

Act No. 76
Public Acts of 2005
Approved by the Governor
July 19, 2005
Filed with the Secretary of State
July 19, 2005
EFFECTIVE DATE: July 19, 2005

STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005

Introduced by Reps. Farhat, Schuitmaker, Pavlov, Jones, Wenke, Walker, Ball, Huizenga, Elsenheimer, Kooiman, Vander Veen, Ward, Gillard, Emmons, Anderson, Stewart, Kolb, Lipsey, Meyer, Williams, Farrah, Kathleen Law, Bieda, Acciavatti, Condino, Vagnozzi, Taub, Accavitti, Stakoe, Hune, Gleason, Shaffer, Nofs, Sak, Nitz, Stahl, Moolenaar, Palsrok, Dillon, Bennett, Booher, Caul, Cheeks, Clemente, Espinoza, Gonzales, Gosselin, Hansen, Hildenbrand, Kehrl, Leland, Lemmons, III, Lemmons, Jr., Marleau, Mayes, McDowell, Moore, Mortimer, Palmer, Pearce, Polidori, Proos, Sheltroun, Spade and Murphy

ENROLLED HOUSE BILL No. 4716

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 41309 (MCL 324.41309), as added by 2003 PA 270.

The People of the State of Michigan enact:

Sec. 41309. (1) A person who violates section 41303(2) is subject to a civil fine of not more than \$100.00.

(2) A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a restricted species is subject to a civil fine of not more than \$5,000.00. A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a prohibited species is subject to a civil fine of not more than \$10,000.00.

(3) A person who violates section 41303(1) knowing the possession is unlawful or who willfully or in a grossly negligent manner violates a condition of a permit issued under this part is guilty as follows:

(a) For a violation involving a restricted species, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(b) For a violation involving a prohibited species, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(4) A person who, with intent to damage natural, agricultural, or silvicultural resources:

(a) Violates section 41303(1) with respect to a restricted species or possesses a nonnative fish or aquatic plant is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) Violates section 41303(1) with respect to a prohibited species or possesses a genetically engineered fish or aquatic plant is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(5) A person who sells or offers to sell a restricted species is subject to a civil fine of not less than \$1,000.00 or more than \$10,000.00. A person who sells or offers to sell a prohibited species is subject to a civil fine of not less than \$2,000.00 or more than \$20,000.00.

(6) A person who violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or a nonnative fish or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 6 months and shall be fined not less than \$500.00 or more than \$5,000.00.

(b) For a violation involving a prohibited species or a genetically engineered fish or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(7) A person who violates section 41305 with respect to a restricted species or nonnative fish or aquatic plant and who knows or should know the identity of the restricted species or that the organism, whether a restricted species or other fish or aquatic plant, is nonnative is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(8) A person who violates section 41305 with respect to a prohibited species or a genetically engineered fish or aquatic plant and who knows or should know the identity of the prohibited species or that the fish or aquatic plant is genetically engineered, respectively, is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(9) A person who violates section 41305 knowing the introduction is unlawful, is guilty as follows:

(a) For a violation involving a restricted species or nonnative fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) For a violation involving a prohibited species or a genetically engineered fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(10) A person who, with intent to damage natural, agricultural, or silvicultural resources, violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or nonnative fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$1,000.00 or more than \$500,000.00.

(b) For a violation involving a prohibited species or a genetically engineered fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 5 years and shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

(11) Subsections (3), (4), and (9) do not apply before November 1, 2005 to violations involving species other than fish. Subsections (6), (7), (8), and (10) do not apply before November 1, 2005.

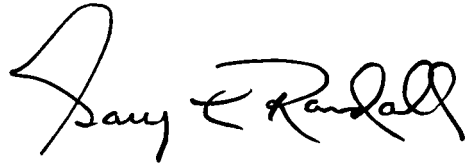
(12) In addition to any other civil or criminal sanction imposed under this section, a person who violates this part is liable for any damages to natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(13) This part does not apply to activities authorized under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

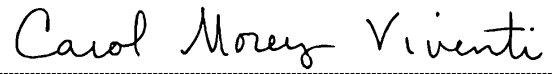
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 211 or House Bill No. 4710.
- (b) Senate Bill No. 212 or House Bill No. 4711.
- (c) Senate Bill No. 213 or House Bill No. 4712.
- (d) Senate Bill No. 215 or House Bill No. 4713.
- (e) Senate Bill No. 216 or House Bill No. 4714.
- (f) Senate Bill No. 217 or House Bill No. 4715.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor