

# SENATE BILL NO. 251

March 17, 2021, Introduced by Senators MCBROOM, BUMSTEAD, DALEY, LAUWERS, STAMAS and VANDERWALL and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 46701, 47309, 47311, and 47315 (MCL 324.46701, 324.47309, 324.47311, and 324.47315), as added by 1995 PA 57.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 46701. **(1)** Notwithstanding any other act or part to the  
2       contrary, ~~any statute or law of this state governing commercial~~  
3       ~~fishing may be suspended, abridged, extended, or modified by the~~  
4       ~~department when, in the opinion of the department, that action is~~  
5       ~~necessary for the better if the director of the department of~~  
6       **natural resources makes scientific findings that an imminent danger**

**exists to the** protection, preservation, maintenance, and harvesting  
of the fish. ~~The existing statutes and laws regulating commercial  
fishing shall remain in full force and effect unless suspended,  
abridged, extended, or modified by order of the department in the  
manner provided in this part or by subsequent acts of the  
legislature.~~ **fish and the commission concurs with the findings, the  
department may suspend, abridge, extend, or modify any law of this  
state governing commercial fishing by emergency order, subject to  
section 46702.**

**(2) An emergency order adopted under subsection (1) remains in  
effect until the earliest of the following dates:**

- (a) The date an identical or similar rule is promulgated.**
- (b) The date an identical or similar bill is enacted into law.**
- (c) The date 180 days after the order is adopted.**
- (d) The date set forth in the emergency order.**

Sec. 47309. A person shall not possess on any boat licensed  
under this part or use in the waters of Lakes Michigan, Superior,  
Huron, and Erie, and the bays of those lakes, within the  
jurisdiction of this state, any pound or trap net, gill net, seine,  
or any fixed, set, or movable net of any kind or description, the  
meshes of which are different than the following:

**(a)** Gill nets with meshes of not less than 4-1/2 inches shall  
be used for the taking of whitefish, lake trout, and yellow  
pickerel. In Lake Erie, the nets shall have meshes not less than 4-  
3/4 inches. The nets shall be set not nearer than 20 rods from the  
shore of the mainland fronting Lake Superior and its bays. The nets  
shall be set not nearer than 20 rods from the shore of the mainland  
fronting Lake Michigan southerly from Seven Mile point, Emmet  
county, during the months of March, April, and May. There shall be

1 no nets, except gill nets, of any kind with mesh larger than 2-3/4  
2 inches set in the waters of Lake Superior within a radius of 50  
3 miles of the village of Houghton, Michigan, during the period  
4 between October 10 and November 4, except by permit from the  
5 department for the taking of spawn from trout for the fish  
6 hatcheries.

7 (b) Gill nets with meshes of not less than 2-1/2 inches or  
8 more than 2-3/4 inches may be set in water of any depth, and gill  
9 nets with meshes of not less than 2-1/2 inches or more than 3  
10 inches may be set in waters not exceeding 100 feet in depth, for  
11 the purpose of taking herring, chubs, perch, and pilot fish,  
12 commonly called menominees, wherever and whenever they will not  
13 take to exceed 10% by weight of other fish, such percentage to be  
14 determined by the department, by inspection of the fish taken in  
15 the nets. All uninjured fish, except herring, chubs, perch, and  
16 pilot fish, shall be returned to the waters from which they were  
17 taken with as little injury as possible, by the persons lifting the  
18 nets; all sound, undersized, and dead fish found in the nets are  
19 the property of the state, and shall not be sold or disposed of,  
20 but shall be dressed and brought in and delivered immediately to  
21 the department at the fishing port of the person taking the fish.  
22 The sound, undersized, and dead fish shall be then disposed of by  
23 the department. If more than 10% of fish other than herring, chubs,  
24 perch, and pilot fish are taken, then all of the other fish shall  
25 be disposed of by the department. An angler may have in his or her  
26 possession, not to exceed in quantity the percentage allowed of  
27 lake trout, whitefish, yellow pickerel, perch, or suckers, of a  
28 weight or length less than established by this part, which are  
29 caught in 2-1/2 inch to 2-3/4 inch or 2-1/2 inch to 3 inch mesh

