

# HOUSE BILL NO. 6204

June 09, 2022, Introduced by Reps. O'Malley, Steven Johnson, Tisdell, Bollin, Beeler, Meerman, Calley, Rendon, Bellino, Hoitenga, Clements, Lightner, Eisen, Allor, Outman and Alexander and referred to the Committee on Oversight.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 41302 and 41303 (MCL 324.41302 and 324.41303), as amended by 2018 PA 451.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 41302. (1) The relevant commission may by order add to or  
2 delete a species from the list of prohibited species or restricted  
3 species under section 41301. Before the natural resources  
4 commission issues an order under this subsection, it shall consult

1 with the department of agriculture and rural development. Before  
2 the commission of agriculture and rural development issues an order  
3 under this subsection, it shall consult with the department of  
4 natural resources. After the consultation, and at least 30 days  
5 before the relevant commission issues the order, the relevant  
6 department shall post a copy of the proposed order on the relevant  
7 department's website and shall submit a copy of the proposed order  
8 to all of the following:

9 (a) The legislature.

10 (b) The standing committees of the senate and **the** house of  
11 representatives with primary responsibility for any of the  
12 following:

13 (i) Agricultural issues.

14 (ii) Environmental issues.

15 (iii) Natural resources issues.

16 **(2) Within 24 hours after issuing an order under subsection**  
17 **(1), the relevant department shall notify the senate and the house**  
18 **of representatives in writing.**

19 **(3) ~~(2)~~**—The relevant commission shall list a nonaquatic  
20 species as a prohibited species or restricted species if the  
21 relevant commission determines the following:

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

24 (i) The organism is not native.

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

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

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

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

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

5 (i) The organism is not native.

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

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

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

11 (B) Effective management or control techniques for the  
12 organism are available.

13 **(4)** ~~(3)~~—The relevant commission shall list an aquatic species  
14 as a prohibited species or restricted species if the relevant  
15 commission determines the following based on a review by the  
16 relevant department:

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

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

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

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

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

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

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

29 (i) The organism is not native.

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

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

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

5 (B) Effective management or control techniques for the  
6 organism are available.

7 **(5)** ~~(4)~~—The following apply to a review by the relevant  
8 department of an aquatic species for listing as a prohibited  
9 species or restricted species under subsection ~~(3)~~ **(4)** :

10 (a) The relevant department shall review each aquatic animal  
11 listed or delisted as injurious wildlife under the Lacey act, 16  
12 USC 3371 to 3378, and each aquatic plant designated or removed from  
13 designation as a noxious weed under the plant protection act, ~~title~~  
14 ~~IV of Public Law 106-224, 7 USC 7701 to 7786~~, for listing or  
15 delisting as a prohibited species or restricted species within 180  
16 days after the change in federal listing or designation.

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

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

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

1 following:

2 (a) Post a proposed emergency order on its website and  
 3 otherwise publicize the proposed emergency order in a manner that  
 4 ensures that interested persons are provided notice of the proposed  
 5 emergency order, the reasons for the emergency order, and the  
 6 proposed effective date of the order.

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

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

13 **(d) Notify the senate and house of representatives of the**  
 14 **final emergency order, in writing, within 24 hours after the order**  
 15 **is issued.**

16 **(7) The relevant director shall not issue an emergency order**  
 17 **designating an organism as a prohibited species or restricted**  
 18 **species if the same organism was previously designated by emergency**  
 19 **order as a prohibited species or restricted species, respectively.**

20 **(8) ~~(6)~~**—The relevant department may issue an order setting  
 21 forth the conditions under which naturalized organisms of an  
 22 aquatic restricted species may be harvested, possessed, and  
 23 transported.

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

27 (a) The person intends to present a specimen of the prohibited  
 28 species or restricted species, for identification or similar  
 29 purposes, to a person who is a certified applicator or registered

1 applicator under part 83, to a public or private institution of  
2 higher education, or to the department of natural resources, the  
3 department of agriculture and rural development, or any other  
4 state, local, or federal agency with responsibility for the  
5 environment, natural resources, or agriculture.

6 (b) The person has been presented with a specimen of a  
7 prohibited species or restricted species for identification or  
8 similar purposes under subdivision (a).

9 (c) The person possesses the prohibited species or restricted  
10 species in conjunction with otherwise lawful activity to eradicate  
11 or control the prohibited species or restricted species.

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

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

20 (2) A person described in subsection (1)(b) or (c) shall  
21 notify the department of natural resources, the department of  
22 agriculture and rural development, or the department of  
23 ~~environmental quality~~**environment, Great Lakes, and energy** if the  
24 prohibited species or restricted species was found at a location  
25 where it was not previously known to be present.