

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 795

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 41301, 41302, 41303, 41305, and 41306 (MCL 324.41301, 324.41302, 324.41303, 324.41305, and 324.41306), section 41301 as amended by 2014 PA 358 and section 41302 as added and sections 41303, 41305, and 41306 as amended by 2009 PA 52, and by adding sections 41302a and 41310.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 (A) "AMPHIBIAN" MEANS ANY FROG, TOAD, OR SALAMANDER OF THE
3 CLASS AMPHIBIA.

4 (B) "AQUATIC", EXCEPT AS USED IN SUBDIVISION (P), DESCRIBES AN
5 AMPHIBIAN, CRUSTACEAN, FISH, MOLLUSK, REPTILE, WIGGLER, OR AQUATIC
6 PLANT.

7 (C) "CRUSTACEAN" MEANS FRESHWATER CRAYFISH, SHRIMP, OR PRAWN

1 **OF THE ORDER DECAPODA.**

2 (D) ~~(a)~~—"Genetically engineered" refers to an organism whose
3 genome, chromosomal or extrachromosomal, is modified permanently
4 and heritably, using recombinant nucleic acid techniques, or the
5 progeny of such an organism.

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

10 (F) **"MOLLUSK" MEANS ANY MOLLUSK OF THE CLASSES BIVALVIA AND**
11 **GASTROPODA.**

12 (G) **"NATIVE" MEANS INDIGENOUS TO ANY LOCATION IN THIS STATE.**

13 (H) **"NONAQUATIC" DESCRIBES A BIRD, INSECT OTHER THAN A**
14 **WIGGLER, OR MAMMAL.**

15 (I) **"NONNATIVE" MEANS NOT NATIVE.**

16 (J) **"PERMITTED AQUATIC SPECIES" MEANS A SPECIES LISTED AS**
17 **PROVIDED IN SECTION 41302A.**

18 (K) ~~(e)~~—"Prohibited species", subject to section 41302, means
19 any of the following:

20 (i) Any of the following prohibited aquatic plant species,
21 including a hybrid or genetically engineered variant of the species
22 or a fragment, including a seed or other propagule, of the species
23 or of a hybrid or genetically engineered variant:

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

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

26 (C) *Cylindro* (*Cylindrospermopsis raciborskii*).

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

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

2 (F) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or
3 *herzogii*).

4 (G) Hydrilla (*Hydrilla verticillata*).

5 (H) Parrot's feather (*Myriophyllum aquaticum*).

6 (I) Starry stonewort (*Nitellopsis obtusa*).

7 (J) Water chestnut (*Trapa natans*).

8 (K) Yellow floating heart (*Nymphoides peltata*).

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

13 (A) Giant hogweed (*Heracleum mantegazzianum*).

14 (B) Japanese knotweed (*Fallopia japonica*).

15 (iii) The following prohibited bird species, including a hybrid
16 or genetically engineered variant of the species or an egg of the
17 species or of a hybrid or genetically engineered variant: Eurasian
18 collared dove (*Streptopelia decaocto*).

19 (iv) The following prohibited crustacean species, including a
20 hybrid or genetically engineered variant of the species or an egg
21 of the species or of a hybrid or genetically engineered variant:
22 rusty crayfish (*Orconectes rusticus*).

23 (v) Any of the following prohibited fish species, including a
24 hybrid or genetically engineered variant of the species or an egg
25 of the species or of a hybrid or genetically engineered variant:

