

# HOUSE BILL No. 4862

June 20, 2013, Introduced by Reps. McBroom, Bumstead, Daley, Dianda, Foster, MacMaster, Lyons, Somerville and Walsh and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 40103, 41102, 41301, and 41302 (MCL 324.40103, 324.41102, 324.41301, and 324.41302), section 40103 as amended by 2012 PA 520, section 41102 as amended by 2000 PA 191, section 41301 as amended by 2009 PA 51, and section 41302 as added by 2009 PA 52.

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

1           Sec. 40103. (1) "Game" means any of the following animals but  
2 does not include privately owned cervidae species located on a  
3 cervidae livestock facility registered under the privately owned  
4 cervidae producers marketing act, 2000 PA 190, MCL 287.951 to  
5 287.969, **OR SPORTING SWINE LOCATED ON A SPORTING SWINE LIVESTOCK**  
6 **OPERATION THAT IS REGISTERED UNDER THE SPORTING SWINE MARKETING**  
7 **ACT:**

8           (a) Badger.

- 1 (b) Bear.
- 2 (c) Beaver.
- 3 (d) Bobcat.
- 4 (e) Brant.
- 5 (f) Coot.
- 6 (g) Coyote.
- 7 (h) Crow.
- 8 (i) Deer.
- 9 (j) Duck.
- 10 (k) Elk.
- 11 (l) Fisher.
- 12 (m) Florida gallinule.
- 13 (n) Fox.
- 14 (o) Geese.
- 15 (p) Hare.
- 16 (q) Hungarian partridge.
- 17 (r) Marten.
- 18 (s) Mink.
- 19 (t) Moose.
- 20 (u) Muskrat.
- 21 (v) Opossum.
- 22 (w) Otter.
- 23 (x) Pheasant.
- 24 (y) Quail.
- 25 (z) Rabbit.
- 26 (aa) Raccoon.
- 27 (bb) Ruffed grouse.

1 (cc) Sharptailed grouse.

2 (dd) Skunk.

3 (ee) Snipe.

4 (ff) Sora rail.

5 (gg) Squirrel.

6 (hh) Weasel.

7 (ii) Wild turkey.

8 (jj) Wolf.

9 (kk) Woodchuck.

10 (ll) Woodcock.

11 (mm) Virginia rail.

12 (2) "Interim order of the department" means an order of the  
13 department issued under section 40108.

14 (3) "Kind" means an animal's sex, age, or physical  
15 characteristics.

16 (4) "Normal agricultural practices" means generally accepted  
17 agricultural and management practices as defined by the commission  
18 of agriculture and rural development.

19 (5) "Open season" means the dates during which game may be  
20 legally taken.

21 (6) "Parts" means any or all portions of an animal, including  
22 the skin, plumage, hide, fur, entire body, or egg of an animal.

23 (7) "Protected" or "protected animal" means an animal or kind  
24 of animal that is designated by the department as an animal that  
25 shall not be taken.

26 (8) "Residence" means a permanent building serving as a  
27 temporary or permanent home. Residence may include a cottage,

1 cabin, or mobile home, but does not include a structure designed  
 2 primarily for taking game, a tree blind, a tent, a recreational or  
 3 other vehicle, or a camper.

4       Sec. 41102. (1) The department, in accordance with this part,  
 5 may regulate the taking or killing of all fish, game and fur-  
 6 bearing animals, and game birds protected by the laws of this  
 7 state, and may suspend or abridge the open season provided by law  
 8 for the taking or killing of such fish, animals, or game birds in  
 9 any designated waters or area of this state, if in the opinion of  
 10 the department it is necessary to assist in the increased or better  
 11 protection of the fish, game or fur-bearing animals, or game birds,  
 12 or any particular kinds or species of fish, game or fur-bearing  
 13 animals, or game birds, which may in the opinion of the department  
 14 be threatened from any cause or causes with depletion or  
 15 extermination in the waters or area. The department may promulgate  
 16 rules and orders necessary to implement this part after a thorough  
 17 investigation has been made by the department.

18       (2) This section does not apply to ~~privately~~ **EITHER OF THE**  
 19 **FOLLOWING:**

20       **(A) PRIVATELY** owned cervidae species located on a ~~registered~~  
 21 cervidae livestock facility ~~or involved in a registered cervidae~~  
 22 ~~livestock operation~~ **REGISTERED** under the privately owned cervidae  
 23 producers marketing act, 2000 PA 190, MCL 287.951 TO 287.969.

24       **(B) SPORTING SWINE LOCATED ON A SPORTING SWINE LIVESTOCK**  
 25 **OPERATION REGISTERED UNDER THE SPORTING SWINE MARKETING ACT.**

26       Sec. 41301. (1) As used in this part:

27       (a) "Genetically engineered" refers to an organism whose

1 genome, chromosomal or extrachromosomal, is modified permanently  
2 and heritably, using recombinant nucleic acid techniques, or the  
3 progeny of such an organism.

