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Senate Bills 800, 801, and 802 (as introduced 2-19-14)
Sponsor: Senator Howard C. Walker (S.B. 800)
Senator John Moolenaar (S.B. 801)
Senator Goeff Hansen (S.B. 802)
Committee: Natural Resources, Environment and Great Lakes

Date Completed: 3-24-14

CONTENT

Senate Bill 800 would amend Parts 413 (Transgenic and Nonnative Organisms), 435 (Hunting and Fishing Licensing), and 473 (Commercial Fishing) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Provide that a vehicle, equipment, or other property used in a criminal violation of Part 413 involving an aquatic species would be subject to seizure and forfeiture.
- Require a court to order a one-year suspension of a person's hunting, fishing, or trapping license or commercial fishing license or permit, if a person committed a criminal violation of Part 413 or sold a prohibited or restricted aquatic species.
- Require the court to order permanent revocation of the license or permit, for a second violation.
- Prohibit the Department of Natural Resources (DNR) from issuing a license or permit to a person whose license or permit was suspended or revoked for the period provided in the court order, if the DNR maintained a database of suspensions or revocations.
- Establish conditions for the reinstatement of a suspended license or permit, including payment to the DNR of a \$125 reinstatement fee.

Senate Bill 801 would amend the Administrative Procedures Act to provide that a requirement that a person whose license is to be suspended or revoked be given an opportunity to show compliance with all lawful requirements for retention of the license, would not apply with regard to a hunting, fishing, or trapping license or commercial fishing license or permit suspended or revoked under Senate Bill 800.

Senate Bill 802 would amend the Revised Judicature Act to include a criminal violation of Part 413 of NREPA among the crimes subject to the Act's provisions regarding the seizure and forfeiture of property.

Senate Bills 801 and 802 are tie-barred to Senate Bill 800.

Senate Bill 800

Part 413 prohibits a person from knowingly possessing a live organism that is a prohibited or restricted species, except under any of the following circumstances:

- The person intends to present the specimen for identification or similar purposes to a person who is a certified or registered pesticide applicator, to a public or private institution of higher education, or to the DNR, the Michigan Department of Agriculture and Rural Development (MDARD), or any other State, local, or Federal agency with responsibility for the environment, natural resources, or agriculture.
- The person has been presented with a specimen of a prohibited or restricted species for identification or similar purposes.
- The person possesses the species in conjunction with otherwise lawful activity to eradicate or control it.

The definitions of "prohibited species" and "restricted species" include certain aquatic plant, bird, crustacean, fish, insect, mammal, and mollusk species, including a hybrid or genetically engineered variant of the species, or the listed species' fragments, seeds, or eggs, as applicable. Additionally, the Natural Resources Commission and the Agriculture and Rural Development Commission may by order add to or delete from the lists of prohibited and restricted species. The applicable Commission must list a species as prohibited or restricted if it makes certain determinations specified in Part 413.

Part 413 also prohibits a person from introducing a prohibited species, a restricted species, or a genetically engineered or nonnative aquatic plant, bird, crustacean, fish, mammal, or mollusk, unless the introduction is authorized by a permit issued by the DNR or MDARD, as applicable. ("Introduce" means to knowingly and willfully stock, place, plant, release, or allow the release of the organism in Michigan at any specific location where the organism is not already naturalized.)

Part 413 prescribes penalties for knowingly possessing a prohibited or restricted species, willfully or in a grossly negligent manner violating a Part 413 permit condition, introducing a prohibited or restricted species, and other related violations.

Under the bill, a vehicle, equipment, or other property used in a criminal violation of Part 413 or a rule promulgated or permit issued under it that involved an aquatic species would be subject to seizure and forfeiture as provided in Chapter 47 of the Revised Judicature Act (which Senate Bill 802 would amend).

Also, if a person committed a criminal violation of Part 413 or a rule or permit under Part 413, or knowingly sold or offered to sell a prohibited or restricted species, and the violation involved an aquatic species, the court would have to order the suspension for one year of any hunting, fishing, or trapping license under Part 435 and any commercial fishing license or permit under Part 473 issued to the person. The person would not be eligible to be issued any such license or permit for one year. If the remaining term of an existing license or permit were less than one year, the court would have to order that the license or permit be revoked and that the person not be eligible to be issued any such license or permit for one year. For a second violation, the court would have to order revocation of the license or permit and the person's permanent ineligibility to be issued such a license or permit.

An order under these provisions would be self-effectuating. The clerk of the court would have to send a copy of the order to the DNR.

If a license or permit were ordered to be suspended or revoked and if the DNR maintained a database of suspensions or revocations of licenses under Part 435 or 473, the Department could not issue a license under Part 435 or 473, as applicable, to the person for the period provided in the order.

If a license or permit were ordered to be suspended, the suspension would remain in effect until the suspension period set forth in the court order had elapsed and the person paid the DNR a reinstatement fee of \$125. Unless a person's license or permit were otherwise

suspended, revoked, or denied, the license or permit would be reinstated immediately when these conditions were satisfied.

Senate Bill 801

Under the Administrative Procedures Act, before beginning proceedings for the suspension, revocation, annulment, withdrawal, recall, cancelation, or amendment of a license, an agency must notify the licensee of facts or conduct that warrants the intended action.

The licensee must be given an opportunity to show compliance with all lawful requirements for retention of the license, except as otherwise provided in the Support and Parenting Time Enforcement Act and the Regulated Occupation Support Enforcement Act. The bill would create another exception to this requirement for a hunting, fishing, or trapping license or a commercial fishing license or permit suspended or revoked under Part 413 of NREPA (as Senate Bill 800 would require).

Senate Bill 802

Chapter 47 of the Revised Judicature Act provides for the seizure and forfeiture of property that is obtained through the commission of a crime or by the sale or exchange of proceeds of a crime, as well as property used in the commission of a crime. "Crime" means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of a number of specified offenses in connection with which the forfeiture of property is sought. The bill would include among these offenses a criminal violation of Part 413 of NREPA.

MCL 324.41305 et al. (S.B. 800)
24.292 (S.B. 801)
600.4701 (S.B. 802)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a minimal fiscal impact on the Department of Natural Resources and no fiscal impact on local units of government. To the extent that individuals holding hunting or fishing licenses were found guilty of violating the provisions of Part 413 that would be subject to license sanctions under the bill, the DNR could lose revenue that it would otherwise receive from future license sales or renewals. However, the DNR would receive revenue from the \$125 license reinstatement fee, which would likely be a greater amount than what the Department would lose from lost sales. While the number of violations that would be covered under the bill is not known at this time, it is not expected that the number would be very large, so the fiscal impact of the bill on the DNR would be minimal.

Fiscal Analyst: John Maxwell
Josh Sefton

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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.