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

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

- 1 (C) Black carp (*Mylopharyngodon piceus*).
- 2 (D) Eurasian ruffe (*Gymnocephalus cernuus*).
- 3 (E) Grass carp (*Ctenopharyngodon idellus*).
- 4 (F) Ide (*Leuciscus idus*).
- 5 (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).
- 6 (H) Round goby (*Neogobius melanostomus*).
- 7 (I) Rudd (*Scardinius erythrophthalmus*).
- 8 (J) Silver carp (*Hypophthalmichthys molitrix*).
- 9 (K) A fish of the snakehead family (family Channidae).
- 10 (L) Tench (*Tinca tinca*).
- 11 (M) Tubenose goby (*Proterorhinus marmoratus*).
- 12 (vi) Any of the following prohibited insect species, including
- 13 a hybrid or genetically engineered variant of the species or an egg
- 14 of the species or of a hybrid or genetically engineered variant:
- 15 (A) Asian longhorned beetle (*Anoplophora glabripennis*).
- 16 (B) Emerald ash borer (*Agrilus planipennis*).
- 17 (vii) The following prohibited mammal species, including a
- 18 hybrid or genetically engineered variant: nutria (*Myocastor*
- 19 *coypus*).
- 20 (viii) Any of the following prohibited mollusk species,
- 21 including a hybrid or genetically engineered variant of the species
- 22 or an egg of the species or of a hybrid or genetically engineered
- 23 variant:
- 24 (A) Brown garden snail (*Helix aspersa*).
- 25 (B) Carthusian snail (*Monacha cartusiana*).
- 26 (C) Giant African snail (*Achatina fulica*).
- 27 (D) Girdled snail (*Hygromia cinctella*).

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

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

3 (I) ~~(d)~~—"Recombinant nucleic acid techniques" means laboratory
4 techniques through which genetic material is isolated and
5 manipulated in vitro and then inserted into an organism.

6 (M) "RELEVANT COMMISSION", "RELEVANT DEPARTMENT", OR "RELEVANT
7 DIRECTOR" MEANS THE FOLLOWING:

8 (i) WITH RESPECT TO A SPECIES OTHER THAN A PLANT OR AN INSECT,
9 EXCEPT A WIGGLER, THE NATURAL RESOURCES COMMISSION, DEPARTMENT OF
10 NATURAL RESOURCES, OR THE DIRECTOR OF THE DEPARTMENT OF NATURAL
11 RESOURCES, RESPECTIVELY.

12 (ii) WITH RESPECT TO A PLANT SPECIES OR AN INSECT SPECIES,
13 OTHER THAN A WIGGLER, THE COMMISSION OF AGRICULTURE AND RURAL
14 DEVELOPMENT, THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT,
15 OR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE AND RURAL
16 DEVELOPMENT, RESPECTIVELY.

17 (N) "REPTILE" MEANS ANY TURTLE, SNAKE, OR LIZARD OF THE CLASS
18 REPTILIA.

19 (O) ~~(e)~~—"Restricted species", subject to section 41302, means
20 any of the following:

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

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

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

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

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

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

8 (ii) The following restricted terrestrial plant species,
9 including a hybrid or genetically engineered variant of the species
10 or a fragment, including a seed or other propagule, of the species
11 or of a hybrid or genetically engineered variant: autumn olive
12 (*Elaeagnus umbellata*).

13 (iii) Any of the following restricted mollusk species, including
14 a hybrid or genetically engineered variant of the species or an egg
15 of the species or of a hybrid or genetically engineered variant:

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

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

18 (P) **"WIGGLER" MEANS AN AQUATIC EGG, NYMPH, OR LARVA OF AN**
19 **INSECT.**

20 (2) For the purposes of this part:

21 (a) A person is not considered to possess a live organism
22 simply because the organism is present on land or in waters owned
23 by that person unless the person has knowingly introduced that live
24 organism on that land or in those waters.

25 (b) A person is not considered to possess a live organism if
26 the organism was obtained from the environment and the person only
27 possesses the organism at the specific location at which it was

1 obtained from the environment.

2 (c) A person is not considered to possess a live organism if
3 the possession is for the purpose of promptly destroying the
4 organism.

5 Sec. 41302. (1) The **RELEVANT** ~~commission of natural resources~~
6 may by order add to or delete **A SPECIES** from the list of prohibited
7 species or restricted species under section 41301. ~~any species~~
8 ~~other than an insect or plant species. Before issuing an order~~
9 ~~under this subsection, the commission of THE~~ natural resources
10 **COMMISSION ISSUES AN ORDER UNDER THIS SUBSECTION, IT** shall consult
11 with the department of agriculture **AND RURAL DEVELOPMENT. BEFORE**
12 **THE COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT ISSUES AN ORDER**
13 **UNDER THIS SUBSECTION, IT SHALL CONSULT WITH THE DEPARTMENT OF**
14 **NATURAL RESOURCES.** After the consultation, and at least 30 days
15 before the **RELEVANT** ~~commission of natural resources~~ issues the
16 order, the **RELEVANT** ~~department of natural resources~~ shall post a
17 copy of the proposed order on the ~~department of natural resources~~
18 **RELEVANT DEPARTMENT'S** website and shall submit a copy of the
19 proposed order to all of the following:

20 (a) The legislature.

