

# SENATE BILL NO. 1140

November 26, 2024, Introduced by Senator POLEHANKI and referred to the Committee on Regulatory Affairs.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 41301, 41303, 41305, 41309, 41311, and 41323  
(MCL 324.41301, 324.41303, 324.41305, 324.41309, 324.41311, and  
324.41323), sections 41301 and 41303 as amended by 2018 PA 451,  
section 41305 as amended by 2014 PA 537, section 41309 as amended  
by 2014 PA 541, sections 41311 and 41323 as amended by 2009 PA 52.

## **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 (q), 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) "Mollusk" means any mollusk of the classes Bivalvia and Gastropoda.

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

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

(j) "Nonnative" means not native.

(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*).

- 1 (B) Bitterling (*Rhodeus sericeus*).
- 2 (C) Black carp (*Mylopharyngodon piceus*).
- 3 (D) Eurasian ruffe (*Gymnocephalus cernuus*).
- 4 (E) Grass carp (*Ctenopharyngodon idellus*).
- 5 (F) Ide (*Leuciscus idus*).
- 6 (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).
- 7 (H) Round goby (*Neogobius melanostomus*).
- 8 (I) Rudd (*Scardinius erythrophthalmus*).
- 9 (J) Silver carp (*Hypophthalmichthys molitrix*).
- 10 (K) A fish of the snakehead family (family *Channidae*).
- 11 (L) Tench (*Tinca tinca*).
- 12 (M) Tubenose goby (*Proterorhinus marmoratus*).
- 13 (vi) Any of the following prohibited insect species, including
- 14 a hybrid or genetically engineered variant of the species or an egg
- 15 of the species or of a hybrid or genetically engineered variant:
- 16 (A) Asian longhorned beetle (*Anoplophora glabripennis*).
- 17 (B) Emerald ash borer (*Agrilus planipennis*).
- 18 (vii) The following prohibited mammal species, including a
- 19 hybrid or genetically engineered variant: nutria (*Myocastor*
- 20 *coypus*).
- 21 (viii) Any of the following prohibited mollusk species,
- 22 including a hybrid or genetically engineered variant of the species
- 23 or an egg of the species or of a hybrid or genetically engineered
- 24 variant:
- 25 (A) Brown garden snail (*Helix aspersa*).
- 26 (B) Carthusian snail (*Monacha cartusiana*).
- 27 (C) Giant African snail (*Achatina fulica*).
- 28 (D) Girdled snail (*Hygromia cinctella*).
- 29 (E) Heath snail (*Xerolenta obvia*).

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

**(ix) Any species of the prohibited reptile order Crocodilia.**

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

(m) "Relevant commission", "relevant department", or "relevant director" means the following:

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

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

(n) "Reptile" means any **crocodilian**, turtle, snake, or lizard of the class Reptilia.

(o) "Restricted species", subject to section 41302, means any of the following:

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

(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*).

(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.

(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 organism on that land or in those waters.

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

1 (c) A person is not considered to possess a live organism if  
2 the possession is for the purpose of promptly destroying the  
3 organism.

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

7 (a) The person intends to present a specimen of the prohibited  
8 species or restricted species, for identification or similar  
9 purposes, to a person who is a certified applicator or registered  
10 applicator under part 83, to a public or private institution of  
11 higher education, or to the department of natural resources, the  
12 department of agriculture and rural development, or any other  
13 state, local, or federal agency with responsibility for the  
14 environment, natural resources, or agriculture.

15 (b) The person has been presented with a specimen of a  
16 prohibited species or restricted species for identification or  
17 similar purposes under subdivision (a).

18 (c) The person possesses the prohibited species or restricted  
19 species in conjunction with otherwise lawful activity to eradicate  
20 or control the prohibited species or restricted species.

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

26 (e) The species is an aquatic restricted species and the  
27 person possesses the species in compliance with an order under  
28 section 41302(6).

