

HOUSE BILL No. 4213

February 13, 2001, Introduced by Reps. Vear and Raczkowski and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 73101, 73110, and 73111 (MCL 324.73101,
324.73110, and 324.73111), sections 73101 and 73110 as amended by
1998 PA 546 and section 73111 as added by 1995 PA 58, and by
adding section 73110A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 73101. As used in this part:

2 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

3 (B) ~~-(a)-~~ "Farm product" means that term as defined in sec-
4 tion 2 of the Michigan right to farm act, 1981 PA 93, MCL
5 286.472.

6 (C) ~~-(b)-~~ "Farm property" means land used in the production
7 of a farm product and all lands contained within the farm.

1 (D) ~~(c)~~ "Fish" means game fish or nongame fish as those
2 terms are defined in section 48701.

3 (E) "FUND" MEANS THE RECREATIONAL TRESPASS ENFORCEMENT FUND
4 CREATED IN SECTION 73110A.

5 (F) ~~(d)~~ "Fur-bearing animal" means that term as defined in
6 section 43503.

7 (G) ~~(e)~~ "Game" means that term as defined in section
8 40103.

9 (H) ~~(f)~~ "Hunting dog" means a dog allowed to range freely
10 to engage in or aid in hunting on the day the dog enters the
11 property of another person.

12 (I) ~~(g)~~ "License" means a hunting, fishing, or fur
13 harvester's license or, in the discretion of the court, any com-
14 bination of such licenses. License does not mean a certificate,
15 license, or permit under part 445 or 473.

16 (J) ~~(h)~~ "Protected animal" means that term as defined in
17 section 40103.

18 Sec. 73110. (1) Except as provided in subsection (2) OR
19 (3), AS APPLICABLE, a person who violates this part is guilty of
20 a misdemeanor punishable by imprisonment for not more than 90
21 days or a fine of not less than \$100.00 or more than \$500.00, or
22 both.

23 (2) A person convicted of a second or subsequent violation
24 of this part occurring within 3 years of a previous violation of
25 this part shall be punished by imprisonment for not more than 90
26 days or a fine of not less than \$250.00 or more than \$1,000.00,
27 or both. In addition, the court shall order the person's license

1 revoked if the person is licensed to hunt, fish, or trap in this
2 state, and shall order the person not to seek or possess a
3 license for the remainder of the calendar year in which the
4 person is convicted and during at least 1 succeeding calendar
5 year. This subsection does not apply after September 30, 2001.

6 (3) This subsection applies beginning October 1, 2001. A
7 person convicted of a second or subsequent violation of this part
8 occurring within 3 years of a previous violation of this part
9 shall be punished by imprisonment for not more than 90 days or a
10 fine of not less than \$100.00 or more than \$1,000.00, or both.
11 In addition, the court may order the person's license revoked if
12 the person is licensed to hunt, fish, or trap in this state, and
13 may order the person not to seek or possess a license for not
14 more than 3 succeeding calendar years.

15 (4) The court may order a person convicted of violating this
16 part to pay the costs of prosecution.

17 (5) IN ADDITION TO THE PENALTIES PROVIDED IN THIS SECTION,
18 THE COURT SHALL ORDER A PERSON CONVICTED OF VIOLATING THIS PART
19 TO PAY \$100.00 FOR THE FUND. THE CLERK OF THE COURT SHALL FOR-
20 WARD THIS MONEY TO THE DEPARTMENT OF TREASURY FOR DEPOSIT IN THE
21 FUND. ALONG WITH THE MONEY, THE CLERK SHALL PROVIDE THE DEPART-
22 MENT WITH INFORMATION DESIGNATING THE LAW ENFORCEMENT AGENCY THAT
23 ARRESTED THE PERSON.

24 (6) ~~-(5)-~~ The following may be seized and forfeited in the
25 same manner as provided in chapter 47 of the revised judicature
26 act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709:

1 (a) A protected animal, a fur-bearing animal, game, or fish
2 taken while committing any violation of this part.

3 (b) Property in the possession of the defendant while com-
4 mitting a second or subsequent violation of this part occurring
5 within 3 years of a previous violation of this part. This subdi-
6 vision does not apply to either of the following:

7 (i) Electronic hunting-dog-retrieval equipment.

8 (ii) A living or dead animal of any kind not described in
9 subdivision (a).

10 (7) ~~-(6)-~~ The court shall order a person convicted of vio-
11 lating this part to make restitution for any damage arising out
12 of the violation, including, but not limited to, reimbursing this
13 state for the value of any protected animal, fur-bearing animal,
14 game, or fish taken while violating this part as provided in sec-
15 tion 40119. However, the value of fish shall be determined as
16 provided in section 48740.

17 SEC. 73110A. (1) THE RECREATIONAL TRESPASS ENFORCEMENT FUND
18 IS CREATED WITHIN THE STATE TREASURY.

19 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
20 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
21 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER
22 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
23 INVESTMENTS.

24 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
25 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

26 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
27 APPROPRIATION, ONLY TO REIMBURSE LOCAL OR STATE LAW ENFORCEMENT

1 AGENCIES, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT, FOR THE
2 COSTS OF ENFORCING THIS PART OR AN ORDINANCE UNDER SECTION
3 73111(1). EACH FISCAL YEAR, THE MONEY DEPOSITED IN THE FUND
4 DURING THE PRECEDING FISCAL YEAR SHALL BE DISTRIBUTED TO LAW
5 ENFORCEMENT AGENCIES IN PROPORTION TO THE NUMBER OF PERSONS CON-
6 VICTED UNDER THIS PART OR AN ORDINANCE UNDER SECTION 73111(1)
7 DURING THE PRECEDING FISCAL YEAR WHO WERE ARRESTED BY EACH LAW
8 ENFORCEMENT AGENCY.

9 Sec. 73111. (1) A local unit of government may adopt ~~this~~
10 ~~part~~ SECTIONS 73101 TO 73110 as an ordinance, except that a pen-
11 alty imposed for a violation of that ordinance shall not exceed
12 the penalty authorized by law for the violation of an ordinance
13 enacted by that local unit of government.

14 (2) A local unit of government shall not enact, maintain, or
15 enforce an ordinance, regulation, or resolution that contradicts
16 or conflicts in any manner with this part.