1 gill nets, as provided for in this subsection, but the same may be  
2 shipped and disposed of only under the direction of the department.  
3 All undersized fish taken over under this section shall be disposed  
4 of by the department to state, county, or charitable institutions.  
5 Parties handling the fish shall be paid not more than 3 cents per  
6 pound for boxing, packing, and icing the fish. The department shall  
7 remove or cause to be removed any of the nets if, from the  
8 inspection provided in this section, the department determines that  
9 the nets are taking more fish of species other than herring, chubs,  
10 perch, and pilot fish than allowed by this section.

11 (c) Gill nets with meshes of not less than 2-1/4 inches or  
12 more than 2-3/4 inches may be used to take blue back herring in the  
13 waters of Lake Superior and Whitefish bay, and those waters of the  
14 straits of Mackinac bounded on the Lake Huron end by a line drawn  
15 from the southernmost tip of St. Martin point, Mackinac county, to  
16 the westernmost tip of Lime Kiln point on Bois Blanc island, thence  
17 in a southerly direction to the northernmost tip of Point Au Sable  
18 in T 38 N, R 2 W, Cheboygan county, and bounded on the Lake  
19 Michigan end by a line drawn from the southernmost tip of Seul  
20 Croix point in Schoolcraft county in an easterly direction to the  
21 Lansing shoal lighthouse, thence to the White shoal lighthouse,  
22 thence in a southeasterly direction to the westernmost tip of  
23 Waugoshance point in Emmet county, and Green bay of Lake Michigan,  
24 as defined in section 47311, wherever they will not interfere with  
25 or take whitefish or lake trout or any other fish protected under  
26 the laws of this state.

27 (d) The department may issue permits to allow the use of gill  
28 nets having meshes not less than 1-1/2 inches or more than 1-3/4  
29 inches for taking smelt and alewife for commercial purposes under

1 rules and regulations as the department prescribes.

2 (e) Gill nets with meshes of not less than 1-1/4 inches or  
3 more than 1-3/4 inches may be used to secure bait for use in  
4 baiting hook lines, if the nets will not take undersized fish.

5 (f) Pound nets having meshes not less than 4-1/2 inches in the  
6 lifting pot, crib, or pocket and in the heart and tunnel, and  
7 having meshes not less than 5 inches in the lead, shall be used for  
8 taking whitefish and lake trout. In the pound nets, meshes not more  
9 than 3-1/2 inches may be used in 1 side of the pot or in the back,  
10 being that part of the pot opposite the tunnel entrance. In fishing  
11 with the pound nets, or any other pound nets permitted by this  
12 part, the crib or pot and hearts and lead shall extend to or above  
13 the surface of the water; the crib or pot and hearts shall be  
14 entirely open at the top, the sides or walls of the pot or crib and  
15 of the hearts shall be held vertically as near as possible and  
16 shall have 5 or more stakes driven into the earth at the bottom of  
17 the lake to hold the net in place. A pound net permitted under this  
18 part or any part of the webbing of the net shall not be set in  
19 water of a depth greater than ~~80~~**150** feet. Pound nets fished  
20 through the ice may be held in place by fastening them to the ice  
21 without the use of stakes.

22 (g) Pound nets having meshes not exceeding 3-1/2 inches in the  
23 lifting pot or crib and in the tunnel inside the pot or crib, and  
24 having meshes not less than 3-1/2 inches in that part of the tunnel  
25 outside of the pot or crib and in the heart and lead, may be used  
26 for taking all legal fish except whitefish and lake trout. Saginaw  
27 bay shall be considered rough fish grounds, and other similar bays  
28 may be designated by the department as rough fish grounds if the  
29 catch of whitefish and lake trout taken in pound nets and trap nets

1 during the last 2 preceding years averaged less than 12% of the  
2 total catch, on which grounds all legal fish caught in pound nets  
3 and trap nets having meshes not exceeding 3-1/2 inches in the  
4 lifting pot or crib may be taken and all lake trout and whitefish  
5 taken in such nets set in all other waters shall be returned  
6 uninjured to the waters. The department may issue permits to allow  
7 the use of pound nets having meshes less than 3-1/2 inches in that  
8 part of the tunnel outside of the pot or crib and in the heart and  
9 lead for the taking of smelt and alewife for commercial purposes,  
10 under rules and regulations as the department may prescribe, which  
11 may include the waters in which the nets may be fished and the  
12 period of time during which they may be used.