29 **(f) The organism is a crocodilian that was in possession in**

1 this state on the effective date of the amendatory act that added  
2 this subdivision and, beginning 180 days after that effective date,  
3 the possession is pursuant to a permit issued by the department of  
4 natural resources under section 41306.

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

11 Sec. 41305. A person shall not introduce a prohibited species,  
12 a restricted species, **or** a genetically engineered or nonnative  
13 bird, crustacean, fish, insect, mammal, mollusk, **reptile**, or  
14 aquatic plant unless the introduction is authorized by 1 of the  
15 following, as applicable:

16 (a) For a fish, by a permit issued by the department of  
17 natural resources under section 48735.

18 (b) For a plant or an insect other than a wiggler, by a permit  
19 issued by the department of agriculture and rural development under  
20 section 41306.

21 (c) For any other species, by a permit issued by the  
22 department of natural resources under section 41306.

23 Sec. 41309. (1) A person who violates section 41303(2) is  
24 subject to a civil fine of not more than \$100.00.

25 (2) A person who violates section 41303(1), or a condition of  
26 a permit issued under this part, with respect to a restricted  
27 species is subject to a civil fine of not more than \$5,000.00. A  
28 person who violates section 41303(1), or a condition of a permit  
29 issued under this part, with respect to a prohibited species is



1 subject to a civil fine of not more than \$10,000.00.

2 (3) A person who violates section 41303(1) knowing the  
3 possession is unlawful or who willfully or in a grossly negligent  
4 manner violates a condition of a permit issued under this part is  
5 guilty as follows:

6 (a) For a violation involving a restricted species, the person  
7 is guilty of a misdemeanor and may be imprisoned for not more than  
8 1 year and shall be fined not less than \$1,000.00 or more than  
9 \$10,000.00.

10 (b) For a violation involving a prohibited species that is not  
11 an aquatic species, the person is guilty of a felony and may be  
12 imprisoned for not more than 2 years and shall be fined not less  
13 than \$2,000.00 or more than \$20,000.00.

14 (c) For a violation involving a prohibited species that is an  
15 aquatic species, the person is guilty of a felony and may be  
16 imprisoned for not more than 3 years and shall be fined not less  
17 than \$2,000.00 or more than \$100,000.00.

18 (4) A person who, with intent to damage natural, agricultural,  
19 or silvicultural resources or human health:

20 (a) Violates section 41303(1) with respect to a restricted  
21 species or possesses a nonnative bird, crustacean, fish, insect,  
22 mammal, mollusk, **reptile**, or aquatic plant is guilty of a felony  
23 and may be imprisoned for not more than 2 years and shall be fined  
24 not less than \$1,000.00 or more than \$250,000.00.

25 (b) Violates section 41303(1) with respect to a prohibited  
26 species or possesses a genetically engineered bird, crustacean,  
27 fish, insect, mammal, mollusk, **reptile**, or aquatic plant is guilty  
28 of a felony and may be imprisoned for not more than 4 years and  
29 shall be fined not less than \$2,000.00 or more than \$500,000.00.

1 (5) A person who sells or offers to sell a restricted species  
2 is subject to a civil fine of not less than \$1,000.00 or more than  
3 \$10,000.00. A person who sells or offers to sell a prohibited  
4 species ~~or who violates section 41303(3)~~ is subject to a civil fine  
5 of not less than \$2,000.00 or more than \$20,000.00.

6 (6) A person who violates section 41305 is guilty as follows:

7 (a) For a violation involving a restricted species or a  
8 nonnative bird, crustacean, fish, insect, mammal, mollusk, **reptile**,  
9 or aquatic plant, the person is guilty of a misdemeanor and may be  
10 imprisoned for not more than 6 months and shall be fined not less  
11 than \$500.00 or more than \$5,000.00.

12 (b) For a violation involving a prohibited species or a  
13 genetically engineered bird, crustacean, fish, insect, mammal,  
14 mollusk, **reptile**, or aquatic plant, the person is guilty of a  
15 misdemeanor and may be imprisoned for not more than 1 year and  
16 shall be fined not less than \$1,000.00 or more than \$10,000.00.

