

HOUSE BILL NO. 6556

December 07, 2022, Introduced by Rep. Rabhi 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 sections 41301, 41302, and 41303 (MCL 324.41301,
324.41302, and 324.41303), as amended by 2018 PA 451.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 41301. (1) As used in this part:
- 2 (a) "Amphibian" means any frog, toad, or salamander of the
- 3 class Amphibia.

(b) "Aquatic", except as used in subdivision ~~(g)~~, ~~(r)~~, describes an amphibian, crustacean, fish, mollusk, reptile, wiggler, or aquatic plant.

(c) "Aquatic plant" means a submergent, emergent, obligate wetland, facultative wetland, or floating-leaf plant or a fragment thereof, including a seed or other propagule. Aquatic plant does not include wild rice (*Zizania aquatica* or *Zizania palustris*).

(d) "Crustacean" means freshwater crayfish, shrimp, or prawn of the order Decapoda.

(e) "Genetically engineered" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, or the progeny of such an organism.

(f) "Introduce", with reference to an organism, means to knowingly and willfully stock, place, plant, release, or allow the release of the organism in this state at any specific location where the organism is not already naturalized.

(g) "MISIN" means the Midwest Invasive Species Information Network, a regional effort to provide early detection and rapid response to invasive species that is led by researchers in Michigan State University's department of entomology along with partners from the Midwest region, or a successor organization.

(h) ~~(g)~~ "Mollusk" means any mollusk of the classes Bivalvia and Gastropoda.

(i) ~~(h)~~ "Native" means indigenous to any location in this state.

(j) ~~(i)~~ "Nonaquatic" describes a bird, insect other than a wiggler, or mammal.

(k) ~~(j)~~ "Nonnative" means not native.

(l) ~~(k)~~ "Prohibited species", subject to section 41302, means any of the following:

(i) Any of the following prohibited species of aquatic plant, including a hybrid or genetically engineered variant of the species:

(A) African oxygen weed (*Lagarosiphon major*).

(B) Brazilian elodea (*Egeria densa*).

(C) Cyllindro (*Cylindrospermopsis raciborskii*).

(D) European frogbit (*Hydrocharis morsus-ranae*).

(E) Fanwort (*Cabomba caroliniana*).

(F) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or *herzogii*).

(G) Hydrilla (*Hydrilla verticillata*).

(H) Parrot's feather (*Myriophyllum aquaticum*).

(I) Starry stonewort (*Nitellopsis obtusa*).

(J) Water chestnut (*Trapa natans*).

(K) Yellow floating heart (*Nymphoides peltata*).

(ii) Any of the following prohibited species of terrestrial plant, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:

(A) Giant hogweed (*Heracleum mantegazzianum*).

(B) Japanese knotweed (*Fallopia japonica*).

(iii) The following prohibited bird species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant: Eurasian collared dove (*Streptopelia decaocto*).

(iv) The following prohibited crustacean species, including a hybrid or genetically engineered variant of the species or an egg

of the species or of a hybrid or genetically engineered variant:
 rusty crayfish (*Faxonious resticus*, formerly *Orconectes rusticus*).

(v) Any of the following prohibited fish species, including a
 hybrid or genetically engineered variant of the species or an egg
 of the species or of a hybrid or genetically engineered variant:

(A) Bighead carp (*Hypophthalmichthys nobilis*).

(B) Bitterling (*Rhodeus sericeus*).

(C) Black carp (*Mylopharyngodon piceus*).

(D) Eurasian ruffe (*Gymnocephalus cernuus*).

(E) Grass carp (*Ctenopharyngodon idellus*).

(F) Ide (*Leuciscus idus*).

(G) Japanese weatherfish (*Misgurnus anguillicaudatus*).

(H) Round goby (*Neogobius melanostomus*).

(I) Rudd (*Scardinius erythrophthalmus*).

(J) Silver carp (*Hypophthalmichthys molitrix*).

(K) A fish of the snakehead family (family *Channidae*).

(L) Tench (*Tinca tinca*).

(M) Tubenose goby (*Proterorhinus marmoratus*).

(vi) Any of the following prohibited insect species, including
 a hybrid or genetically engineered variant of the species or an egg
 of the species or of a hybrid or genetically engineered variant:

(A) Asian longhorned beetle (*Anoplophora glabripennis*).

(B) Emerald ash borer (*Agrilus planipennis*).

(vii) The following prohibited mammal species, including a
 hybrid or genetically engineered variant: nutria (*Myocastor*
coypus).

(viii) Any of the following prohibited mollusk species,
 including a hybrid or genetically engineered variant of the species
 or an egg of the species or of a hybrid or genetically engineered

1 variant:

2 (A) Brown garden snail (*Helix aspersa*).

3 (B) Carthusian snail (*Monacha cartusiana*).

