

HOUSE BILL NO. 5359

October 05, 2021, Introduced by Reps. Cherry, Howell, Martin, Sowerby, Wakeman, Aiyash and Cambensy 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,"
(MCL 324.101 to 324.90106) by adding sections 48714a and 48714b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 48714a. (1) Beginning March 1, 2021, an individual shall
- 2 not act as a sport fishing guide on an inland lake or stream, as
- 3 that term is defined in section 30101, unless that individual
- 4 possesses both of the following:
- 5 (a) A valid license issued under subsection (2).

1 (b) A valid fishing license.

2 (2) To obtain a license to act as a sport fishing guide, an
3 individual shall submit the application fee described in section
4 48714b and an application to the department. The application must
5 be in a format determined by the department. The department shall
6 only grant a license to an individual if the department determines
7 all of the following:

8 (a) That the individual holds a valid certification in first
9 aid and cardiopulmonary resuscitation issued by the American Red
10 Cross, the American Heart Association, or a comparable organization
11 as approved by the department, and that the individual can provide
12 to the department, upon request, a copy of the certification.

13 (b) The individual has a valid, lawfully obtained Michigan
14 driver license issued under the Michigan vehicle code, 1949 PA 300,
15 MCL 257.1 to 257.923, an official state personal identification
16 card issued under 1972 PA 222, MCL 28.291 to 28.300, or a sportcard
17 issued under section 43522.

18 (c) The individual has not been convicted of any of the
19 following within the past 3 years:

20 (i) A violation of any of the following:

21 (A) Section 40112.

22 (B) Section 40118(2), (3), (4), (5), (6), (14), (15), (16), or
23 (17).

24 (C) Section 41105.

25 (D) Section 44524.

26 (E) Section 48738(2) or (3).

27 (F) Section 48739(1), (2), or (3).

28 (ii) Any felony.

29 (iii) A violation of a law of a participating state

1 substantially corresponding to a violation described in
2 subparagraphs (i) to (ii).

3 (d) The individual is eligible to purchase a license for the
4 fish species for which the individual is acting as a sport fishing
5 guide.

6 (e) Unless the individual indicates in writing to the
7 department that sport fishing guiding activities will occur without
8 the use of a watercraft, the individual has either a valid state
9 pilot's license issued by the department under section 44510 or a
10 valid captain's license issued by the United States Coast Guard.

11 (3) An individual shall not act as a sport fishing guide
12 unless that individual, when acting as a sport fishing guide,
13 carries a basic first aid kit that includes, but is not limited to,
14 all of the following:

15 (a) Tourniquet, chest seals, and compression gauze.

16 (b) CPR mask.

17 (c) Trauma shears.

18 (d) Sterile eyewash.

19 (e) Mylar emergency blanket.

20 (f) Bandages.

21 (g) Moleskin.

22 (h) Tweezers.

23 (4) An individual shall not act as a sport fishing guide on
24 commercial forestland.

25 (5) A license issued under this section is valid for 3 years
26 after the date it is issued. The department shall allow an
27 individual to obtain a public boating access entry pass required
28 under section 78105(3) with any sport fishing guide license issued
29 under this section for each year that the sport fishing guide

1 license is valid. The department may revoke a license under this
2 section, after notice and opportunity for hearing pursuant to the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328, for either of the following reasons:

5 (a) The department determines that an individual is not
6 eligible to hold a license under this section.

7 (b) The individual provides false information under this
8 section.

9 (6) A sport fishing guide shall file monthly reports to the
10 department, in a format determined by the department, that contain
11 information related to all of the following:

12 (a) The species of fish for which the individual acted as a
13 sport fishing guide.

14 (b) The number of clients that the sport fishing guide had for
15 each fishing trip and the number of hours fished for each fishing
16 trip.

17 (c) The number of fish caught and released and the number of
18 fish harvested by the clients of the sport fishing guide.

19 (d) The bodies of water where the individual acted as a sport
20 fishing guide.

21 (e) Any additional information the department requires
22 regarding the fishing activity or biological characteristics of the
23 fish caught and released or harvested.

24 (f) For any month that the guide did not act as a sport
25 fishing guide, a report stating that the individual did not act as
26 a sport fishing guide during that month.