4 (b) "Introduce", with reference to an organism, means to  
5 knowingly and willfully stock, place, plant, release, or allow the  
6 release of the organism in this state at any specific location  
7 where the organism is not already naturalized.

8 (c) "Prohibited species", subject to section 41302, means any  
9 of the following:

10 (i) Any of the following prohibited aquatic plant species,  
11 including a hybrid or genetically engineered variant of the species  
12 or a fragment, including a seed or other propagule, of the species  
13 or of a hybrid or genetically engineered variant:

14 (A) African oxygen weed (*Lagarosiphon major*).

15 (B) Brazilian elodea (*Egeria densa*).

16 (C) Cyllindro (*Cylindrospermopsis raciborskii*).

17 (D) European frogbit (*Hydrocharis morsus-ranae*).

18 (E) Fanwort (*Cabomba caroliniana*).

19 (F) Giant hogweed (*Heracleum mantegazzianum*).

20 (G) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or  
21 *herzogii*).

22 (H) Hydrilla (*Hydrilla verticillata*).

23 (I) Japanese knotweed (*Fallopia japonica*).

24 (J) Parrot's feather (*Myriophyllum aquaticum*).

25 (K) Starry stonewort (*Nitellopsis obtusa*).

26 (L) Water chestnut (*Trapa natans*).

27 (M) Yellow floating heart (*Nymphoides peltata*).

1           (ii) The following prohibited bird species, including a hybrid  
2 or genetically engineered variant of the species or an egg of the  
3 species or of a hybrid or genetically engineered variant: Eurasian  
4 collared dove (*Streptopelia decaocto*).

5           (iii) The following prohibited crustacean species, including a  
6 hybrid or genetically engineered variant of the species or an egg  
7 of the species or of a hybrid or genetically engineered variant:  
8 rusty crayfish (*Orconectes rusticus*).

9           (iv) Any of the following prohibited fish species, including a  
10 hybrid or genetically engineered variant of the species or an egg  
11 of the species or of a hybrid or genetically engineered variant:

12           (A) Bighead carp (*Hypophthalmichthys nobilis*).

13           (B) Bitterling (*Rhodeus sericeus*).

14           (C) Black carp (*Mylopharyngodon piceus*).

15           (D) Eurasian ruffe (*Gymnocephalus cernuus*).

16           (E) Grass carp (*Ctenopharyngodon idellus*).

17           (F) Ide (*Leuciscus idus*).

18           (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).

19           (H) Round goby (*Neogobius melanostomus*).

20           (I) Rudd (*Scardinius erythrophthalmus*).

21           (J) Silver carp (*Hypophthalmichthys molitrix*).

22           (K) A fish of the snakehead family (family Channidae).

23           (L) Tench (*Tinca tinca*).

24           (M) Tubenose goby (*Proterorhinus marmoratus*).

25           (v) Any of the following prohibited insect species, including  
26 a hybrid or genetically engineered variant of the species or an egg  
27 of the species or of a hybrid or genetically engineered variant:

1 (A) Asian longhorned beetle (*Anoplophora glabripennis*).

2 (B) Emerald ash borer (*Agrilus planipennis*).

3 (vi) The following prohibited mammal species, including a  
4 hybrid or genetically engineered variant: ~~nutria~~

5 (A) **FERAL SWINE AS DEFINED IN SECTION 3 OF THE ANIMAL INDUSTRY**  
6 **ACT, 1988 PA 466, MCL 287.703.**

7 (B) **NUTRIA** (*Myocastor coypus*).

8 (vii) Any of the following prohibited mollusk species,  
9 including a hybrid or genetically engineered variant of the species  
10 or an egg of the species or of a hybrid or genetically engineered  
11 variant:

12 (A) Brown garden snail (*Helix aspersa*).

13 (B) Carthusian snail (*Monacha cartusiana*).

14 (C) Giant African snail (*Achatina fulica*).

15 (D) Girdled snail (*Hygromia cinctella*).

16 (E) Heath snail (*Xerolenta obvia*).

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

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

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

23 (i) Any of the following restricted aquatic plant species,  
24 including a hybrid or genetically engineered variant of the species  
25 or a fragment, including a seed or other propagule, of the species  
26 or of a hybrid or genetically engineered variant:

27 (A) Curly leaf pondweed (*Potamogeton crispus*).

1 (B) Eurasian watermilfoil (*Myriophyllum spicatum*).

2 (C) Flowering rush (*Butomus umbellatus*).

3 (D) Phragmites or common reed (*Phragmites australis*).

