



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 963 (as enrolled)
Senate Bill 965 (as enrolled)
Senate Bill 966 (as enrolled)
House Bill 5775 (as enrolled)
Sponsor: Senator Robert Geake (S.B. 963, 965, & 966)
Representative David Jaye (H.B. 5775)
Senate Committee: Natural Resources and Environmental Affairs
House Committee: Conservation, Environment and Great Lakes

PUBLIC ACT 315 of 1996
PUBLIC ACT 316 of 1996
PUBLIC ACT 317 of 1996
PUBLIC ACT 318 of 1996

Date Completed: 8-13-96

RATIONALE

Part 401 of the Natural Resources and Environmental Protection Act prohibits a person from obstructing or interfering with the lawful taking of animals by another person with the intent to prevent that lawful taking. The prohibition was passed in 1990 because some hunters reportedly were concerned that certain radical groups, in the name of animal rights, would launch organized attempts to interfere with hunters' legal right to take game. Although at the time no incidents of hunter harassment apparently had been documented in Michigan, some other states reportedly had experienced confrontations between hunters and animal rights activists. In order to ensure that Michigan's hunters had unimpeded access to hunting areas and the wildlife in those areas, some felt that techniques of hunter harassment and impairment should be statutorily prohibited.

Now some people believe that it is necessary to extend to the State's sport and commercial fishers the type of protection against harassment and interference that Michigan hunters are afforded. Reportedly, a nationally recognized animal rights organization, P.E.T.A., has launched a campaign to ban sportfishing in the United States. According to some, it is in the State's best interest to protect fishing since the industry contributes significantly to the State's economy, provides quality outdoor recreation, and supports the management of Michigan's aquatic resources.

CONTENT

Senate Bills 963 and 966, and House Bill 5775, amended the Natural Resources and Environmental Protection Act to prohibit a person from obstructing, or interfering with, the lawful taking of fish and aquatic species, and provide the same penalties for a violation of this prohibition as there are currently for a violation of the Act's prohibition against interfering with the taking of animals. Senate Bill 965 amended the Act to expand the prohibition against interfering with the lawful taking of animals, and specify penalties for repeated violations of the prohibition.

Senate Bill 963

The bill amended Part 487 (Sport Fishing) of the Act to prohibit a person from obstructing or interfering in the lawful taking of aquatic species by another person. The bill defines "aquatic species" as fish, reptiles, mollusks, crustacea, minnows, wigglers, and amphibians of the class amphibia. "Take" and "taking" mean to fish for by any lawful method, catch, kill, capture, trap, or shoot any species of fish, reptiles, amphibians, mollusks, wigglers, or crustacea, regulated by this part, or to attempt to engage in any such activity. "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

A person is in violation of this prohibition if, in order to hinder or prevent the lawful taking of an aquatic species, he or she knowingly or intentionally operates a vessel, or a device designed to be used on the water that does not meet the definition of a vessel, in a manner likely to alter significantly the behavior of aquatic species; wades or swims in a manner or at a location likely to cause a significant alteration in the behavior of aquatic species; tosses, drops, or throws any stone, rock, or other inert material; or drives, herds, or disturbs any aquatic species with the purpose of disrupting a lawful taking.

A person also is in violation of the prohibition if he or she knowingly or intentionally:

- Blocks, impedes, or harasses another person who is engaged in the process of lawfully taking an aquatic species.
- Interjects himself or herself into the area where nets, fishing lines, or traps may be placed by a person lawfully taking aquatic species.
- Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus to affect aquatic species behavior in order to hinder or prevent the lawful taking of an aquatic species.
- Erects barriers to deny ingress to or egress from areas where the lawful taking of aquatic species may occur. This provision does not apply to a person who erects barriers to prevent trespassing on his or her property.
- Affects the condition or placement of personal or private property intended for use in the lawful taking of an aquatic species in order to impair its usefulness or prevent its use.
- Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating these provisions.
- Engages in any other act or behavior for the purpose of violating these provisions.

