

HOUSE BILL No. 4927

September 8, 2011, Introduced by Rep. Olson and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 40102 and 40118 (MCL 324.40102 and 324.40118), section 40102 as amended by 2007 PA 48 and section 40118 as amended by 2000 PA 347.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40102. (1) "Animals" means wild birds and wild mammals.

2 (2) "Bag limit" means the number of animals that may be taken
3 and possessed as determined by the department.

4 (3) **"BAIT" MEANS A SUBSTANCE COMPOSED OF GRAIN, MINERAL, SALT,**
5 **FRUIT, VEGETABLE, HAY, OR ANY OTHER FOOD MATERIAL OR COMBINATION OF**
6 **THESE MATERIALS, WHETHER NATURAL OR MANUFACTURED, THAT MAY LURE,**
7 **ENTICE, OR ATTRACT WHITE-TAILED DEER OR ELK, OR MEATS, MEAT**
8 **PRODUCTS, FISH, FISH PRODUCTS, OR BAKERY PRODUCTS OR ANY OTHER FOOD**
9 **MATERIAL OR COMBINATION OF THESE MATERIALS, WHETHER NATURAL OR**

1 MANUFACTURED, THAT MAY LURE, ENTICE, OR ATTRACT BEAR. BAIT DOES NOT
2 INCLUDE THE ESTABLISHMENT AND MAINTENANCE OF PLANTINGS FOR
3 WILDLIFE, FOOD FOUND SCATTERED SOLELY AS THE RESULT OF NORMAL
4 AGRICULTURAL PLANTING OR HARVESTING PRACTICES, FOOD AVAILABLE TO
5 WHITE-TAILED DEER, ELK, OR BEAR THROUGH NORMAL AGRICULTURAL
6 PRACTICES OF LIVESTOCK FEEDING IF THE AREA IS OCCUPIED BY LIVESTOCK
7 ACTIVELY CONSUMING THE FEED ON A DAILY BASIS, OR STANDING FARM
8 CROPS UNDER NORMAL AGRICULTURAL PRACTICES.

9 (4) "BAITING" MEANS TO PLACE, DEPOSIT, TEND, DISTRIBUTE, OR
10 SCATTER BAIT TO AID IN THE TAKING OF GAME.

11 (5) ~~(3)~~"Bow" means a device for propelling an arrow from a
12 string drawn, held, and released by hand where the force used to
13 hold the string in the drawn position is provided by the archer's
14 muscles.

15 (6) ~~(4)~~"Buy" or "sell" means an exchange or attempt or offer
16 to exchange for money, barter, or anything of value.

17 (7) ~~(5)~~"Chase" means to follow animals with dogs or other
18 wild or domestic animals trained for that purpose.

19 (8) ~~(6)~~"Cormorant damage" means adverse impacts of double-
20 crested cormorants on fish, fish hatchery stock, wildlife, plants,
21 and their habitats and on man-made structures.

22 (9) ~~(7)~~"Cormorant depredation order" means the depredation
23 order for double-crested cormorants to protect public resources, 50
24 CFR 21.48, issued by the United States department of the interior,
25 fish and wildlife service.

26 (10) ~~(8)~~"Crossbow" means a weapon consisting of a bow mounted
27 transversely on a stock or frame and designed to fire an arrow,

1 bolt, or quarrel by the release of a bow string that is controlled
2 by a mechanical or electric trigger and has a working safety and a
3 draw weight of 100 pounds or greater.

4 (11) ~~(9)~~—"Deer or elk feeding" means the depositing,
5 distributing, or tending of feed in an area frequented by wild,
6 free-ranging white-tailed deer or elk. Deer or elk feeding does not
7 include any of the following:

8 (a) Feeding wild birds or other wildlife if done in such a
9 manner as to exclude wild, free-ranging white-tailed deer and elk
10 from gaining access to the feed.

11 (b) The scattering of feed solely as the result of normal
12 logging practices or normal agricultural practices.

13 (c) The storage or use of feed for agricultural purposes if 1
14 or more of the following apply:

15 (i) The area is occupied by livestock actively consuming the
16 feed on a daily basis.

17 (ii) The feed is covered to deter wild, free-ranging white-
18 tailed deer or elk from gaining access to the feed.

19 (iii) The feed is in a storage facility that is consistent with
20 normal agricultural practices.

21 (d) Baiting to take game as provided by an order of the
22 commission under section 40113a.

23 (12) ~~(10)~~—"Disability" means a determinable physical
24 characteristic of an individual that may result from disease,
25 injury, congenital condition of birth, or functional disorder.

26 (13) ~~(11)~~—"Feed" means a substance composed of grain, mineral,
27 salt, fruit, vegetable, hay, or any other food material or

1 combination of these materials, whether natural or manufactured,
2 that may attract white-tailed deer or elk. Feed does not include
3 any of the following:

4 (a) Plantings for wildlife.

5 (b) Standing farm crops under normal agricultural practices.

6 (c) Agricultural commodities scattered solely as the result of
7 normal agricultural practices.

8 **(14)** ~~(12)~~—"Firearm" means a weapon from which a dangerous
9 projectile may be propelled by using explosives, gas, or air.

10 Firearm does not include a smooth bore rifle or handgun designed
11 and manufactured exclusively for propelling BB's not exceeding .177
12 caliber by means of a spring, air, or gas.