4 (C) Giant African snail (*Achatina fulica*).

5 (D) Girdled snail (*Hygromia cinctella*).

6 (E) Heath snail (*Xerolenta obvia*).

7 (F) Wrinkled dune snail (*Candidula intersecta*).

8 (m) ~~(l)~~—"Recombinant nucleic acid techniques" means laboratory
9 techniques through which genetic material is isolated and
10 manipulated in vitro and then inserted into an organism.

11 (n) ~~(m)~~—"Relevant commission", "relevant department", or
12 "relevant director" means the following:

13 (i) With respect to a species other than a plant or insect, but
14 including a wiggler, the natural resources commission, department
15 of natural resources, or the director of the department of natural
16 resources, respectively.

17 (ii) With respect to a plant species or insect species, other
18 than a wiggler, the commission of agriculture and rural
19 development, the department of agriculture and rural development,
20 or the director of the department of agriculture and rural
21 development, respectively.

22 (o) ~~(n)~~—"Reptile" means any turtle, snake, or lizard of the
23 class Reptilia.

24 (p) ~~(o)~~—"Restricted species", subject to section 41302, means
25 any of the following:

26 (i) Any of the following restricted species of aquatic plant,
27 including a hybrid or genetically engineered variant of the
28 species:

29 (A) Curly leaf pondweed (*Potamogeton crispus*).

(B) Eurasian watermilfoil (*Myriophyllum spicatum*).

(C) Flowering rush (*Butomus umbellatus*).

(D) Phragmites or common reed (*Phragmites australis*).

(E) Purple loosestrife (*Lythrum salicaria*), except that cultivars of purple loosestrife developed and recognized to be sterile and approved by the director of the department of agriculture and rural development under section 16a of the insect pest and plant disease act, 1931 PA 189, MCL 286.216a, are not a restricted species.

(ii) The following restricted species of terrestrial plant, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant: autumn olive (*Elaeagnus umbellata*).

(iii) Any of the following restricted mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:

(A) Quagga mussel (*Dreissena bugensis*).

(B) Zebra mussel (*Dreissena polymorpha*).

(q) ~~(p)~~ "Watercraft" means any conveyance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat.

(r) ~~(q)~~ "Wiggler" means an aquatic egg, nymph, or larva of an insect.

(2) For the purposes of this part:

(a) A person is not considered to possess a live organism simply because the organism is present on land or in waters owned by that person unless the person has knowingly introduced that live

1 organism on that land or in those waters.

2 (b) A person is not considered to possess a live organism if
3 the organism was obtained from the environment and the person only
4 possesses the organism at the specific location at which it was
5 obtained from the environment.

6 (c) A person is not considered to possess a live organism if
7 the possession is for the purpose of promptly destroying the
8 organism.

9 Sec. 41302. (1) The relevant commission may by order add to or
10 delete a species from the list of prohibited species or restricted
11 species under section 41301. Before the natural resources
12 commission issues an order under this subsection, it shall consult
13 with the department of agriculture and rural development. Before
14 the commission of agriculture and rural development issues an order
15 under this subsection, it shall consult with the department of
16 natural resources. After the consultation, and at least 30 days
17 before the relevant commission issues the order, the relevant
18 department shall post a copy of the proposed order on the relevant
19 department's website and shall submit a copy of the proposed order
20 to all of the following:

21 (a) The legislature.

22 (b) The standing committees of the senate and house of
23 representatives with primary responsibility for any of the
24 following:

25 (i) Agricultural issues.

26 (ii) Environmental issues.

27 (iii) Natural resources issues.

28 (2) The relevant commission shall list a nonaquatic species as
29 a prohibited species or restricted species if the relevant

commission determines the following **after considering a review by the relevant department**:

(a) For a nonaquatic prohibited species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is not naturalized in this state or, if naturalized, is not widely distributed in this state.

(iii) Based on a risk assessment, any of the following apply:

(A) The organism has the potential to harm human health or ~~to harm~~ natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are not available.

(b) For a nonaquatic restricted species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is naturalized and widely distributed in this state.

(iii) Based on a risk assessment, any of the following apply:

(A) The organism has the potential to harm human health or ~~to harm~~ natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are **not** available.

(3) The relevant commission shall list an aquatic species as a prohibited species or restricted species if the relevant commission determines the following ~~based on~~ **after considering** a review by the relevant department:

(a) For an aquatic prohibited species, all of the following requirements are met:

(i) The organism is not native or is genetically engineered.

1 (ii) The organism is not naturalized in this state or, if
2 naturalized, is not widely distributed.

3 (iii) Based on a risk assessment, any of the following apply:

4 (A) The organism has the potential to harm human health or ~~to~~
5 ~~severely harm~~ natural, agricultural, or silvicultural resources.

