

Act No. 209
Public Act of 1989
November 8, 1989
Filed by the Secretary of State
November 8, 1989

STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989

Introduced by Reps. Pridnia, Bartnik, Alley, Middaugh, Stacey, Crandall, Hoffman, Joe Young, Jr.,
Sofio, Profit, Hart, Hoekman, Nye, Griffin and DeMars

ENROLLED HOUSE BILL No. 4449

AN ACT to amend sections 12 and 13 of chapter V of Act No. 165 of the Public Acts of 1929, entitled as amended "An act to protect fish, reptiles, amphibians, and other aquatic animals in the waters of this state; to regulate the manner of taking, possession, transportation, size, and sale of certain fish, reptiles, amphibians, and other aquatic animals; to provide for the issuing of certain licenses and for the disposition of certain funds; to provide penalties for the violation of the provisions of this act, and to repeal certain acts and parts of acts," as amended by Act No. 43 of the Public Acts of 1986, being sections 305.12 and 305.13 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 12 and 13 of chapter V of Act No. 165 of the Public Acts of 1929, as amended by Act No. 43 of the Public Acts of 1986, being sections 305.12 and 305.13 of the Michigan Compiled Laws, are amended to read as follows:

CHAPTER V

Sec. 12. (1) A person who violates this act or rules, commission orders, or orders of the director issued to implement this act, if a penalty is not provided for that violation in this section, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both.

(2) A person convicted of using dynamite, nitroglycerin, lime, electricity, any other explosive substance, or poison for the purpose of taking or killing fish, or a person convicted of using nets not authorized by law for taking game fish, or buying or selling game fish or any parts of game fish is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than \$250.00 or more than \$1,000.00, or both.

(3) A person who takes or possesses sturgeon in violation of this act or rules, commission orders, or orders of the director issued to implement this act is guilty of a misdemeanor punishable by imprisonment for not less than 30 days or more than 180 days, or a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(4) If a person is convicted of a violation of this act or rules, commission orders, or orders of the director issued to implement this act and it is alleged in the complaint and proved or admitted at trial or ascertained by the court at the time of sentencing that the person had been previously convicted 3 or more times of a violation of this act within the 5 years immediately preceding the last violation of this act, the person is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000.00, or both, and the costs of prosecution. This subsection shall not apply to the following violations:

(a) Failing to possess or display a valid fishing license or trout and salmon stamp issued pursuant to the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws.

- (b) Taking or possessing an overlimit of bluegill, sunfish, crappie, perch, or nongame fish.
- (c) Taking or possessing not more than 5 undersized fish.
- (d) Fishing with too many lines.
- (e) Failing to attach name and address to tip-ups or minnow traps.
- (f) Fishing with lines not under immediate control.

(5) In addition to the penalties provided in this section, a fishing license issued to a person sentenced pursuant to subsections (2), (3), or (4) shall be revoked and the person shall not be issued a license during the remainder of the year in which convicted or during the next 3 succeeding license years.

Sec. 13. (1) In addition to the penalties provided in this act, a person convicted of taking game fish during a closed season, or taking or possessing game fish in excess of lawful limits, or buying or selling, or taking game fish, nongame fish, or any parts of game or nongame fish, by use of an unlawful device shall forfeit to the state for the fish unlawfully taken or possessed as follows:

- (a) For each game fish other than sturgeon, of an individual weight of 1 pound or more, \$10.00 for each pound or fraction of a pound of fish illegally taken or possessed.
- (b) For each game fish other than sturgeon, of an individual weight of less than 1 pound, \$10.00 for each fish illegally taken or possessed.
- (c) For sturgeon, \$1,500.00 for each fish illegally taken or possessed.
- (d) For each nongame fish, \$5.00 for each pound or fraction of a pound of fish illegally taken or possessed.

(2) In every case of conviction for a violation of subsection (1), the court before whom such conviction is obtained shall order the defendant to forfeit to the state the sums provided in subsection (1). If 2 or more defendants are convicted of the illegal taking or the illegal possession of the same fish, the forfeiture shall be declared against them jointly and severally.

(3) If a defendant fails to pay the sums forfeited for a violation of subsection (1), upon conviction, the court shall either impose a sentence of probation and as a condition of sentence, require the defendant to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the forfeited sums in installments at the times and in the amounts as the court determines, the defendant is able to pay.

(4) A default in the payment of forfeiture or an installment of the forfeiture may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being sections 600.6001 to 600.6097 of the Michigan Compiled Laws.

(5) All courts collecting forfeitures as provided in this section shall promptly remit the forfeiture to the county treasurer, who shall transmit it to the state treasurer to be credited to the game and fish protection fund.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.

