



**House  
Legislative  
Analysis  
Section**

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**MICHIGAN SPORT ANGLING LAW**

House Bill 4765 (Substitute H-RECEIVED  
First Analysis (5-10-89)

JUN 06 1

Sponsor: Rep. Jerry C. Bartnik  
Committee: Tourism, Fisheries and Wildlife

***THE APPARENT PROBLEM:***

The Michigan Sports Fishing Law has been in existence since 1929. Many of the act's provisions are outdated and no longer used. With the passage of time, fishing regulations have been implemented through law, orders from the Natural Resources Commission and orders from the director of the Department of Natural Resources. According to the department, many of the current sport fishing regulations that are embodied in commission orders were issued under the emergency authority of Public Act 230 of 1925 (Discretionary Power Act) at great cost to the state. Legislation is needed to consolidate, update, clarify and simplify the fishing law.

***THE CONTENT OF THE BILL:***

The bill would create the Michigan Sport Angling Law to recodify existing fishing regulations. The bill would reinstate many provisions of existing law without substantive change, repeal the Michigan Sports Fishing Law and other statutory fishing regulations, and would make changes in existing law to clarify current provisions.

Application. The bill would apply to reptiles, amphibians, and crustacea as well as fish. It would specify that fish, reptiles, amphibians, mollusk, aquatic insects, and crustacea found in or by any state waters would be property of the state and could be taken only at the times and in the manner as provided in the bill, unless otherwise provided by law.

Spearing and netting nongame fish. The bill would consolidate the authority of the director of the Department of Natural Resources (DNR) to control the spearing and netting of nongame fish and to protect game fish from spearing. The bill specifically provides that suckers, carp, whitefish, ciscoes, catfish, bullheads, bowfin, and gar could be taken with a spear, including spearing while submerged using rubber, spring-propelled, or compressed gas propelled spears under control by an attached line less than 20 feet long, bow and arrow, dip nets not over nine feet square, or hand held dip nets. The bill would authorize the director of the DNR to designate the following:

- which of the aforementioned species could be taken, the methods that could be used for taking, and the season when they could be taken;
- areas in the Great Lakes where game fish could be taken by submerged divers using hand or propelled spears; and
- waters where a person could spear carp, suckers, freshwater drum, smelt, northern pike, muskellunge, whitefish, ciscoes, Menominee, perch, catfish, bullheads, bowfin, and gar through the ice during the months of January and February, and sturgeon during February.

Prohibitions. Under the bill, the following actions would be illegal:

- fishing within any waters of the state that were posted as closed by the director of the DNR;
- frightening or hindering fish from the free passage up or down a fish chute or ladder;
- placing any obstruction or device in or across any race, stream, or river in this state in a manner that would obstruct the free passage of fish;
- fishing within a distance of 100 feet up or down stream from any lamprey control weirs installed by the DNR or the U.S. Fish and Wildlife Service that is posted by the director as a restricted area; and
- destroying or attempting to destroy, or interfere with in any manner, any artificial dam or barrier placed in any water of this state under the direction of the director.

Gear restrictions. The bill would prohibit the use of a gaff, or a single pointed hook that was more than one-half inch between the point of the hook and the shank, or a double or treble pointed hook exceeding three-eighths inch between point and shank, before May 15 or after August 31 on or along any trout stream.

Trout Streams. The director would be authorized to designate up to 200 miles of trout streams in which only those lures, baits, and fishing methods as the director prescribed could be used for fishing. In addition, the director would be authorized to designate the size and number of fish that could be taken from a trout stream and certain trout lakes in which certain species of fish were not desired. It would be unlawful to use live fish of any kind for bait on those lakes. The director could also establish special seasons, size, and creel limits and specify the manner of taking fish from designated trout lakes.

Game Fish. The Natural Resources Commission would have the authority to establish open seasons for game fish, and to set limits on the number of game fish that lawfully could be taken. However, the bill would allow the department to establish special seasons, size, and fish limits and specify the manner in which fish could be taken. The commission would be required to establish size limits on the following species of game fish: trout and salmon; largemouth and smallmouth bass; northern pike; walleye and sauger; muskellunge; and sturgeon. The commission could establish size limits on any game fish.