21 (b) The standing committees of the senate and house of
22 representatives with primary responsibility for any of the
23 following:

24 (i) Agricultural issues.

25 (ii) Environmental issues.

26 (iii) Natural resources issues.

27 ~~(2) The commission of agriculture may by order add to or~~

1 ~~delete from the list of prohibited species or restricted species~~
 2 ~~under section 41301 any insect or plant species. Before issuing an~~
 3 ~~order under this subsection, the commission of agriculture shall~~
 4 ~~consult with the department of natural resources. After the~~
 5 ~~consultation, and at least 30 days before the commission of~~
 6 ~~agriculture issues the order, the department of agriculture shall~~
 7 ~~post a copy of the proposed order on the department of~~
 8 ~~agriculture's website and shall submit a copy of the proposed order~~
 9 ~~to all of the following:~~

10 ~~—— (a) The legislature.~~

11 ~~—— (b) The standing committees of the senate and house of~~
 12 ~~representatives with primary responsibility for any of the~~
 13 ~~following:~~

14 ~~—— (i) Agricultural issues.~~

15 ~~—— (ii) Environmental issues.~~

16 ~~—— (iii) Natural resources issues.~~

17 (2) ~~(3) The **RELEVANT** commission of natural resources or the~~
 18 ~~commission of agriculture, as applicable, shall list a **NONAQUATIC**~~
 19 ~~species as a prohibited species or restricted species if the~~
 20 ~~**RELEVANT** commission of natural resources or commission of~~
 21 ~~agriculture, respectively, determines the following:~~

22 (a) For a **NONAQUATIC** prohibited species, all of the following
 23 requirements are met:

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

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

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

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

3 (B) Effective management or control techniques for the
4 organism are not available.

5 (b) For a **NONAQUATIC** restricted species, all of the following
6 requirements are met:

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

8 (ii) The organism is naturalized and widely distributed in this
9 state.

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

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

13 (B) Effective management or control techniques for the
14 organism are available.

15 (3) **THE RELEVANT COMMISSION SHALL LIST AN AQUATIC SPECIES AS A**
16 **PROHIBITED SPECIES OR RESTRICTED SPECIES IF THE RELEVANT COMMISSION**
17 **DETERMINES THE FOLLOWING BASED ON A REVIEW BY THE RELEVANT**
18 **DEPARTMENT:**

19 (A) **FOR AN AQUATIC PROHIBITED SPECIES, ALL OF THE FOLLOWING**
20 **REQUIREMENTS ARE MET:**

21 (i) **THE ORGANISM IS NOT NATIVE OR IS GENETICALLY ENGINEERED.**

22 (ii) **THE ORGANISM IS NOT NATURALIZED IN THIS STATE OR, IF**
23 **NATURALIZED, IS NOT WIDELY DISTRIBUTED.**

24 (iii) **ONE OR MORE OF THE FOLLOWING APPLY:**

25 (A) **THE ORGANISM HAS THE POTENTIAL TO HARM HUMAN HEALTH OR TO**
26 **SEVERELY HARM NATURAL, AGRICULTURAL, OR SILVICULTURAL RESOURCES.**

27 (B) **EFFECTIVE MANAGEMENT OR CONTROL TECHNIQUES FOR THE**

1 ORGANISM ARE NOT AVAILABLE.

2 (B) FOR AN AQUATIC RESTRICTED SPECIES, ALL OF THE FOLLOWING
3 REQUIREMENTS ARE MET:

4 (i) THE ORGANISM IS NOT NATIVE.

5 (ii) THE ORGANISM IS NATURALIZED IN THIS STATE.

6 (iii) ONE OR MORE OF THE FOLLOWING APPLY:

7 (A) THE ORGANISM HAS THE POTENTIAL TO HARM HUMAN HEALTH OR TO
8 HARM NATURAL, AGRICULTURAL, OR SILVICULTURAL RESOURCES.

9 (B) EFFECTIVE MANAGEMENT OR CONTROL TECHNIQUES FOR THE
10 ORGANISM ARE AVAILABLE.