13 (h) Trap nets having meshes not less than 4-1/2 inches in the  
14 lifting pot, crib, or pocket and in the heart and tunnel and having  
15 meshes not less than 5 inches in the lead shall be used for taking  
16 whitefish and lake trout. In such trap nets, meshes not more than  
17 3-1/2 inches may be used in the tunnel inside the pot, in either  
18 the front, back, or 1 side of the pot for a distance not exceeding  
19 5 feet from the bottom of the net and in that portion of the bottom  
20 of the net connected thereto for a distance not exceeding 5 feet,  
21 and in the connecting ends for a depth and width not exceeding 5  
22 feet, for the purpose of shoaling fish. These trap nets shall not  
23 be used in any of the waters under the jurisdiction of this state  
24 except in Lakes Huron and Erie and then only in such a manner that  
25 no trap net or any part of the webbing of the net is set in water  
26 of a depth greater than ~~80~~**150** feet. Trap nets having meshes as  
27 described in this subsection and with no part of the lifting pot or  
28 crib over 15 feet in depth may be used to take whitefish and lake  
29 trout in Lakes Superior and Michigan in water of a depth not

1 greater than ~~80~~150 feet.

2 (i) Trap nets having meshes not exceeding 3-1/2 inches in the  
3 lifting pot or crib and in the tunnel inside the pot or crib and  
4 having meshes not less than 3-1/2 inches in that part of the tunnel  
5 outside of the pot or crib and in the heart and lead may be used  
6 for taking all legal fish except whitefish and lake trout. The  
7 depth of no part of the lifting pot or crib shall be greater than  
8 15 feet. No such trap nets and no part of the webbing of the net  
9 shall be set in water of a depth greater than 50 feet in Lakes  
10 Michigan and Superior, or in water of a depth greater than ~~80~~150  
11 feet in Lakes Huron and Erie. The department may issue permits to  
12 allow the use of trap nets having meshes less than 3-1/2 inches in  
13 that part of the tunnel outside the pot or crib and in the heart  
14 and lead for the taking of smelt and alewife for commercial  
15 purposes, under rules and regulations as the department may  
16 prescribe, which may include the waters in which such nets may be  
17 fished and the period of time during which they may be used. Trap  
18 nets having a lifting pot or crib not exceeding 4 feet in depth may  
19 have webbing less than 3-1/2 inches in the 2 sides of inner heart.

20 (j) Any pound net or trap net with meshes in the lifting pot  
21 or crib between 3-1/2 and 4-1/2 inches, or any lifting pot or crib  
22 of such nets with meshes between 3-1/2 and 4-1/2 inches, is illegal  
23 and shall be seized and confiscated when found in use. Hoop nets,  
24 fyke nets, drop nets, and gobbler nets are considered under this  
25 part to be trap nets.

26 (k) Seines having wings with meshes of not less than 4 inches,  
27 and the pocket or bag, the bag of which shall be not more than 1/4  
28 the length of the seine, having meshes of not less than 2-1/4  
29 inches, may be used to take carp, yellow pickerel, perch, herring,

1 and other rough fish if they do not interfere with or take  
2 whitefish or lake trout. All seines in use or set along the shores  
3 of the waters listed in section 47301, when unattended, shall have  
4 a metal tag securely attached to the seine bearing the commercial  
5 fishing license number of the owner or user of the seine. Minnow  
6 seines not to exceed 80 feet in length and 8 feet in width may be  
7 used in the Great Lakes and connecting waters.