6 (B) Effective management or control techniques for the
7 organism are not available.

8 (b) For an aquatic restricted species, all of the following
9 requirements are met:

10 (i) The organism is not native.

11 (ii) The organism is naturalized in this state.

12 (iii) Based on a risk assessment, any of the following apply:

13 (A) The organism has the potential to harm human health or ~~to~~
14 ~~harm~~ natural, agricultural, or silvicultural resources.

15 (B) Effective management or control techniques for the
16 organism are **not** available.

17 **(4) The department of natural resources or the department of**
18 **agriculture and rural development shall review for listing under**
19 **this section each species that is listed by MISIN as an invasive**
20 **species, that has not previously been reviewed for listing under**
21 **this section, and for which that department is the relevant**
22 **department. For those species listed by MISIN as of the effective**
23 **date of the amendatory act that added this subsection, the relevant**
24 **department shall perform 1/4 of its required reviews by June 1,**
25 **2024, and an additional 1/4 by June 1 of each of the 3 subsequent**
26 **years. For each species initially listed by MISIN after the**
27 **effective date of the amendatory act that added this subsection,**
28 **the relevant department shall review the species within 90 days**
29 **after it is listed by MISIN. Not later than 60 days after the**

1 relevant department is required to complete a review under this
2 subsection, the relevant commission shall list or determine not to
3 list the species under this section.

4 (5) ~~(4)~~—The following apply to a review by the relevant
5 department of an aquatic species for listing as a prohibited
6 species or restricted species under subsection (3):

7 (a) The relevant department shall review each aquatic animal
8 listed or delisted as injurious wildlife under the Lacey act, 16
9 USC 3371 to 3378 and 18 USC 42, and each aquatic plant designated
10 or removed from designation as a noxious weed under the plant
11 protection act, title IV of Public Law 106-224, for listing or
12 delisting as a prohibited species or restricted species within 180
13 days after the change in federal listing or designation.

14 (b) The relevant department shall review each aquatic species
15 that has the potential to harm human health or natural,
16 agricultural, or silvicultural resources for listing as a
17 prohibited species or restricted species even if the species is not
18 currently on either federal list described in subdivision (a).

19 (c) The relevant department may review other aquatic species
20 for listing as prohibited or restricted species.

21 (6) ~~(5)~~—The relevant director may issue an emergency order
22 designating an organism as a prohibited species or restricted
23 species if the organism has the potential to harm human health or
24 to severely harm natural, agriculture, or silvicultural resources.
25 An emergency order is effective for 90 days or a shorter period if
26 specified in the order. The relevant department shall do all of the
27 following:

28 (a) Post a proposed emergency order on its website and
29 otherwise publicize the proposed emergency order in a manner that

1 ensures that interested persons are provided notice of the proposed
2 emergency order, the reasons for the emergency order, and the
3 proposed effective date of the order.

4 (b) Provide a copy of the proposed emergency order to each
5 member of the standing committees of the senate and the house of
6 representatives that consider legislation pertaining to
7 conservation, the environment, recreation, tourism, or natural
8 resources.

9 (c) Post the final emergency order on its website.

10 (7) ~~(6)~~—The relevant department may issue an order setting
11 forth the conditions under which naturalized organisms of an
12 aquatic restricted species may be harvested, possessed, and
13 transported.

14 Sec. 41303. (1) A person shall not knowingly possess a live
15 organism if the organism is a prohibited species or restricted
16 species, except under 1 or more of the following circumstances:

17 (a) The person intends to present a specimen of the prohibited
18 species or restricted species, for identification or similar
19 purposes, to a person who is a certified applicator or registered
20 applicator under part 83, to a public or private institution of
21 higher education, or to the department of natural resources, the
22 department of agriculture and rural development, or any other
23 state, local, or federal agency with responsibility for the
24 environment, natural resources, or agriculture.

25 (b) The person has been presented with a specimen of a
26 prohibited species or restricted species for identification or
27 similar purposes under subdivision (a).

28 (c) The person possesses the prohibited species or restricted
29 species in conjunction with otherwise lawful activity to eradicate

1 or control the prohibited species or restricted species.

2 (d) The possession is pursuant to a permit issued for
3 education or research purposes by the relevant department under
4 section 41306 or, if the prohibited species or restricted species
5 is a plant species or an insect other than a wiggler, by the United
6 States Department of Agriculture.

7 (e) The species is an aquatic restricted species and the
8 person possesses the species in compliance with an order under
9 section ~~41302(6)~~. **41302(7)**.

10 (2) A person described in subsection (1)(b) or (c) shall
11 notify the department of natural resources, the department of
12 agriculture and rural development, or the department of
13 environmental quality if the prohibited species or restricted
14 species was found at a location where it was not previously known
15 to be present.