11 (4) THE FOLLOWING APPLY TO A REVIEW BY THE RELEVANT DEPARTMENT
12 OF AN AQUATIC SPECIES FOR LISTING AS A PROHIBITED SPECIES OR
13 RESTRICTED SPECIES UNDER SUBSECTION (3):

14 (A) BY 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
15 THAT ADDED THIS SUBSECTION, THE RELEVANT DEPARTMENT SHALL REVIEW
16 EACH AQUATIC SPECIES LISTED AS A PROHIBITED SPECIES OR RESTRICTED
17 SPECIES ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
18 SUBSECTION.

19 (B) BY 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
20 THAT ADDED THIS SUBSECTION, THE RELEVANT DEPARTMENT SHALL REVIEW
21 EACH AQUATIC ANIMAL LISTED AS INJURIOUS WILDLIFE UNDER THE LACEY
22 ACT, 16 USC 3371 TO 3378, AND EACH AQUATIC PLANT DESIGNATED AS A
23 NOXIOUS WEED UNDER THE PLANT PROTECTION ACT, 7 USC 7701 TO 7786,
24 FOR LISTING AS A PROHIBITED SPECIES OR RESTRICTED SPECIES.

25 (C) THE RELEVANT DEPARTMENT SHALL REVIEW NEW LISTINGS OR
26 DELISTINGS ON THE FEDERAL LISTS IDENTIFIED UNDER SUBDIVISION (B)
27 WITHIN 180 DAYS AFTER THE LISTING OR DELISTING.

1 (D) THE RELEVANT DEPARTMENT SHALL REVIEW EACH AQUATIC SPECIES
2 THAT HAS THE POTENTIAL TO HARM HUMAN HEALTH OR NATURAL,
3 AGRICULTURAL, OR SILVICULTURAL RESOURCES FOR LISTING AS A
4 PROHIBITED SPECIES OR RESTRICTED SPECIES EVEN IF THE SPECIES IS NOT
5 CURRENTLY ON EITHER FEDERAL LIST DESCRIBED IN SUBDIVISION (B) .

6 (E) THE RELEVANT DEPARTMENT MAY REVIEW A PREVIOUSLY UNREVIEWED
7 AQUATIC SPECIES PETITIONED FOR LISTING AS A PERMITTED SPECIES UNDER
8 SECTION 41302A(5) FOR WHICH THE RISK ASSESSMENT PROCESS UNDER
9 SECTION 41302A(2) OR (3) INDICATED A HIGH INVASIVE SPECIES RISK.

10 (F) THE RELEVANT DEPARTMENT MAY REVIEW OTHER AQUATIC SPECIES
11 FOR LISTING AS PROHIBITED OR RESTRICTED SPECIES.

12 (5) THE RELEVANT DIRECTOR MAY ISSUE AN EMERGENCY ORDER
13 DESIGNATING AN ORGANISM AS A PROHIBITED SPECIES OR RESTRICTED
14 SPECIES IF THE ORGANISM HAS THE POTENTIAL TO HARM HUMAN HEALTH OR
15 TO SEVERELY HARM NATURAL, AGRICULTURE, OR SILVICULTURAL RESOURCES.
16 AN EMERGENCY ORDER IS EFFECTIVE FOR NOT LONGER THAN 90 DAYS. THE
17 RELEVANT DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

18 (A) POST A PROPOSED EMERGENCY ORDER ON ITS WEBSITE AND
19 OTHERWISE PUBLICIZE THE PROPOSED EMERGENCY ORDER IN A MANNER THAT
20 ENSURES THAT INTERESTED PERSONS ARE PROVIDED NOTICE OF THE PROPOSED
21 EMERGENCY ORDER, THE REASONS FOR THE EMERGENCY ORDER, AND THE
22 PROPOSED EFFECTIVE DATE OF THE ORDER.

23 (B) PROVIDE A COPY OF THE PROPOSED EMERGENCY ORDER TO EACH
24 MEMBER OF THE STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF
25 REPRESENTATIVES THAT CONSIDER LEGISLATION PERTAINING TO
26 CONSERVATION, THE ENVIRONMENT, RECREATION, TOURISM, OR NATURAL
27 RESOURCES.

1 (C) POST THE FINAL EMERGENCY ORDER ON ITS WEBSITE.