27 (7) If an individual fails to file a monthly report under
28 subsection (6) and that report remains unfiled for more than 90
29 days after the date it is due, the individual is subject to the

1 following:

2 (a) For a first violation, a \$100.00 civil fine.

3 (b) For a second violation, a \$200.00 civil fine.

4 (c) For a third violation, a \$500.00 civil fine.

5 (d) For a fourth violation, after notice and an opportunity
6 for hearing pursuant to the administrative procedures act of 1969,
7 1969 PA 306, MCL 24.201 to 24.328, a revocation of the individual's
8 license under this section.

9 (8) Information submitted in reports under subsection (6) is
10 confidential and is exempt from disclosure under the freedom of
11 information act, 1976 PA 442, MCL 15.231 to 15.246.

12 (9) The department shall annually post on its website all of
13 the following:

14 (a) The number of applications submitted under subsection (2)
15 in the previous year.

16 (b) The number of licenses issued under this section in the
17 previous year.

18 (c) A list of individuals who have valid licenses under this
19 section.

20 (10) An individual shall carry his or her sport fishing guide
21 license and shall exhibit the license upon the demand of a
22 conservation officer, a peace officer, a tribal conservation
23 officer, a park and recreation officer if sport fishing guiding
24 takes place on property regulated under part 741 or 781, or the
25 owner or occupant of any land where the individual is acting as a
26 sport fishing guide.

27 (11) An individual who acts as a sport fishing guide without a
28 valid license issued under this section or who acts as a sport
29 fishing guide on commercial forestland is subject to a civil fine

1 of not more than \$500.00. An individual who acts as a sport fishing
2 guide without a valid license issued under this section or who acts
3 as a sport fishing guide on commercial forestland a second or
4 subsequent time is subject to a civil fine of not more than
5 \$1,000.00. A civil fine collected under this subsection or
6 subsection (7) must be deposited in the game and fish protection
7 account established in section 2010.

8 (12) An individual who provides false information to the
9 department under this section is subject to a civil fine of not
10 more than \$500.00 and the costs of prosecution.

11 (13) As used in this section:

12 (a) "Consideration of value" means an economic benefit,
13 inducement, right, or profit, including monetary payment accruing
14 to an individual or person. Consideration of value does not include
15 a voluntary sharing of the actual expenses of the guiding activity,
16 by monetary contribution or donation of fuel, food, beverage, or
17 other supplies.

18 (b) "Participating state" means that term as defined in
19 section 1615.

20 (c) "Sport fishing guide" means an individual who, for a fee
21 or other consideration, provides assistance to another individual
22 in pursuing, capturing, catching, killing, taking, or attempting to
23 take fish. Sport fishing guide does not include any of the
24 following:

25 (i) An employee or member of an organization conducting a not-
26 for-profit activity to recruit, retain, or promote fishing, while
27 providing assistance to another individual in taking fish during
28 that activity.

29 (ii) The owner of private land while providing assistance to

1 another individual in pursuing, capturing, catching, killing,
2 taking, or attempting to take fish on that private land.

3 (iii) An individual who complies with subsection (2)(c) and who
4 is working under the direct supervision of a licensed sport fishing
5 guide. As used in this subparagraph, "direct supervision" means
6 that visual and vocal contact is constantly maintained between the
7 individual and the licensed sport fishing guide.

8 Sec. 48714b. (1) Except as otherwise provided in this section,
9 the department shall charge a resident applying for a sport fishing
10 guide license under section 48714a an application fee of \$150.00.
11 The department shall charge a nonresident applying for a sport
12 fishing guide license under section 48714a an application fee of
13 \$300.00. The operator of a charter boat licensed under part 445 is
14 not required to pay an application fee under this section. Money
15 collected under this subsection must be deposited in the game and
16 fish protection account established in section 2010.

17 (2) If an individual elects to obtain a public boating access
18 entry pass with the sport fishing guide license under section
19 48714a, the department shall charge that individual a \$300.00 fee.
20 Money collected for a public boating access entry pass under this
21 subsection must be deposited in the waterways account established
22 in section 2035.

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.

25 Enacting section 2. This amendatory act does not take effect
26 unless all of the following bills of the 101st Legislature are
27 enacted into law:

28 (a) Senate Bill No. ____ or House Bill No. 5358(request no.
29 01367'21).

1 (b) Senate Bill No. ____ or House Bill No. 5360 (request no.
2 01369'21).