

# HOUSE BILL No. 4428

March 23, 1999, Introduced by Reps. Green, Sheltroun, Julian, Scranton and Rick Johnson and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 40103, 40106, 40107, 40109, and 41102 (MCL 324.40103, 324.40106, 324.40107, 324.40109, and 324.41102), sections 40103 and 40107 as amended by 1998 PA 86 and sections 40106, 40109, and 41102 as added by 1995 PA 57.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 40103. (1) "Game" means any of the following animals  
2 BUT DOES NOT INCLUDE CAPTIVE CERVIDAE LOCATED ON A REGISTERED  
3 CAPTIVE CERVIDAE OPERATION AS THAT TERM IS DEFINED IN THE  
4 MICHIGAN CAPTIVE CERVIDAE DEVELOPMENT ACT:  
5       (a) Badger.  
6       (b) Bear.  
7       (c) Beaver.

- 1 (d) Bobcat.
- 2 (e) Brant.
- 3 (f) Coot.
- 4 (g) Coyote.
- 5 (h) Crow.
- 6 (i) Deer.
- 7 (j) Duck.
- 8 (k) Elk.
- 9 (l) Fisher.
- 10 (m) Florida gallinule.
- 11 (n) Fox.
- 12 (o) Geese.
- 13 (p) Hare.
- 14 (q) Hungarian partridge.
- 15 (r) Marten.
- 16 (s) Mink.
- 17 (t) Moose.
- 18 (u) Muskrat.
- 19 (v) Opossum.
- 20 (w) Otter.
- 21 (x) Pheasant.
- 22 (y) Quail.
- 23 (z) Rabbit.
- 24 (aa) Raccoon.
- 25 (bb) Ruffed grouse.
- 26 (cc) Sharptailed grouse.

1 (dd) Skunk.

2 (ee) Snipe.

3 (ff) Sora rail.

4 (gg) Squirrel.

5 (hh) Weasel.

6 (ii) Wild turkey.

7 (jj) Woodchuck.

8 (kk) Woodcock.

9 (ll) Virginia rail.

10 (2) "Interim order of the department" means an order of the  
11 department issued under section 40108.

12 (3) "Kind" means an animal's sex, age, or physical  
13 characteristics.

14 (4) "Open season" means the dates during which game may be  
15 legally taken.

16 (5) "Parts" means any or all portions of an animal, includ-  
17 ing the skin, plumage, hide, fur, entire body, or egg of an  
18 animal.

19 (6) "Protected" or "protected animal" means an animal or  
20 kind of animal that is designated by the department as an animal  
21 that shall not be taken.

22 Sec. 40106. (1) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
23 SUBSECTION, A person shall not take, release, transport, sell,  
24 buy, or have in his or her possession game or any protected  
25 animal, whether living or dead, or parts of any game or protected  
26 animal, from this state or from outside of this state, except as  
27 provided for in this part or by an order of the department or an

1 interim order of the department. THIS SUBSECTION DOES NOT APPLY  
2 TO A PERSON CONDUCTING A CAPTIVE CERVIDAE OPERATION THAT IS REG-  
3 ISTERED UNDER THE MICHIGAN CAPTIVE CERVIDAE DEVELOPMENT ACT.

4 (2) This section does not enhance the department's powers to  
5 establish an open season for an animal that is not game or give  
6 the department the power to designate a species as game.

7 Sec. 40107. (1) The department shall manage animals in this  
8 state EXCEPT THOSE ANIMALS LOCATED ON A CAPTIVE CERVIDAE OPERA-  
9 TION REGISTERED UNDER THE MICHIGAN CAPTIVE CERVIDAE DEVELOPMENT  
10 ACT. In managing animals, the department may issue orders to do  
11 all of the following:

12 (a) Make recommendations to the legislature regarding ani-  
13 mals that should be added or deleted from the category of game.

14 (b) Determine the kinds of animals that may be taken.

15 (c) Determine the animals or kinds of animals that are  
16 protected.

17 (d) Except as otherwise provided in section 40110, establish  
18 open seasons for taking or possessing game.

19 (e) Establish lawful methods of taking game.

20 (f) Establish lawful methods of taking game for persons who  
21 have certain disabilities.

22 (g) Establish bag limits.

23 (h) Establish geographic areas within the state where cer-  
24 tain regulations may apply to the taking of animals.

25 (i) Determine conditions under which permits may be issued  
26 by the department.