2 (6) THE RELEVANT DEPARTMENT MAY ISSUE AN ORDER SETTING FORTH
3 THE CONDITIONS UNDER WHICH NATURALIZED ORGANISMS OF AN AQUATIC
4 RESTRICTED SPECIES MAY BE HARVESTED, POSSESSED, AND TRANSPORTED.

5 SEC. 41302A. (1) BY 2 YEARS AFTER THE EFFECTIVE DATE OF THIS
6 SECTION, THE DEPARTMENT OF NATURAL RESOURCES AND THE DEPARTMENT OF
7 AGRICULTURE AND RURAL DEVELOPMENT, AFTER CONSULTATION AND NOTICE IN
8 THE SAME MANNER AS REQUIRED OF THE RESPECTIVE COMMISSION UNDER
9 SECTION 41302(1), SHALL EACH CREATE A PERMITTED SPECIES LIST FOR
10 AQUATIC SPECIES FOR WHICH IT IS THE RELEVANT DEPARTMENT. TOGETHER,
11 THESE LISTS COMPOSE THE PERMITTED AQUATIC SPECIES LIST. THE INITIAL
12 PERMITTED AQUATIC SPECIES LIST SHALL CONSIST OF ALL OF THE
13 FOLLOWING:

14 (A) ALL SPECIES ON THE LIST OF APPROVED SPECIES FOR
15 AQUACULTURE UNDER SECTION 5 OF THE MICHIGAN AQUACULTURE DEVELOPMENT
16 ACT, 1996 PA 199, MCL 286.875, ON THE EFFECTIVE DATE OF THIS
17 SECTION OR THAT ARE APPROVED UNDER A RESEARCH PERMIT UNDER SECTION
18 8 OF THE MICHIGAN AQUACULTURE DEVELOPMENT ACT, 1996 PA 199, MCL
19 286.878, ON THE EFFECTIVE DATE OF THIS SECTION.

20 (B) ALL NATIVE AQUATIC SPECIES, OTHER THAN AQUATIC PLANTS,
21 THAT BY THE EFFECTIVE DATE OF THIS SECTION WERE, AS LIVE ORGANISMS,
22 LAWFULLY IN COMMERCIAL TRADE IN THIS STATE. WITHIN 1 YEAR AFTER THE
23 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT OF NATURAL
24 RESOURCES, IN CONSULTATION WITH AFFECTED INDUSTRIES, SHALL
25 DETERMINE WHICH AQUATIC SPECIES QUALIFY UNDER THIS SUBDIVISION.

26 (C) ALL NONNATIVE AQUATIC SPECIES, OTHER THAN AQUATIC PLANTS,
27 THAT, BY THE EFFECTIVE DATE OF THIS SECTION, WERE, AS LIVE

1 ORGANISMS, LAWFULLY IN WIDE COMMERCIAL TRADE IN THIS STATE FOR AT
2 LEAST 5 YEARS, IF THERE IS NO EVIDENCE OF THE SPECIES CAUSING HARM
3 TO HUMAN HEALTH OR NATURAL, AGRICULTURAL, OR SILVICULTURAL
4 RESOURCES IN THE GREAT LAKES REGION. FOR THE PURPOSES OF THIS
5 SUBDIVISION AND SUBDIVISION (D), WITHIN 1 YEAR AFTER THE EFFECTIVE
6 DATE OF THIS SECTION, THE DEPARTMENT OF NATURAL RESOURCES, IN
7 CONSULTATION WITH AFFECTED INDUSTRIES, SHALL DETERMINE WHICH
8 AQUATIC SPECIES, OTHER THAN AQUATIC PLANTS, WERE, AS LIVE
9 ORGANISMS, IN COMMERCIAL TRADE IN THIS STATE BY THE EFFECTIVE DATE
10 OF THIS SECTION AND WHETHER EACH OF THOSE SPECIES HAD, AS LIVE
11 ORGANISMS, BEEN IN WIDE COMMERCIAL TRADE IN THIS STATE FOR AT LEAST
12 5 YEARS.

