

HOUSE BILL NO. 4442

April 10, 2019, Introduced by Reps. Howell, Cambensy, Wozniak, Rendon, Crawford, Bellino, Wakeman, Pohutsky, Sowerby, Calley and Cherry and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 40113a (MCL 324.40113a), as amended by 2016 PA
382, and by adding sections 43528c, 43528d, 48714a, and 48714b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 40113a. (1) The legislature finds and declares that:
- 2 (a) The fish and wildlife populations of the state and their
- 3 habitat are of paramount importance to the citizens of this state.
- 4 (b) The conservation of fish and wildlife populations of the



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1 state depend upon the wise use and sound scientific management of
2 the state's natural resources.

3 (c) The sound scientific management of the fish and wildlife
4 populations of the state, including hunting of bear, is declared to
5 be in the public interest.

6 (d) The sound scientific management of bear populations in
7 this state is necessary to minimize human/bear encounters and to
8 prevent bears from threatening or harming humans, livestock, and
9 pets.

10 (2) The commission has the exclusive authority to regulate the
11 taking of game as **that term is** defined in section 40103 **and to**
12 **regulate sport fishing under part 487** in this state, **including, but**
13 **not limited to, regulating the use of commercial guides in taking**
14 **game and fish.** The commission shall, to the greatest extent
15 practicable, utilize principles of sound scientific management in
16 making decisions regarding the taking of game. The commission may
17 take testimony from department personnel, independent experts, and
18 others, and review scientific literature and data, among other
19 sources, in support of its duty to use principles of sound
20 scientific management. The commission shall issue orders regarding
21 the taking of game following a public meeting and an opportunity
22 for public input. Not less than 30 days before issuing an order,
23 the commission shall provide a copy of the order to each of the
24 following:

25 (a) Each member of each standing committee of the senate or
26 house of representatives that considers legislation pertaining to
27 conservation, the environment, natural resources, recreation,
28 tourism, or agriculture.

29 (b) The chairperson of the senate appropriations committee and



1 the chairperson of the house of representatives appropriations
2 committee.

3 (c) The members of the subcommittee of the senate
4 appropriations committee and the subcommittee of the house of
5 representatives appropriations committee that consider the budget
6 of the department of natural resources.

7 (3) The legislature declares that hunting, fishing, and the
8 taking of game are a valued part of the cultural heritage of this
9 state and should be forever preserved. The legislature further
10 declares that these activities play an important part in the
11 state's economy and in the conservation, preservation, and
12 management of the state's natural resources. Therefore, the
13 legislature declares that the citizens of this state have a right
14 to hunt, fish, and take game, subject to the regulations and
15 restrictions prescribed by subsection (2) and law.

16 **Sec. 43528c. (1) Beginning March 1, 2019, an individual shall**
17 **not act as a commercial hunting guide in this state unless that**
18 **individual possesses both of the following:**

19 (a) A valid license issued under subsection (2).

20 (b) A valid base license issued under section 43523a.

21 (2) To obtain a license to act as a commercial hunting guide,
22 an individual shall submit the application fee described in section
23 43528d and an application to the department. The application must
24 be in a form and format determined by the department. The
25 department shall only grant a license to an individual if the
26 department determines all of the following:

27 (a) That the individual holds a valid certification in first
28 aid and cardiopulmonary resuscitation issued by the American Red
29 Cross, the American Heart Association, or a comparable organization



1 approved by the department.

2 (b) That the individual is covered by commercial general
3 liability insurance with limits of not less than \$300,000.00 per
4 claim and \$1,000,000.00 aggregate, for the period that the license
5 is valid.

6 (c) The person has a valid, lawfully obtained Michigan driver
7 license issued under the Michigan vehicle code, 1949 PA 300, MCL
8 257.1 to 257.923, an official state personal identification card
9 issued under 1972 PA 222, MCL 28.291 to 28.300, or a sportcard
10 issued under section 43522.

11 (d) Until February 29, 2020, the individual has not been
12 convicted of any of the following within the past 2 years:

13 (i) A violation of this part or part 401, 411, 413, 445, or
14 487.

15 (ii) A violation of an order or interim order issued under this
16 part or part 401, 411, 413, 445, or 487.

17 (iii) Any felony.