13 Sec. 40118. (1) A person who violates this part, an order or
14 interim order issued under this part, or a condition of a permit
15 issued under this part, except for a violation specified in
16 subsections (2) to ~~(12)~~, **(15)**, is guilty of a misdemeanor
17 punishable by imprisonment for not more than 90 days, or a fine of
18 not less than \$50.00 or more than \$500.00, or both, and the costs
19 of prosecution. In addition, a permit issued by the department
20 under this part shall be revoked pursuant to the administrative
21 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 (2) A person who violates a provision of this part or an order
23 or interim order issued under this part regarding the possession or
24 taking of any game, except deer, bear, wild turkey, moose, or elk,
25 is guilty of a misdemeanor punishable by imprisonment for not more
26 than 90 days, or a fine of not less than \$100.00 or more than
27 \$1,000.00, or both, and the costs of prosecution.

1 (3) A person who violates a provision of this part or an order
2 or interim order issued under this part regarding the possession or
3 taking of deer, bear, or wild turkey is guilty of a misdemeanor and
4 shall be punished by imprisonment for not less than 5 days or more
5 than 90 days, and a fine of not less than \$200.00 or more than
6 \$1,000.00, and the costs of prosecution.

7 (4) A person who violates a provision of this part or an order
8 or interim order issued under this part regarding the possession or
9 taking of elk is guilty of a misdemeanor punishable by imprisonment
10 for not less than 30 days or more than 180 days, or a fine of not
11 less than \$500.00 or more than \$2,000.00, or both, and the costs of
12 prosecution.

13 (5) A person who violates a provision of this part or an order
14 or interim order issued under this part regarding the possession or
15 taking of moose is guilty of a misdemeanor and shall be punished by
16 imprisonment for not less than 90 days or more than 1 year and a
17 fine of not less than \$1,000.00 or more than \$5,000.00, and the
18 costs of prosecution.

19 (6) A person sentenced ~~pursuant to~~ **UNDER** subsection (3), (4),
20 (5), (10), or (11) shall not secure or possess a license of any
21 kind to hunt during the remainder of the year in which convicted
22 and the next 3 succeeding calendar years. A person sentenced
23 ~~pursuant to~~ **UNDER** subsection (7) shall not secure or possess a
24 license to hunt during the remainder of the year in which convicted
25 and the next succeeding calendar year.

26 (7) A person who violates section 40113(1) is guilty of a
27 misdemeanor punishable by imprisonment for not less than 5 days or

1 more than 90 days, or a fine of not less than \$100.00 or more than
2 \$500.00, or both, and the costs of prosecution.

3 (8) A person who violates section 40113(2) is guilty of a
4 misdemeanor punishable by imprisonment for not more than 90 days,
5 or a fine of not less than \$50.00 or more than \$500.00, or both,
6 and the costs of prosecution.

7 (9) A person who violates section 40113(3) is guilty of a
8 misdemeanor and shall be punished by imprisonment for not less than
9 5 days or more than 90 days and a fine of not less than \$100.00 or
10 more than \$500.00, and the costs of prosecution.

11 (10) A person who violates a provision of this part or an
12 order or interim order issued under this part regarding the taking
13 or possession of an animal that has been designated by the
14 department to be a protected animal, other than an animal that
15 appears on a list prepared pursuant to ~~UNDER~~ section 36505, is
16 guilty of a misdemeanor punishable by imprisonment for not more
17 than 90 days or a fine of not less than \$100.00 or more than
18 \$1,000.00, or both, and the costs of prosecution.

19 (11) A person who buys or sells game or a protected animal in
20 violation of this part or an order or interim order issued under
21 this part is guilty of a misdemeanor punishable by imprisonment for
22 not more than 90 days or a fine of not more than \$1,000.00, or
23 both, for the first offense, and is guilty of a felony for each
24 subsequent offense.

25 (12) A PERSON WHO VIOLATES A PROVISION OF THIS PART OR AN
26 ORDER OR INTERIM ORDER ISSUED UNDER THIS PART REGARDING BAITING IS
27 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE

1 THAN 90 DAYS OR A FINE OF NOT LESS THAN \$250.00 OR MORE THAN
2 \$500.00, OR BOTH, AND THE COSTS OF PROSECUTION.

3 (13) A PERSON WHO IS CONVICTED OF A SECOND VIOLATION OF
4 SUBSECTION (12) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
5 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT LESS THAN
6 \$500.00 OR MORE THAN \$1,000.00, OR BOTH, AND THE COSTS OF
7 PROSECUTION. IN ADDITION, A PERSON SENTENCED UNDER THIS SUBSECTION
8 SHALL NOT SECURE OR POSSESS A LICENSE OF ANY KIND TO HUNT DURING
9 THE REMAINDER OF THE YEAR IN WHICH CONVICTED AND THE NEXT 2
10 SUCCEEDING CALENDAR YEARS.

11 (14) A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT
12 VIOLATION OF SUBSECTION (12) IS GUILTY OF A MISDEMEANOR PUNISHABLE
13 BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT LESS
14 THAN \$1,000.00 OR MORE THAN \$2,000.00, OR BOTH, AND THE COSTS OF
15 PROSECUTION. IN ADDITION, A PERSON SENTENCED UNDER THIS SUBSECTION
16 SHALL NOT SECURE OR POSSESS A LICENSE OF ANY KIND TO HUNT DURING
17 THE REMAINDER OF THE YEAR IN WHICH CONVICTED AND THE NEXT 3
18 SUCCEEDING CALENDAR YEARS.

19 (15) ~~(12)~~—If a person is convicted of a violation of this part
20 or an order or interim order issued under this part and it is
21 alleged in the complaint and proved or admitted at trial or
22 ascertained by the court after conviction that the person had been
23 previously convicted 2 times within the preceding 5 years for a
24 violation of this part or an order or interim order issued under
25 this part, the person is guilty of a misdemeanor and shall be
26 punished by imprisonment for not less than 10 days or more than 180
27 days, and a fine of not less than \$500.00 or more than \$2,000.00,

1 and costs of prosecution.