13 (D) ALL NONNATIVE AQUATIC SPECIES, OTHER THAN AQUATIC PLANTS,
14 THAT, BY THE EFFECTIVE DATE OF THIS SECTION, WERE, AS LIVE
15 ORGANISMS, LAWFULLY IN COMMERCIAL TRADE IN THIS STATE, THAT DO NOT
16 MEET THE REQUIREMENTS OF SUBDIVISION (C), BUT THAT ARE APPROVED BY
17 THE DEPARTMENT OF NATURAL RESOURCES BASED ON A RISK ASSESSMENT
18 UNDER SUBSECTION (2). WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF
19 THIS SECTION, THE DEPARTMENT OF NATURAL RESOURCES SHALL PERFORM THE
20 RISK ASSESSMENT AND APPROVE OR DISAPPROVE THE ASSESSED SPECIES FOR
21 LISTING AS PERMITTED AQUATIC SPECIES.

22 (E) ALL AQUATIC PLANTS, NATIVE OR NONNATIVE, THAT, BY THE
23 EFFECTIVE DATE OF THIS SECTION, WERE, AS LIVE ORGANISMS, LAWFULLY
24 IN COMMERCIAL TRADE IN THIS STATE. WITHIN 1 YEAR AFTER THE
25 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT OF AGRICULTURE AND
26 RURAL DEVELOPMENT, IN CONSULTATION WITH AFFECTED INDUSTRIES
27 INCLUDING THE HORTICULTURE INDUSTRY, SHALL DETERMINE WHICH AQUATIC

1 PLANTS QUALIFY UNDER THIS SUBDIVISION.

2 (2) TO PERFORM A RISK ASSESSMENT ON AN AQUATIC SPECIES OTHER
3 THAN AN AQUATIC PLANT, THE DEPARTMENT OF NATURAL RESOURCES SHALL
4 USE THE RISK ASSESSMENT AQUATIC PROTOCOL DEVELOPED BY THE UNITED
5 STATES FISH AND WILDLIFE SERVICE, AQUATIC FISHERIES AND RESOURCES
6 PROGRAM. THE NATURAL RESOURCES COMMISSION SHALL PERIODICALLY REVIEW
7 AND MAY MODIFY OR REPLACE THE ASSESSMENT PROTOCOL BY ORDER
8 CONSISTENT WITH THE PURPOSES OF THIS PART.

9 (3) TO PERFORM A RISK ASSESSMENT ON AN AQUATIC PLANT, THE
10 DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT SHALL USE THE PLANT
11 PROTECTION AND QUARANTINE (PPQ) WEED RISK ASSESSMENT PROTOCOL
12 DEVELOPED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE'S PLANT
13 PROTECTION AND QUARANTINE, PLANT EPIDEMIOLOGY, AND RISK ANALYSIS
14 LABORATORY, RALEIGH, NORTH CAROLINA. EACH AQUATIC PLANT CULTIVAR,
15 VARIETY, OR HYBRID SHALL BE ASSESSED SEPARATELY. THE COMMISSION OF
16 AGRICULTURE AND RURAL DEVELOPMENT SHALL PERIODICALLY REVIEW AND MAY
17 MODIFY OR REPLACE THE ASSESSMENT PROTOCOL BY ORDER CONSISTENT WITH
18 THE PURPOSES OF THIS PART.

19 (4) IF AN AQUATIC SPECIES THAT WAS NOT PREVIOUSLY A PROHIBITED
20 OR RESTRICTED SPECIES UNDER THIS PART DOES NOT PASS THE RISK
21 ASSESSMENT FOR PERMITTED SPECIES UNDER THIS SECTION AND IS REVIEWED
22 UNDER SECTION 41302(4)(E) AND PLACED ON THE PROHIBITED SPECIES LIST
23 OR RESTRICTED SPECIES LIST, ANY PERSON INVOLVED IN THE
24 COMMERCIALIZATION OR SALE OF AN AQUATIC SPECIES THAT POSSESSES LIVE
25 ORGANISMS OF THAT PROHIBITED OR RESTRICTED SPECIES SHALL BE
26 COMPENSATED AT FAIR MARKET VALUE BY THIS STATE FOR THE LOSS OF THAT
27 SPECIES PRODUCT IN THE PERSON'S POSSESSION IN THIS STATE WHEN THE