18 (iv) A violation of a law of a participating state
19 substantially corresponding to a violation described in
20 subparagraphs (i) to (iii).

21 (e) Beginning March 1, 2020, the individual has not been
22 convicted of any of the following within the past 3 years:

23 (i) A violation of this part or part 401, 411, 413, 445, or
24 487.

25 (ii) A violation of an order or interim order issued under this
26 part or part 401, 411, 413, 445, or 487.

27 (iii) Any felony.

28 (iv) A violation of a law of a participating state



1 substantially corresponding to a violation described in
2 subparagraphs (i) to (iii).

3 (f) The individual is eligible to purchase a license for the
4 game species for which the individual is acting as a commercial
5 hunting guide.

6 (3) An individual shall not act as a commercial hunting guide
7 on commercial forestland.

8 (4) A license issued under this section is valid for 3 years
9 after the date it is issued. The department may revoke a license
10 under this section, after notice and opportunity for hearing
11 pursuant to the administrative procedures act of 1969, 1969 PA 306,
12 MCL 24.201 to 24.328, for any of the following reasons:

13 (a) The department determines that the individual is not
14 eligible to hold a license under this section.

15 (b) The individual provides false information under this
16 section.

17 (c) The individual fails to file an annual report under
18 subsection (5), and that report remains unfiled for more than 90
19 days after it is due.

20 (5) A commercial hunting guide shall file an annual report
21 with the department, in a format determined by the department, that
22 contains information related to all of the following:

23 (a) The counties of this state where the individual acted as a
24 commercial hunting guide.

25 (b) The species of game for which the individual acted as a
26 commercial hunting guide.

27 (c) The number of clients that the commercial hunting guide
28 had during the year.

29 (d) The number of game animals harvested by the clients of the



1 commercial hunting guide.

2 (e) Any additional information the department requires
3 regarding the biological characteristics of the game animals
4 harvested.

5 (6) Information submitted in a report under subsection (5) is
6 confidential and is not subject to disclosure under the freedom of
7 information act, 1976 PA 442, MCL 15.231 to 15.246.

8 (7) The department shall annually post on its website all of
9 the following:

10 (a) The number of applications submitted under subsection (2)
11 in the previous year.

12 (b) The number of licenses issued under this section in the
13 previous year.

14 (c) A list of individuals who have valid licenses under this
15 section.

16 (8) A individual shall carry his or her commercial hunting
17 guide license and shall exhibit the license upon the demand of a
18 conservation officer, a law enforcement officer, a tribal
19 conservation officer, or the owner or occupant of any land where
20 the individual is acting as a commercial hunting guide.

21 (9) An individual who acts as a commercial hunting guide
22 without a valid license issued under this section or who acts as a
23 commercial hunting guide on commercial forestland is subject to a
24 civil fine of \$2,000.00. An individual who acts as a commercial
25 hunting guide without a valid license issued under this section or
26 who acts as a commercial hunting guide on commercial forestland a
27 second or subsequent time is subject to a civil fine of \$4,000.00.
28 A civil fine collected under this subsection must be deposited in
29 the game and fish protection account established in section 2010.



(10) An individual who provides false information to the department under this section is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than \$1,000.00 or more than \$2,500.00, or both, and the costs of prosecution.

(11) As used in this section:

(a) "Commercial hunting guide" means an individual who, for a fee or other consideration of value, provides assistance to another individual in hunting game. Commercial hunting guide does not include any of the following:

(i) The owner of private land while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take game on that private land.

(ii) The owner, employee, or member of a game bird hunting preserve licensed under part 417, or his or her designee, while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take game birds authorized to be hunted on that game bird hunting preserve.

(iii) An individual, business, agency, or nonprofit organization issued a permit from the department to provide damage or nuisance animal control services, while providing those damage or nuisance animal control services.

(iv) An employee or member of an organization conducting a not-for-profit event to recruit, retain, or promote hunting, while providing assistance to another individual in hunting game during that event.

(b) "Consideration of value" means an economic benefit, inducement, right, or profit, including monetary payment accruing to an individual or person. Consideration of value does not include



1 a voluntary sharing of the actual expenses of the guiding activity
2 by monetary contribution or donation of fuel, food, beverages, or
3 other supplies.

4 (c) "Participating state" means that term as defined in
5 section 1615.