Open Seasons. Under the bill, the director could establish a closed season by posting notice at any spawning area or along any spawning migration route where game fish or nongame fish concentrate. Notices would have to define the conditions of closure at the site at least three days prior to the effective date. The director could open to fishing at any time, for any species, in any manner, any waters in which an excessive mortality of fish occurred or was threatened or where unusually large congregations of fish would be wasted if not harvested. The bill would also allow the department to prohibit the operation of boats or other molestation of spawning areas.

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Processed Fish. The bill would prohibit the taking or possession of more than the number of fish authorized by the commission. However, the bill would permit the possession of fish legally taken that were frozen, canned, smoked, pickled, or otherwise processed and preserved.

Controlled Bait Species/Minnows. The bill would prohibit taking or possessing minnows, wigglers, or crayfish for commercial purposes from any of the waters of this state, or importing minnows, wigglers, or crayfish for commercial purposes from outside of the state, or transporting minnows, wigglers, or crayfish without having first procured a license as provided in the bill. A license, other than a license to fish as provided in the Hunting and Fishing License Act, would not be required of persons taking minnows, wigglers, or crayfish for their individual use for bait.

Minnow seines up to 125 feet in length and 16 feet in width could be used in the Great Lakes and their connecting waters, inland lakes, and streams and rivers of the state, except trout streams, for taking minnows for commercial purposes.

Hand thrown nets up to eight feet in diameter without sides or walls, minnow traps up to 24 inches in length, minnow seines up to 12 feet long and four feet wide, and hook and line could be used for taking minnows for personal use in any of the waters designated by the director. A person could not use, however, a hand or dip net or minnow seine in trout streams for the purpose of taking minnows.

Minnow Licenses. Upon the payment of \$25, the director could issue a retail minnow dealer's license to entitle the licensee to operate one place of business and one motor vehicle, and to buy, transport, and retail minnows, wigglers, and crayfish. Upon the payment of \$100, the director could issue to a resident a wholesale minnow dealer's license to operate one place of business and to transport, using up to three motor vehicles, and to sell at wholesale, to licensed minnow dealers, minnows, wigglers, and crayfish.

Upon the payment of \$50, the director of the DNR could issue to a holder of a retail or wholesale minnow dealer's license a minnow catcher's license to permit the taking, collecting, transporting, and possessing of live or fresh minnows, wigglers, or crayfish to be used for commercial purposes according to the proposed law. Each catcher's license would entitle the licensee to operate up to three crews consisting of up to four persons and four motor vehicles, for the purpose of taking, collecting, and transporting live or fresh minnows, wigglers, or crayfish.

Upon the payment of \$500, the director of the DNR could issue to a nonresident of this state a wholesale minnow dealer's license to transport, using up to three motor vehicles, and to wholesale minnows, wigglers, and crayfish.

Crayfish could not be imported from outside the state for commercial purposes without a special permit from the director. Minnows and wigglers not native to Michigan waters could not be imported from outside the state. The bill would require the issuance with each minnow catcher's license 12 identification cards bearing the number of the license and the year for which the license was issued. Each member of a crew engaged in taking, collecting, and transporting minnows, wigglers, or crayfish for commercial purposes would have to carry an identification card while engaged in that activity.

Reptile License. The bill would prohibit a person from taking reptiles, amphibians, or mollusks for commercial purposes unless the person were a resident of this state and purchased an annual commercial reptile and amphibian license for \$150. The director would be authorized to do the following:

- designate the waters of this state from which reptiles, amphibians, and mollusks could be taken for commercial or noncommercial purposes, or both;
- determine the conditions under which reptiles, amphibians, or mollusks could be taken for commercial purposes;
- make rules, regulations, and restrictions for taking, possessing, and transporting reptiles, amphibians, or mollusks; and
- require catch reports regarding the taking of reptiles, amphibians, and mollusks.

Surplus Fish. In order to improve fish stock or prevent environmental or ecological harm, the director could issue permits for the removal of surplus coho, chinook, and pink salmon, or any other game or nongame fish from the waters over which this state has jurisdiction with seines, nets, spears, weirs, or in any other manner. The director also could sell or authorize the sale of fish taken under this provision on terms that would be to the best advantage of the state. The director could incorporate restrictions in permits issued under this provision as he or she considered advisable. A person taking fish under a permit would have to comply with all such restrictions.