1 SPECIES WAS PLACED ON THE PROHIBITED SPECIES LIST OR RESTRICTED
2 SPECIES LIST.

3 (5) AQUATIC SPECIES THAT ON THE EFFECTIVE DATE OF THIS SECTION
4 ARE, AS LIVE ORGANISMS, NOT IN COMMERCIAL TRADE IN THIS STATE OR
5 ARE UNKNOWN TO OR UNANTICIPATED BY THE RELEVANT DEPARTMENT MAY BE
6 ADDED TO THE PERMITTED SPECIES LIST UPON EVALUATION USING THE RISK
7 ASSESSMENT PROCEDURE DESCRIBED UNDER SUBSECTION (2) OR (3), AS
8 APPLICABLE. AFTER THE CREATION OF THE INITIAL PERMITTED SPECIES
9 LIST, ANY PERSON INVOLVED IN THE COMMERCIALIZATION OR SALE OF
10 AQUATIC SPECIES MAY PETITION THE RELEVANT DEPARTMENT TO REVIEW AND
11 ADD A NEW AQUATIC SPECIES TO THE PERMITTED SPECIES LIST FOR FUTURE
12 COMMERCIALIZATION AND SALE IN THIS STATE. THE PETITIONER HAS THE
13 BURDEN OF DEMONSTRATING THAT THE SPECIES PASSES THE RISK ASSESSMENT
14 UNDER SUBSECTION (2) OR (3), AS APPLICABLE. THE PETITIONER SHALL
15 PROVIDE INFORMATION THAT IS REQUESTED BY THE RELEVANT DEPARTMENT TO
16 PERFORM THE RISK ASSESSMENT. ANY PRIOR BACKGROUND MATERIALS
17 GENERATED AS A RESULT OF A FEDERAL AGENCY REVIEW AND IDENTIFIED BY
18 THE PETITIONER SHALL BE CONSIDERED BY THE DEPARTMENT. THE
19 PETITIONER SHALL PAY A REASONABLE FEE THAT DOES NOT EXCEED THE
20 ADMINISTRATIVE COSTS FOR THE RELEVANT DEPARTMENT TO REVIEW THE
21 PETITIONED SPECIES. THE RELEVANT DEPARTMENT MAY, BUT IS NOT
22 REQUIRED TO, REVIEW ON ITS OWN INITIATIVE AN AQUATIC SPECIES FOR
23 PLACEMENT ON THE PERMITTED SPECIES LIST.

24 Sec. 41303. (1) Subject to subsection (2), a person shall not
25 knowingly possess a live organism if the organism is a prohibited
26 species or restricted species, except under 1 or more of the
27 following circumstances:

1 (a) The person intends to present a specimen of the prohibited
2 species or restricted species, for identification or similar
3 purposes, to a person who is a certified applicator or registered
4 applicator under part 83, to a public or private institution of
5 higher education, or to the department of natural resources, the
6 department of agriculture **AND RURAL DEVELOPMENT**, or any other
7 state, local, or federal agency with responsibility for the
8 environment, natural resources, or agriculture.

9 (b) The person has been presented with a specimen of a
10 prohibited species or restricted species for identification or
11 similar purposes under subdivision (a).

12 (c) The person possesses the prohibited species or restricted
13 species in conjunction with otherwise lawful activity to eradicate
14 or control the prohibited species or restricted species.

15 ~~(d) If the prohibited species or restricted species is not an~~
16 ~~insect or plant species, the~~ **THE** possession is pursuant to a permit
17 issued for education or research purposes by the **RELEVANT**
18 ~~department of natural resources~~ under section 41306 ~~. If~~ **OR, IF** the
19 prohibited species or restricted species is ~~an insect or~~ **A** plant
20 species **OR AN INSECT OTHER THAN A WIGGLER**, ~~the possession is~~
21 ~~pursuant to a permit issued for education or research purposes by~~
22 ~~the department of agriculture under section 41306 or by the United~~
23 States department of agriculture.

24 **(E) THE SPECIES IS AN AQUATIC RESTRICTED SPECIES AND THE**
25 **PERSON POSSESSES THE SPECIES IN COMPLIANCE WITH AN ORDER UNDER**
26 **SECTION 41302(6).**

27 (2) A person described in subsection (1)(b) or (c) shall

1 notify the department of natural resources, the department of
 2 agriculture **AND RURAL DEVELOPMENT**, or the department of
 3 environmental quality if the prohibited species or restricted
 4 species was found at a location where it was not previously known
 5 to be present.