6 (d) "Privately owned cervid ranch" means that term as defined
7 in section 6 of the animal industry act, 1988 PA 466, MCL 287.706.

8 Sec. 43528d. Except as otherwise provided in this section, the
9 department shall charge a resident applying for a commercial
10 hunting guide license under section 43528c an application fee of
11 \$500.00. If a resident applies for a commercial hunting guide
12 license and that resident has previously applied for a commercial
13 fishing guide license in the same year, the department shall only
14 charge that individual an application fee of \$250.00 under this
15 section. The department shall charge a nonresident applying for a
16 commercial hunting guide license under section 43528c an
17 application fee of \$750.00. If a nonresident applies for a
18 commercial hunting guide license and that nonresident has
19 previously applied for a commercial fishing guide license in the
20 same year, the department shall only charge that individual an
21 application fee of \$250.00 under this section. Money collected
22 under this section must be deposited in the game and fish
23 protection account established in section 2010.

24 Sec. 48714a. (1) Beginning March 1, 2019, an individual shall
25 not act as a commercial fishing guide on the inland waters of this
26 state unless that individual possesses both of the following:

27 (a) A valid license issued under subsection (2).

28 (b) A valid fishing license.

29 (2) To obtain a license to act as a commercial fishing guide,



1 an individual shall submit the application fee described in section
2 48714b and an application to the department. The application must
3 be in a form and format determined by the department. The
4 department shall only grant a license to an individual if the
5 department determines all of the following:

6 (a) That the individual holds a valid certification in first
7 aid and cardiopulmonary resuscitation issued by the American Red
8 Cross, the American Heart Association, or a comparable organization
9 as approved by the department.

10 (b) That the individual is covered by commercial general
11 liability insurance with limits of not less than \$300,000.00 per
12 claim and \$1,000,000.00 aggregate, for the period that the license
13 is valid.

14 (c) The person has a valid, lawfully obtained Michigan driver
15 license issued under the Michigan vehicle code, 1949 PA 300, MCL
16 257.1 to 257.923, an official state personal identification card
17 issued under 1972 PA 222, MCL 28.291 to 28.300, or a sportcard
18 issued under section 43522.

19 (d) Until February 29, 2020, the individual has not been
20 convicted of any of the following within the past 2 years:

21 (i) A violation of this part or part 401, 411, 413, 435, or
22 445.

23 (ii) A violation of an order or interim order issued under this
24 part or part 401, 411, 413, 435, or 445.

25 (iii) Any felony.

26 (iv) A violation of a law of a participating state
27 substantially corresponding to a violation described in
28 subparagraphs (i) to (iii).

29 (e) Beginning March 1, 2020, the individual has not been



1 convicted of any of the following within the past 3 years:

2 (i) A violation of this part or part 401, 411, 413, 435, or
3 445.

4 (ii) A violation of an order or interim order issued under this
5 part or part 401, 411, 413, 435, or 445.

6 (iii) Any felony.

7 (iv) A violation of a law of a participating state
8 substantially corresponding to a violation described in
9 subparagraphs (i) to (iii).

10 (3) An individual shall not act as a commercial fishing guide
11 on commercial forestland.

12 (4) A license issued under this section is valid for 3 years
13 after the date it is issued. The department shall allow an
14 individual to obtain a public boating access entry pass required
15 under section 78105(3) with any commercial fishing guide license
16 issued under this section for each year that the commercial fishing
17 guide license is valid. The department may revoke a license under
18 this section, after notice and opportunity for hearing pursuant to
19 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
20 to 24.328, for either of the following reasons:

21 (a) The department determines that an individual is not
22 eligible to hold a license under this section.

23 (b) The individual provides false information under this
24 section.

25 (5) A commercial fishing guide shall file monthly reports to
26 the department, in a format determined by the department, that
27 contain information related to all of the following:

28 (a) The counties of this state where the individual acted as a
29 commercial fishing guide.



1 (b) The species of fish for which the individual acted as a
2 commercial fishing guide.

3 (c) The number of clients that the commercial fishing guide
4 had for each fishing trip and the number of hours fished for each
5 fishing trip.

6 (d) The number of fish caught and released and the number of
7 fish harvested by the clients of the commercial fishing guide.

8 (e) The bodies of water where the individual acted as a
9 commercial fishing guide.