8 (l) The measurement of the mesh of all nets and seines as  
9 prescribed in this section shall be by extension measure. The size  
10 of the mesh of all nets or netting used in fishing as provided by  
11 this part shall be determined by extension measure, and the  
12 measurement shall be made of meshes irrespective of where the net  
13 or netting is found, whether in the water, on boat, on reel, on  
14 dock, or in any other place on land. Extension measure means the  
15 distance between the extreme angles of any single mesh, and the  
16 measurements shall be taken between and inside the knots. All  
17 measurements of the mesh in gill nets or gill netting shall be made  
18 with a flexible steel gauge constructed and used as prescribed in  
19 this section. All measurements of the mesh of gill nets or gill  
20 netting shall be made by inserting in the mesh parallel with the  
21 selvage a gauge made of spring steel free from rust, of a length  
22 equal to the number of inches prescribed in this section for the  
23 mesh measured. The ends of the gauge shall be free of sharp edges  
24 or burrs. The gauge shall not be graduated, and any necessary  
25 markings shall be placed near the ends of the gauge. The length of  
26 the gauge measured parallel with the long edge shall not at any  
27 point exceed or be less than the prescribed length by more than  
28  $\frac{2}{1000}$  of an inch. Its width at any point shall not exceed  $\frac{9}{16}$  of  
29 an inch or be less than  $\frac{7}{16}$  of an inch. Its thickness shall be

1 such that when it is set vertically on a solid anvil with its upper  
2 end loaded with a dead weight between 7-1/2 and 8-1/2 ounces, the  
3 gauge shall deflect at its middle 1/10 of its length. The meshes to  
4 be gauged shall be at least 3 meshes removed from the selvage or  
5 side lines and shall not be stretched or manipulated in any way  
6 prior to or after the insertion of the gauge, and the same mesh  
7 shall not be gauged more than once. In gauging a mesh, the flexible  
8 gauge shall be held only by the ends and bent between thumb and  
9 forefinger, the bent rule shall then be inserted in the mesh  
10 parallel with the selvage and with the collapsed mesh, and finger  
11 pressure shall be released immediately, not gradually. If the gauge  
12 does not straighten out completely under its own tension within 2  
13 seconds after its release in the mesh without slipping a knot or  
14 breaking the twine, the mesh is unlawful, and if the majority of 10  
15 or more meshes selected at random by the enforcement officer from  
16 any part or parts of the gill net or from the entire gill net or  
17 from any gill netting being gauged are found to be unlawful, the  
18 gill net or gill netting if found in use or in or upon any licensed  
19 commercial fishing boat shall be seized and confiscated. If found  
20 in possession but not in use, any such gill net or gill netting  
21 shall be sealed by the enforcement officer with a suitable seal  
22 provided by the department and, when once sealed and for so long as  
23 the seal remains intact on the net or netting, may be possessed by  
24 the owner until disposed of or destroyed by the owner as provided  
25 in this section. The gill net or gill netting shall not be disposed  
26 of or destroyed except under direction of a conservation officer  
27 and, until that time, shall be available for inspection by the  
28 department or any conservation officer. Any person who, without  
29 authority from the department, breaks or destroys a seal attached

1 to a gill net or gill netting, or any person who refuses or  
 2 neglects to produce for inspection any sealed gill net or gill  
 3 netting, or who disposes of or destroys a sealed gill net or gill  
 4 netting except under the direction of a conservation officer, is  
 5 guilty of a misdemeanor and upon conviction is subject to the  
 6 penalty provided for in section 47327. A person shall not use any  
 7 gill net of a greater measurement than 11 feet in depth in any of  
 8 the waters of the Great Lakes and the bays of the Great Lakes. In  
 9 Lake Erie, a gill net shall not be over 36 meshes deep. ~~A trawl of~~  
 10 ~~any kind shall not be licensed.~~ **The department shall issue a permit**  
 11 **for a trawl to a commercial fisher if that commercial fisher was**  
 12 **issued a permit for a trawl before January 1, 1970.**

13 (m) Gill nets having meshes not less than 8 inches may be used  
 14 for taking carp in Wildfowl bay in Huron county.