17 (7) A person who violates section 41305 with respect to a  
18 restricted species or nonnative bird, crustacean, fish, insect,  
19 mammal, mollusk, **reptile**, or aquatic plant and who has actual or  
20 constructive knowledge of the identity of the restricted species or  
21 that the organism, whether a restricted species or other bird,  
22 crustacean, fish, insect, mammal, mollusk, **reptile**, or aquatic  
23 plant, is nonnative is guilty of a misdemeanor and may be  
24 imprisoned for not more than 1 year and shall be fined not less  
25 than \$1,000.00 or more than \$10,000.00.

26 (8) A person who violates section 41305 with respect to a  
27 prohibited species that is not an aquatic species or with respect  
28 to a genetically engineered bird, crustacean, fish, insect, mammal,  
29 mollusk, **reptile**, or aquatic plant and who has actual or

1 constructive knowledge of the identity of the prohibited species or  
2 that the bird, crustacean, fish, insect, mammal, mollusk, **reptile**,  
3 or aquatic plant is genetically engineered, respectively, is guilty  
4 of a felony and may be imprisoned for not more than 2 years and  
5 shall be fined not less than \$2,000.00 or more than \$20,000.00.

6 (9) A person who violates section 41305 with respect to a  
7 prohibited species that is an aquatic species and who has actual or  
8 constructive knowledge of the identity of the prohibited species is  
9 guilty of a felony and may be imprisoned for not more than 3 years  
10 and shall be fined not less than \$2,000.00 or more than  
11 \$100,000.00.

12 (10) A person who violates section 41305 knowing the  
13 introduction is unlawful, is guilty as follows:

14 (a) For a violation involving a restricted species or  
15 nonnative bird, crustacean, fish, insect, mammal, mollusk, **reptile**,  
16 or aquatic plant, the person is guilty of a felony and may be  
17 imprisoned for not more than 2 years and shall be fined not less  
18 than \$1,000.00 or more than \$250,000.00.

19 (b) For a violation involving a prohibited species or a  
20 genetically engineered bird, crustacean, fish, insect, mammal,  
21 mollusk, **reptile**, or aquatic plant, the person is guilty of a  
22 felony and may be imprisoned for not more than 4 years and shall be  
23 fined not less than \$2,000.00 or more than \$500,000.00.

24 (11) A person who, with intent to damage natural,  
25 agricultural, or silvicultural resources or human health, violates  
26 section 41305 is guilty as follows:

27 (a) For a violation involving a restricted species or  
28 nonnative bird, crustacean, fish, insect, mammal, mollusk, **reptile**,  
29 or aquatic plant, the person is guilty of a felony and may be

1 imprisoned for not more than 3 years and shall be fined not less  
2 than \$1,000.00 or more than \$500,000.00.

3 (b) For a violation involving a prohibited species or a  
4 genetically engineered bird, crustacean, fish, insect, mammal,  
5 mollusk, **reptile**, or aquatic plant, the person is guilty of a  
6 felony and may be imprisoned for not more than 5 years and shall be  
7 fined not less than \$2,000.00 or more than \$1,000,000.00.

8 (12) If a person commits a criminal violation of this part or  
9 a rule promulgated or permit issued under this part or knowingly  
10 commits a violation described in subsection (5) and if the  
11 violation involves a prohibited species that is an aquatic species,  
12 the court shall order that any permit or license issued to the  
13 person under part 473 or 487 be suspended for 1 year, and that the  
14 person is not eligible to be issued any permit or license under  
15 part 473 or 487 for 1 year. If the remaining term of an existing  
16 permit or license under part 473 or 487 is less than 1 year, the  
17 court shall order that the permit or license be revoked and that  
18 the person is not eligible to be issued any permit or license under  
19 part 473 or 487 for 1 year. For a second violation described in  
20 this subsection, the court shall order that any permit or license  
21 issued to the person under part 473 or 487 be revoked and that the  
22 person is permanently ineligible to be issued any permit or license  
23 under part 473 or 487. An order under this subsection is self-  
24 effectuating. The clerk of the court shall send a copy of the order  
25 to the department of natural resources.