6 (3) **BEFORE INITIAL ESTABLISHMENT OF THE PERMITTED AQUATIC**
 7 **SPECIES LIST, A PERSON SHALL NOT IMPORT, SELL, OR OFFER TO SELL ANY**
 8 **LIVE AQUATIC SPECIES UNLESS THE LIVE AQUATIC SPECIES, BY THE**
 9 **EFFECTIVE DATE OF THE 2014 AMENDATORY ACT THAT ADDED THIS**
 10 **SUBSECTION, WAS LAWFULLY IN COMMERCIAL TRADE IN THIS STATE. AFTER**
 11 **THE INITIAL ESTABLISHMENT OF THE PERMITTED AQUATIC SPECIES LIST, A**
 12 **PERSON SHALL NOT IMPORT, SELL, OR OFFER TO SELL ANY LIVE AQUATIC**
 13 **SPECIES NOT LISTED ON THE PERMITTED AQUATIC SPECIES LIST.**

14 Sec. 41305. A person shall not introduce a prohibited species,
 15 a restricted species, ~~or~~ a genetically engineered or nonnative
 16 ~~aquatic plant, bird, crustacean, fish, INSECT, mammal, or mollusk,~~
 17 **OR AQUATIC PLANT** unless the introduction is authorized by 1 of the
 18 following, as applicable:

19 (a) For a fish, by a permit issued by the department of
 20 natural resources under section 48735.

21 (b) For ~~an insect or~~ **A plant OR AN INSECT OTHER THAN A**
 22 **WIGGLER**, by a permit issued by the department of agriculture **AND**
 23 **RURAL DEVELOPMENT** under section 41306.

24 (c) For any other species, by a permit issued by the
 25 department of natural resources under section 41306.

26 Sec. 41306. (1) A person shall apply **TO THE RELEVANT**
 27 **DEPARTMENT** for a permit that section 41303 or 41305 describes as

1 being issued by the department of natural resources or the
2 department of agriculture under this section. **THE APPLICATION SHALL**
3 **BE SUBMITTED** on a form developed by the **RELEVANT** department. ~~of~~
4 ~~natural resources or the department of agriculture, respectively.~~
5 The application shall be accompanied by a fee based on the cost of
6 administering this part. The **RELEVANT** department ~~of natural~~
7 ~~resources or the department of agriculture, respectively,~~ shall
8 either grant an administratively complete application and issue a
9 permit or deny the application.

10 (2) In determining whether to grant or deny an application for
11 a permit for introduction of a genetically engineered organism
12 required by section 41305, the **RELEVANT** department ~~of natural~~
13 ~~resources or the department of agriculture, as applicable,~~ shall
14 consider whether any application for a federal permit or approval
15 for the genetically engineered organism has been granted or denied.

16 (3) The **RELEVANT** department ~~of natural resources or the~~
17 ~~department of agriculture~~ may revoke or modify a permit **IT HAS**
18 ~~issued by the department of natural resources or the department of~~
19 ~~agriculture, respectively,~~ under subsection (1) after providing an
20 opportunity for a hearing under the administrative procedures act
21 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 (4) The **RELEVANT** department ~~of natural resources~~ shall
23 administer and enforce this part. ~~, except with respect to insect~~
24 ~~and plant species. The department of agriculture shall administer~~
25 ~~and enforce this part with respect to insect or plant species.~~ In
26 addition, any peace officer may enforce the criminal provisions of
27 this part.

1 SEC. 41310. A VEHICLE, EQUIPMENT, OR OTHER PROPERTY USED IN A
2 CRIMINAL VIOLATION OF THIS PART OR A PERMIT ISSUED UNDER THIS PART
3 INVOLVING A PROHIBITED SPECIES THAT IS AN AQUATIC SPECIES IS
4 SUBJECT TO SEIZURE AND FORFEITURE AS PROVIDED IN CHAPTER 47 OF THE
5 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO
6 600.4709.

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

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 97th Legislature are
11 enacted into law:

12 (a) Senate Bill No. 796.

13 (b) Senate Bill No. 797.

14 (c) Senate Bill No. 799.

15 (d) Senate Bill No. 800.