15 Sec. 47311. (1) A person shall not take from any of the waters  
 16 listed in section 47301 any of the following:

17 (a) Lake trout, in Lake Huron and Lake Michigan from October 1  
 18 to December 10; in Lake Superior from October 5 to November 4.

19 (b) Whitefish, in Lake Huron and Lake Michigan from ~~October 1~~  
 20 **November 1** to December 10; in Lake Superior from November 1 to  
 21 November 26.

22 (c) Pike-perch (yellow pickerel), northern pike, from April 1  
 23 to May 20. In Saginaw bay, as defined in section 47339, a person  
 24 shall not take pike-perch from March 5 to April 10. A person may  
 25 spear pike-perch through the ice during the closed season in Lake  
 26 Huron and the connecting waters of the Great Lakes for  
 27 noncommercial use only.

28 (d) Perch, from April 15 to May 20. In the waters of Lake  
 29 Michigan only, a person may take perch from April 25 to June 1. In

1 Saginaw bay, perch of legal size may be taken at any time. A person  
2 may take perch with hook and line at any time.

3 (e) White bass, in Lake Michigan at any time of the year. A  
4 person may take white bass with hook and line at any time.

5 (f) Suckers, from April 15 to May 20. In Saginaw bay, suckers  
6 may be taken at any time. A person may take suckers with hook and  
7 line at any time.

8 (g) Black crappie, also known as calico bass, in Lake Huron  
9 from June 1 to August 25. In Lake Erie, Lake Michigan, and Lake  
10 Superior, black crappie may not be taken at any time.

11 (2) In the waters of Green bay of Lake Michigan within the  
12 jurisdiction of this state, which for the purpose of this part are  
13 those waters lying inside a line drawn from the most southerly part  
14 of Point Detour to the most easterly points of Sumner and Poverty  
15 islands, thence due south to the Michigan-Wisconsin boundary line,  
16 thence along the boundary line to the shore, a person shall not  
17 from April 15 to May 20 set, place, or use any gill net having  
18 meshes less than 4-1/2 inches. The department may issue permits  
19 under such rules and regulations as prescribed by the department to  
20 allow the use of gill nets having meshes not less than 2-1/4 inches  
21 or more than 2-3/4 inches for taking herring from the waters of  
22 Green bay from April 15 to May 20, if the nets will not interfere  
23 with or take any other species of fish. The closed seasons  
24 established by this section do not apply to Lake Erie and the lower  
25 Detroit river, where nets shall not be set and fish of any kind  
26 shall not be taken with nets from January 1 to March 10. A person  
27 may take carp with seines at any time from these waters.

28 (3) In every case, the season shall open and close at 12 noon  
29 on the dates named in this section.

1 (4) All live fish on which the season is closed shall be  
2 liberated and returned to the water with as little injury as  
3 possible, and any sound, dead fish, on which the season is closed,  
4 shall be dressed, brought ashore, and delivered immediately to the  
5 department at the department's fishing port, which fish shall be  
6 disposed of in the same manner as provided for the disposition of  
7 undersized fish in section 47309.

8 (5) A person shall not set nets or hooks for the taking of  
9 lake trout or whitefish before the first day of the open season for  
10 taking the fish, and the license of any person shall be immediately  
11 revoked upon conviction of unlawfully setting nets before the first  
12 day of the open season as provided in this part, and revocation  
13 shall prohibit the use of boat and gear by that person during the  
14 balance of the year for which a license was issued. A person  
15 engaged in the taking of fish for commercial purposes from May 15  
16 to September 15 under this part shall carry sufficient ice and  
17 properly chill the fish at the time and place of their removal from  
18 the waters.

19 Sec. 47315. The department, **or a designee of the department**  
20 **acting in compliance with a permit issued by the department,** may  
21 take fish in any manner, in any of the waters mentioned in this  
22 part, at any and all seasons of the year, for the purpose of fish  
23 culture and scientific investigation; may have and hold ripe and  
24 unripe fish in order to take spawn from the fish; may sell all of  
25 those ripe and unripe fish; and may devote the proceeds of the  
26 sales exclusively toward defraying the expenses incurred in taking  
27 the fish and fertilizing and planting the spawn from the fish.