26 (13) In addition to any other civil or criminal sanction  
27 imposed under this section, a person who violates this part is  
28 liable for any damages to natural resources resulting from the  
29 violation, including, but not limited to, costs incurred to prevent

1 or minimize such damages.

2 (14) This part does not apply to activities authorized under  
3 the Michigan aquaculture development act, 1996 PA 199, MCL 286.871  
4 to 286.884.

5 Sec. 41311. (1) The invasive species fund is created within  
6 the state treasury.

7 (2) The department of natural resources and the department of  
8 agriculture **and rural development** shall forward to the state  
9 treasurer and the state treasurer shall deposit into the fund civil  
10 fines collected under section 41309 and permit fees collected under  
11 section 41306. The state treasurer may receive money or other  
12 assets from any **other** source for deposit into the fund. The state  
13 treasurer shall direct the investment of **money in** the fund. The  
14 state treasurer shall credit to the fund interest and earnings from  
15 fund investments.

16 (3) Money in the fund at the close of the fiscal year shall  
17 remain in the fund and shall not lapse to the general fund.

18 (4) The department of natural resources and the department of  
19 agriculture **and rural development** shall expend money from the fund,  
20 upon appropriation, only for 1 or more of the following purposes:

21 (a) The administration of this part, consistent with section  
22 41306(4).

23 (b) Public education about preventing the introduction of,  
24 controlling, or eradicating prohibited species, restricted species,  
25 and other nonnative species and genetically engineered aquatic  
26 plants, birds, crustaceans, fish, insects, mammals, ~~and~~ mollusks,  
27 **and reptiles.**

28 Sec. 41323. (1) The department of natural resources shall do  
29 all of the following:

1 (a) By March 1 of each year, submit to the governor and the  
2 legislature a report that makes recommendations on all of the  
3 following:

4 (i) Additions to or deletions from the classes of genetically  
5 engineered or nonnative organisms covered by this part.

6 (ii) The status of various prohibited species and other  
7 problematic invasive species in this state, including, but not  
8 limited to, a list of infested waterbodies by species.

9 (iii) Preventing the introduction of and controlling or  
10 eradicating invasive species or genetically engineered aquatic  
11 plants, birds, crustaceans, fish, insects, mammals, ~~or~~ mollusks,  
12 **and reptiles.**

13 (iv) Restoration or remediation of habitats or species damaged  
14 by invasive species or genetically engineered organisms.

15 (v) Prioritizing efforts to prevent violations of and  
16 otherwise further the purposes of this part.

17 (vi) The specific areas of responsibility for various state  
18 departments under this part and the sharing of information on  
19 permits under this part among responsible state departments.

20 (vii) Educating citizens about their responsibilities under  
21 this part and their role in preventing the introduction of and  
22 controlling or eradicating prohibited species, restricted species,  
23 invasive species, and genetically engineered aquatic plants, birds,  
24 crustaceans, fish, insects, mammals, ~~or~~ mollusks, **and reptiles.**

25 (viii) Simplifying citizen access to state government for  
26 compliance with this part.

27 (ix) Legislation and funding to carry out the recommendations  
28 of the department of natural resources and otherwise further the  
29 purposes of this part.

1           (x) Other matters that the department of natural resources  
2 considers pertinent to the purposes of this part.

3           (b) Establish criteria for identifying waterbodies infested by  
4 prohibited species.

5           (c) Monitor and promote efforts to rescind the exemption under  
6 40 CFR 122.3(a) for ballast water discharges.

7           (2) The department of natural resources shall carry out its  
8 reporting and other duties under this section in cooperation with  
9 the aquatic nuisance species council created under Executive Order  
10 No. 2002-21 and the department of agriculture **and rural**  
11 **development.**