The bill was tie-barred to House Bill 5775.

House Bill 5775

The bill amended Part 487 of the Act to specify that a person who violates Senate Bill 963 is guilty of a misdemeanor, punishable by imprisonment for up to 93 days, a fine of not less than \$500 or more

than \$1,000, or both, and the costs of prosecution. A second or subsequent violation is punishable by imprisonment for up to one year, a fine of at least \$1,000 but not more than \$2,500, or both, plus the costs of prosecution. In addition, any permit or license issued by the Department of Natural Resources authorizing the person to take aquatic species must be revoked. A prosecution under these provisions does not preclude prosecution or other action under any other criminal or civil statute.

Upon the petition of an aggrieved person or a person who reasonably may be aggrieved by a violation of the provisions of Senate Bill 963, a court of competent jurisdiction, upon a showing that a person was engaged in and threatens to continue to engage in illegal conduct under that bill, may enjoin the conduct.

House Bill 5775 specifies that the provisions of Senate Bill 963 do not apply to a peace officer while he or she performs his or her lawful duties.

The bill was tie-barred to Senate Bill 963.

Senate Bill 965

The bill amended Part 401 (Wildlife Conservation) of the Act to add to the list of activities that constitute a violation of the prohibition against interfering with the lawful taking of animals, knowingly or intentionally engaging in any other act or behavior for the purpose of violating the prohibition. The bill also increased from 90 days to 93 days the maximum jail sentence for a violation of the prohibition, and specifies that the penalty for a second or subsequent violation is imprisonment for up to one year, a fine of at least \$1,000 but not more than \$2,500, or both, plus the costs of prosecution. Previously, a violation was punishable by a fine of at least \$500 but not more than \$1,000, a maximum 90-day jail sentence, or both, plus prosecution costs.

The bill also specifies that a prosecution under the bill does not preclude prosecution or other action under any other criminal or civil statute.

In addition, the bill prohibits a person from obstructing or interfering in the lawful taking of animals by another person. Previously, the Act prohibited a person from obstructing or interfering in the lawful taking of animals by another person with the intent to prevent that lawful taking.

Senate Bill 966

The bill amended Part 473 (Commercial Fishing) of the Act to prohibit a person from obstructing or interfering in the lawful taking of fish by a person licensed under this part. The bill contains the same provisions as those in Senate Bill 963 and House Bill 5775, except that the maximum fine for a first violation of the prohibition against taking fish is \$5,000 and the maximum fine for a second and subsequent violation is \$10,000.

MCL 324.48702a (S.B. 963)
324.48702b (H.B. 5775)
324.40112 (S.B. 965)
324.47301a (S.B. 966)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Fishing has long been a popular outdoor activity in Michigan, and the right of people to engage in that activity should be protected by law. Fishing in Michigan, which has more freshwater coastline than any other state in the continental U.S. and boasts more than 36,000 miles of rivers and 11,000 inland lakes, is enjoyed by about 2 million resident anglers and countless more tourists from all over the world. The industry generates almost \$2 billion in expenditures every year and subsidizes the management of the State's aquatic resources through license fees. The financial commitment of sport fishers has resulted in many world class Michigan fisheries, including walleye, steelhead, brown trout, and a resurgent salmon population. Clearly, then, the positive contributions that sport and commercial fishing have made to Michigan's economy and environment and to the enjoyment of its residents and tourists should be encouraged. The bills provide just such encouragement by precluding the harassment of, and interference with, the sport and commercial fishers in Michigan.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bills will have no fiscal impact on the Department of Corrections, yet might result in increased local costs for prosecuting and sanctioning convicted violators of the bills. There are no data currently available that might indicate the expected number of annual violations. Senate

Bills 965 and 966, and House Bill 5775, may generate increased revenues to the State from criminal fines and penalties.

Senate Bills 963 and 966 will have an indeterminate fiscal impact on the Department of Natural Resources, depending on the number of potential violations and the amount of fishing law enforcement activities required.

Fiscal Analyst: G. Cutler
M. Hansen

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.