

# Legislative Analysis



## AMEND NREPA: PROHIBITED SPECIES

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**Senate Bill 795 (Substitute S-3)**  
**Sponsor: Sen. Mike Kowall**

**Senate Bill 796 (Substitute S-1)**  
**Sponsor: Sen. Arlan Meekhof**

**Senate Bill 799 (Substitute S-1)**  
**Sponsor: Sen. Tom Casperson**

**Senate Bill 797 (Substitute S-1)**  
**Sponsor: Sen. Phil Pavlov**

**Senate Bill 800 (Substitute S-1)**  
**Sponsor: Sen. Howard Walker**

**House Committee: Natural Resources**

**Senate Committee: Natural Resources, Environment and Great Lakes**

**Complete to 12-1-14**

## A SUMMARY OF SENATE BILLS 795-797 & 799-800 AS PASSED BY THE SENATE

Senate Bills 795 and 800 would amend the Natural Resources and Environmental Protection Act (NREPA), generally speaking, (1) by creating separate new felonies for violations involving for the illegal possession or introduction of a prohibited aquatic species, essentially increasing current penalties; and (2) by allowing for the seizure and forfeiture of property used in such criminal violations under the Revised Judicature Act.

Senate Bills 796-799 would make complementary amendments to several other acts. The bills are tie-barred together, meaning that none can take effect unless all are enacted.

Senate Bill 795 would amend NREPA to make a vehicle, equipment, or other property used in a criminal violation of Part 413 (Transgenic and Nonnative Organisms), or a permit issued under Part 413, involving a prohibited species that is an aquatic species subject to seizure and forfeiture under the Revised Judicature Act.

Senate Bill 796 would put the new felony descriptions in the Code of Criminal Procedure.

Senate Bill 797 would amend the Revised Judicature Act of 1961 by adding the violations created by SB 800 to the list of crimes where forfeiture of property can be sought.

Senate Bill 799 would amend the Administrative Procedures Act of 1969 by exempting the license suspension revocation process created in SB 800 from the requirements of the act.

Senate Bill 800 would amend NREPA by creating separate new felonies for violations involving for the illegal possession or introduction of a prohibited aquatic species.

Under the bill, for a violation involving a prohibited species that is an aquatic species, a person would be guilty of a felony and could be imprisoned for not more than three years and would be fined not less than \$2,000 or more than \$100,000. This applies if the person knows the possession is unlawful or who willfully or in a grossly negligent fashion violates a condition of a permit. (The penalty for a violation involving a species that is not an aquatic species would remain imprisonment for up to two years and a fine of not less than \$2,000 or more than \$20,000.)

Also under the bill, a person who violates Section 41305 of NREPA—involving the introduction of a species—with respect to a prohibited species that is an aquatic species and who has actual or constructive knowledge of the identity of the prohibited species would be guilty of a felony and could be imprisoned for up to three years and would be fined not less than \$2,000 or more than \$100,000.

The bill also provides that if a person commits a criminal violation of Part 413 (Transgenic and Nonnative Organisms) or a rule promulgated or a permit issued under Part 413, or knowingly commits a violation involving the sale of a prohibited or restricted species, and if those violations involve aquatic species, then the court would order that any permit or license issued to that person under Part 473 (Commercial Fishing) or Part 487 (Sport Fishing) be suspended for one year and that the person not be eligible for such a permit or license for one year.

A second violation would result in a revocation of any active permit or license and permanent ineligibility. A copy of the court order suspending a license or permit would be sent to the Department of Natural Resources by the clerk of the court.

If any permit or license under Part 473 (Commercial Fishing) is ordered suspended or revoked and if the DNR maintains a database of suspensions or revocations of permits or licenses, the department would not be allowed to issue a permit or license to the individual guilty of the felony for the duration of the time specified in the court order. Once the duration of the license or permit suspension has been met, the suspension would remain in effect until the individual pays the DNR a reinstatement fee of \$125 per license or permit suspended. Once the time and fee requirements have been met, the permit or license would be immediately reinstated unless otherwise suspended, revoked, or denied.

## **FISCAL IMPACT:**

**Senate Bill 795** would have minimal fiscal impact to the Department of Natural Resources and local government. Costs associated with the seizure and repossession of vehicles, equipment, or other property used in the unlawful introduction of prohibited aquatic species could result in an increase in administrative and personnel costs for law enforcement. The responsibility for seizure and repossession would be shared across state and local law enforcement agencies.

**Senate Bill 796** would have no fiscal impact to the Department of Natural Resources or local governments.

**Senate Bill 797** would have no fiscal impact to the Department of Natural Resources or local governments.

**Senate Bill 799** would have no fiscal impact to the Department of Natural Resources or local governments.

**Senate Bill 800** would have an indeterminate fiscal impact to the Department of Natural Resources. This bill specifies penalties for violations of Part 413 of 1994 PA 451 (NREPA) involving prohibited aquatic species. It allows the court to suspend state-issued licenses of individuals who sell or intend to sell restricted or prohibited species as defined in 1994 PA 451 (NREPA). These individuals may have their suspended license reinstated after the suspension period has lapsed and a \$125 reinstatement fee has been paid.

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