10 (f) Any additional information the department requires
11 regarding the fishing activity or biological characteristics of the
12 fish caught and released or harvested.

13 (g) For any month that the guide did not act as a commercial
14 fishing guide, a report stating that the individual did not act as
15 a commercial fishing guide during that month.

16 (6) If an individual fails to file a monthly report under
17 subsection (5) and that report remains unfiled for more than 90
18 days after the date it is due, the individual is subject to the
19 following:

20 (a) For the first violation, a \$100.00 civil fine.

21 (b) For the second violation, a \$200.00 civil fine.

22 (c) For a third violation, a \$500.00 civil fine.

23 (d) For a fourth violation, after notice and an opportunity
24 for hearing pursuant to the administrative procedures act of 1969,
25 1969 PA 306, MCL 24.201 to 24.328, a revocation of the individual's
26 license under this section.

27 (7) Information submitted in reports under subsection (5) is
28 confidential and is not subject to disclosure under the freedom of
29 information act, 1976 PA 442, MCL 15.231 to 15.246.



1 (8) The department shall annually post on its website all of
2 the following:

3 (a) The number of applications submitted under subsection (2)
4 in the previous year.

5 (b) The number of licenses issued under this section in the
6 previous year.

7 (c) A list of individuals who have valid licenses under this
8 section.

9 (9) An individual shall carry his or her commercial fishing
10 guide license and shall exhibit the license upon the demand of a
11 conservation officer, a law enforcement officer, a tribal
12 conservation officer, or the owner or occupant of any land where
13 the individual is acting as a commercial fishing guide.

14 (10) An individual who acts as a commercial fishing guide
15 without a valid permit issued under this section is subject to a
16 civil fine of \$2,000.00. An individual who acts as a commercial
17 fishing guide without a valid license issued under this section a
18 second or subsequent time is subject to a civil fine of \$4,000.00.
19 A civil fine collected under this subsection or subsection (6) must
20 be deposited in the game and fish protection account established in
21 section 2010.

22 (11) An individual who provides false information to the
23 department under this section is guilty of a misdemeanor punishable
24 by imprisonment for not more than 180 days or a fine of not less
25 than \$1,000.00 or more than \$2,500.00, or both, and the costs of
26 prosecution.

27 (12) As used in this section:

28 (a) "Commercial fishing guide" means an individual who, for a
29 fee or other consideration, provides assistance to another



1 individual in pursuing, capturing, catching, killing, taking, or
2 attempting to take fish. Commercial fishing guide does not include
3 an employee or member of an organization conducting a not-for-
4 profit activity to recruit, retain, or promote fishing, while
5 providing assistance to another individual in taking fish during
6 that activity, or the owner of private land while providing
7 assistance to another individual in pursuing, capturing, catching,
8 killing, taking, or attempting to take fish on that private land.

9 (b) "Consideration of value" means an economic benefit,
10 inducement, right, or profit, including monetary payment accruing
11 to an individual or person. Consideration of value does not include
12 a voluntary sharing of the actual expenses of the guiding activity,
13 by monetary contribution or donation of fuel, food, beverage, or
14 other supplies.

15 (c) "Participating state" means that term as defined in
16 section 1615.

17 Sec. 48714b. (1) Except as otherwise provided in this section,
18 the department shall charge a resident applying for a commercial
19 fishing guide license under section 48714a an application fee of
20 \$500.00. If a resident applies for a commercial fishing guide
21 license and that resident has previously applied for a commercial
22 hunting guide license in the same year, the department shall only
23 charge that individual an application fee of \$250.00 under this
24 section. The department shall charge a nonresident applying for a
25 commercial fishing guide license under section 48714a an
26 application fee of \$750.00. If a nonresident applies for a
27 commercial fishing guide license and that nonresident has
28 previously applied for a commercial hunting guide license in the
29 same year, the department shall only charge that individual an



1 application fee of \$250.00 under this section. Money collected
2 under this section shall be deposited in the game and fish
3 protection account established in section 2010.

4 (2) If an individual elects to obtain a public boating access
5 entry pass with the commercial fishing guide license under section
6 48714a, the department shall charge that individual a \$300.00 fee.
7 Money collected for a public boating access entry pass under this
8 section shall be deposited in the waterways account established in
9 section 2035.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.

