the council shall submit a
14 report with recommendations for legislation or rules to combat the
15 online sale of aquatic invasive species. The council shall submit
16 the report to the governor, the senate majority leader, the speaker
17 of the house of representatives, and the standing committees of the
18 senate and house of representatives with primary responsibility for
19 natural resources, conservation, agriculture, and commerce. In
20 preparing the report, the council shall review the aquatic invasive
21 species laws of this state and other jurisdictions, including the
22 other Great Lakes states.

23 (2) In the report under subsection (1), the council shall make
24 recommendations regarding all of the following:

25 (a) Issues unique to online sales of aquatic invasive species
26 that require prevention efforts different from those applicable to
27 sales at physical locations.

28 (b) Establishing a program for aquatic species sold online to
29 do both of the following:

1 (i) Certify that prohibited species or restricted species as
2 those terms are defined in section 41301 that are aquatic are not
3 sold for delivery into this state.

4 (ii) Certify that permitted aquatic species sold for delivery
5 into this state are free of disease, insect pests, and incidental
6 contamination by other species.

7 (c) Acquiring and deploying software to combat or prevent the
8 online sale of aquatic invasive species for delivery into this
9 state.

10 (d) Methods for addressing online retail marketplaces that
11 allow the sale of aquatic invasive species for delivery into this
12 state.

13 (e) An education program on safe online sales practices
14 directed to both buyers and sellers of aquatic species in trade.

15 (f) Connecting regulations and education on online sales of
16 aquatic species to the protection of this state's natural resources
17 as a component of the Pure Michigan tourism advertising campaign.

18 (g) Financial and other resources for implementing
19 recommendations under this subsection.

20 (h) Proposals for collaborating with other states, including
21 other Great Lakes states, and Canadian provinces to create or
22 strengthen national or regional programs or coordinate state and
23 provincial programs to achieve the goal set forth in subsection
24 (1).

25 (3) In preparing the report required by this section, the
26 council shall consult with representatives of organizations and
27 businesses that deal with organisms in trade, including the
28 aquarium, bait, pet, water garden, horticulture, aquaculture, and
29 shipping trades.

1 Sec. 41406. To facilitate coordination and minimize
2 duplication in fulfilling its duties, the council shall do all of
3 the following:

4 (a) Consider relevant recommendations and reports by other
5 state, regional, federal, provincial, Canadian, and international
6 bodies and collaborations.

7 (b) Regularly consult with the Great Lakes Commission and the
8 department of environment, Great Lakes, and energy, including the
9 office of the Great Lakes.

10 Sec. 41407. Sections 41404, 41405, and 41406 and this section
11 are repealed effective 4 years after the effective date of the
12 amendatory act that added this section.