Existing law. Other provisions of the bill would reinstate existing law without substantive change, in regard to the following:

- taking fish with a spear, grab hook, hook board, snag hook, gaff hook, or a set or night line, a net, firearm, explosive substance, chemical, or combination of substances that have a tendency to kill or stupefy fish, or by other devices;
- the use of a hand net, dip net, or hoop net;
- trout fishing during open season for taking trout;
- fish cleaning stations;
- the designation of waters where minnows, wigglers, or crayfish may be taken, and other provisions pertaining to minnows, wigglers, and crayfish;
- taking turtles or frogs for personal consumption;
- taking fish for the purpose of fish culture or scientific investigation;
- planting spawn, fry, or fish;
- removal of insect larvae or insects from a trout stream;
- catching fish for the purpose of removing its eggs;
- transmittal of license and permit fee revenue to the Game and Fish Protection Fund; and
- penalties for violation of the law or rules, commission orders, or orders of the director issued to implement the law.

Repeals. The bill would repeal Public Act 165 of 1929, which includes the Michigan Sportsmen Fishing Law and contains regulations pertaining to fishing devices, open seasons, minnows, and licenses and permits. The bill also would repeal Public Acts 121 of 1891, 261 of 1915, 14 of 1923, 194 of 1925, 57 of 1931, 15 of 1933, 4 of 1939, and 175 of 1956, which, respectively, pertain to fishing with a hook and line, mussels, prohibited fishing from certain inland waters, fishing for rainbow trout in the Soo Rapids and St. Mary's river, fishing in the St. Joseph river, frogs, spearing in Houghton Lake, and fish hatcheries.

## **FISCAL IMPLICATIONS:**

According to the Department of Natural Resources, the bill would generate additional revenues of about \$50,000. Currently, the department issues about 1,000 retail licenses and 200 wholesale licenses generating about \$11,000. If the number of licenses remained the same, the bill would generate about \$70,000; however, because of the increased cost of the licenses, many marginal operations would not apply. Currently, nonresidents are not allowed a license to catch or sell minnows at a wholesale. The bill would permit a nonresident wholesaler's license. Presumably, there would be few nonresidents who would apply because of the cost (\$500), and this would have little fiscal impact. (5-4-89)

## **ARGUMENTS:**

### ***For:***

The bill would recodify and update the provisions of existing fishing laws. In addition, the bill would allow the Natural Resources Commission to set seasons, size limits, and possession limits for fish, frogs, and turtles. Further, the bill would help reduce state costs by allowing many of the emergency orders issued by the commission to be issued under the bill. For the past several years it has cost the state approximately \$100,000 per year to issue emergency orders. Last year the cost for the state soared to \$200,000. The department expects the bill to save the state approximately \$100,000 per year by alleviating the need for some emergency orders.

### ***Against:***

The bill would define the term "sport angler," and provide that penalty provisions would only apply to sport anglers. However, the bill's penalty provisions should apply to everyone and not just to sport anglers. Some of the greatest violators of fish laws are corporations and other organizations. Not only will the bill not apply penalty provisions to these entities, it will do nothing to provide incentive for corporations and other organizations that do violate fish laws to abide by the laws. It is quite probable that the bill's restriction of penalty provisions to sport anglers will damage the DNR's case against Consumers Power Company concerning fish kills in Ludington, because the provision will affect how damages are assessed under the law.

***Response:*** State fishing laws are in dire need of recodification, which has been proposed for the past three legislative sessions. It would be ridiculous to hold up a bill of this magnitude because of the fish kill problem. It would be better to address this problem separately. The DNR should not try to manipulate proposed legislation to ensure success in its lawsuits.

### ***Against:***

Under the bill, the Natural Resources Commission is allowed to promulgate rules and issue orders for the implementation of the bill. Although the bill does require the commission to provide copies of proposed rules and orders to the Senate and the House standing committees that consider legislation pertaining to fishing, it will not establish a procedure for the promulgation of the rules and orders, and there are no specific provisions made for notification of the public concerning the promulgation of rules and orders.

## **SUGGESTED AMENDMENT:**

The Department of Natural Resources suggests an amendment to delete the definition of sport angler and its application to penalty provisions in the bill. (5-9-89)

## **POSITIONS:**

Consumers Power Company supports the bill. (5-4-89)

The Michigan United Conservation Clubs supports the bill, but would rather have utilities covered under the bill in order to address the fish killing situation in the state. (5-4-89)

The Department of Natural Resources opposes the bill, but would support the bill with its suggested amendment. (5-9-89)

The Sportmen's Alliance of Michigan opposes the bill. (5-8-89)