4 (E) Purple loosestrife (*Lythrum salicaria*), except that  
5 cultivars of purple loosestrife developed and recognized to be  
6 sterile and approved by the director of the department of  
7 agriculture **AND RURAL DEVELOPMENT** under section 16a of the insect  
8 pest and plant disease act, 1931 PA 189, MCL 286.216a, are not a  
9 restricted species.

10 (ii) Any of the following restricted mollusk species, including  
11 a hybrid or genetically engineered variant of the species or an egg  
12 of the species or of a hybrid or genetically engineered variant:

13 (A) Quagga mussel (*Dreissena bugensis*).

14 (B) Zebra mussel (*Dreissena polymorpha*).

15 (2) For the purposes of this part:

16 (a) A person is not considered to possess a live organism  
17 simply because the organism is present on land or in waters owned  
18 by that person unless the person has knowingly introduced that live  
19 organism on that land or in those waters.

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

24 (c) A person is not considered to possess a live organism if  
25 the possession is for the purpose of promptly destroying the  
26 organism.

27 Sec. 41302. (1) ~~The commission of~~ **EXCEPT AS PROVIDED IN**



1 **SUBSECTION (4), THE** natural resources **COMMISSION** may, by order, add  
2 to or delete from the list of prohibited species or restricted  
3 species under section 41301 any species other than an insect or  
4 plant species. Before issuing an order under this subsection, the  
5 ~~commission of~~ natural resources **COMMISSION** shall consult with the  
6 department of agriculture **AND RURAL DEVELOPMENT**. After the  
7 consultation, and at least 30 days before the ~~commission of~~ natural  
8 resources **COMMISSION** issues the order, the department of natural  
9 resources shall post a copy of the proposed order on the department  
10 of natural resources' website and shall submit a copy of the  
11 proposed order to all of the following:

12 (a) The legislature.

13 (b) The standing committees of the senate and house of  
14 representatives with primary responsibility for any of the  
15 following:

16 (i) Agricultural issues.

17 (ii) Environmental issues.

18 (iii) Natural resources issues.

19 (2) The commission of agriculture **AND RURAL DEVELOPMENT** may,  
20 by order, add to or delete from the list of prohibited species or  
21 restricted species under section 41301 any insect or plant species.  
22 Before issuing an order under this subsection, the commission of  
23 agriculture **AND RURAL DEVELOPMENT** shall consult with the department  
24 of natural resources. After the consultation, and at least 30 days  
25 before the commission of agriculture **AND RURAL DEVELOPMENT** issues  
26 the order, the department of agriculture **AND RURAL DEVELOPMENT**  
27 shall post a copy of the proposed order on the department of

1 ~~agriculture's~~ **AGRICULTURE AND RURAL DEVELOPMENT'S** website and shall  
2 submit a copy of the proposed order to all of the following:

3 (a) The legislature.

4 (b) The standing committees of the senate and house of  
5 representatives with primary responsibility for any of the  
6 following:

7 (i) Agricultural issues.

8 (ii) Environmental issues.

9 (iii) Natural resources issues.

10 (3) The ~~commission of~~ natural resources **COMMISSION** or the  
11 commission of agriculture **AND RURAL DEVELOPMENT**, as applicable,  
12 shall list a species as a prohibited species or restricted species  
13 if the ~~commission of~~ natural resources **COMMISSION** or commission of  
14 agriculture **AND RURAL DEVELOPMENT**, respectively, determines the  
15 following:

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

18 (i) The organism is not native to this state.

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

21 (iii) One or more of the following apply:

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

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

26 (b) For a restricted species, all of the following  
27 requirements are met:

1 (i) The organism is not native to this state.

2 (ii) The organism is naturalized and widely distributed in this  
3 state.

4 (iii) One or more of the following apply:

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

7 (B) Effective management or control techniques for the  
8 organism are available.

9 (4) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE**  
10 **NATURAL RESOURCES COMMISSION SHALL NOT LIST AS A PROHIBITED OR**  
11 **RESTRICTED SPECIES SPORTING SWINE REGULATED UNDER THE SPORTING**  
12 **SWINE MARKETING ACT. THE DEPARTMENT OF NATURAL RESOURCES SHALL NOT**  
13 **ENFORCE ANY ORDER UNDER THIS PART THAT IS INCONSISTENT WITH THIS**  
14 **SUBSECTION.**

15 Enacting section 1. This amendatory act does not take effect  
16 unless all of the following bills of the 97th Legislature are  
17 enacted into law:

18 (a) Senate Bill No. \_\_\_\_ or House Bill No. \_\_\_\_ (request no.  
19 00037'13).

20 (b) Senate Bill No. \_\_\_\_ or House Bill No. 4864 (request no.  
21 00037'13 b).

22 (c) Senate Bill No. \_\_\_\_ or House Bill No. 4863 (request no.  
23 00037'13 c).

24 (d) Senate Bill No. \_\_\_\_ or House Bill No. \_\_\_\_ (request no.  
25 00039'13).