1 (j) Establish fees for the issuing of permits by the  
2 department.

3 (k) Regulate the hours during which animals may be taken.

4 (l) Require that a person involved in a chase of an animal  
5 have in his or her possession a valid license that would autho-  
6 rize the taking of the animal being chased.

7 (m) Establish conditions under which animals taken or pos-  
8 sessed outside of this state may be imported into this state.

9 (n) Regulate the buying and selling of animals and parts of  
10 animals.

11 (o) Establish methods of taking animals that are primarily  
12 taken because of the value of their pelts, which methods supple-  
13 ment the lawful methods of taking such animals that exist on  
14 October 1, 1988.

15 (2) In exercising a power under this section, the department  
16 shall comply with the following procedures in a manner that  
17 assures adequate public notice, opportunity for public comment,  
18 and due regard for traditional methods and practices that were  
19 lawful prior to October 1, 1988:

20 (a) An order shall be prepared by the department after com-  
21 ments from department field personnel and interested persons have  
22 been solicited and considered.

23 (b) The order shall be on the department agenda for at least  
24 1 month prior to its consideration.

25 (c) The department shall provide an opportunity for public  
26 comment on the order.

1 (d) Except as otherwise provided in this subdivision, the  
2 department prior to issuance of an order shall provide a copy of  
3 each order to each member of the senate and the house of repre-  
4 sentatives standing committees that consider legislation pertain-  
5 ing to conservation, environment, recreation, tourism, and natu-  
6 ral resources. The members of the standing committees have 30  
7 days to review and submit comments to the department regarding an  
8 order. This subdivision shall not apply to an order that does  
9 not alter the substance of a lawful provision that exists in the  
10 form of a statute, rule, regulation, or order at the time the  
11 order is prepared.

12 (e) The department shall approve, reject, or modify the  
13 order.

14 (3) The department may revise an order issued pursuant to  
15 this section, and any revision of such an order shall comply with  
16 the procedure set forth in subsection (2).

17 (4) Not later than January 1, 1990, the commission shall  
18 issue orders pursuant to subsection (1) and file orders with the  
19 secretary of state that the commission considers sufficient to  
20 take the place of former 1929 PA 286. The orders filed with the  
21 secretary of state pursuant to this subsection shall indicate  
22 that the orders become effective upon filing with the secretary  
23 of state. Following the effective date of this part, the depart-  
24 ment shall undertake all of the powers given to the commission in  
25 former 1988 PA 256.

26 Sec. 40109. (1) If game is transported, the sex and species  
27 of the game shall be readily identifiable unless the game is game

1 that has been cleaned at a hunting preserve and tagged as  
2 required by law. If game is transported, it shall be tagged as  
3 required by law or a department order authorized under section  
4 40107.

5 (2) This section does not apply to ~~skins~~ THE FOLLOWING:

6 (A) SKINS, pelts, or hides of game that is lawfully taken  
7 and legally possessed.

8 (B) CAPTIVE CERVIDAE OWNED OR TRANSPORTED BY A CAPTIVE CER-  
9 VIDAE OPERATION REGISTERED UNDER THE MICHIGAN CAPTIVE CERVIDAE  
10 DEVELOPMENT ACT.

11 Sec. 41102. (1) The department, in accordance with this  
12 part, may regulate the taking or killing of all fish, game and  
13 fur-bearing animals, and game birds protected by the laws of this  
14 state, and may suspend or abridge the open season provided by law  
15 for the taking or killing of such fish, animals, or game birds in  
16 any designated waters or area of this state, if in the opinion of  
17 the department it is necessary to assist in the increased or  
18 better protection of the fish, game or fur-bearing animals, or  
19 game birds, or any particular kinds or species of fish, game or  
20 fur-bearing animals, or game birds, which may in the opinion of  
21 the department be threatened from any cause or causes with deple-  
22 tion or extermination in the waters or area. The department may  
23 promulgate rules and orders necessary to implement this part  
24 after a thorough investigation has been made by the department.

25 (2) THIS SECTION DOES NOT APPLY TO CAPTIVE CERVIDAE LOCATED  
26 ON A CAPTIVE CERVIDAE OPERATION REGISTERED UNDER THE MICHIGAN  
27 CAPTIVE CERVIDAE DEVELOPMENT ACT.

1 Enacting section 1. This amendatory act does not take  
2 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
3 (request no. 02151'99 \*) of the 90th Legislature is enacted into  
4 law.