

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

WILDLIFE CONSERVATION

PART 401

WILDLIFE CONSERVATION

324.40101 Meanings of words and phrases.

Sec. 40101. For purposes of this part, the words and phrases defined in sections 40102 to 40104 have the meanings ascribed to them in those sections.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40102 Definitions; A to F.

Sec. 40102. (1) "Animals" means wild birds and wild mammals.

(2) "Bag limit" means the number of animals that may be taken and possessed as determined by the department.

(3) "Bow" means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer's muscles.

(4) "Buy" or "sell" means an exchange or attempt or offer to exchange for money, barter, or anything of value.

(5) "Chase" means to follow animals with dogs or other wild or domestic animals trained for that purpose.

(6) "Cormorant damage" means adverse impacts of double-crested cormorants on fish, fish hatchery stock, wildlife, plants, and their habitats and on man-made structures.

(7) "Cormorant depredation order" means the depredation order for double-crested cormorants to protect public resources, 50 CFR 21.48, issued by the United States Department of the Interior, Fish and Wildlife Service.

(8) "Crossbow" means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string that is controlled by a mechanical or electric trigger and has a working safety and a draw weight of 100 pounds or greater.

(9) "Deer or elk feeding" means the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer or elk. Deer or elk feeding does not include any of the following:

(a) Feeding wild birds or other wildlife if done in such a manner as to exclude wild, free-ranging white-tailed deer and elk from gaining access to the feed.

(b) The scattering of feed solely as the result of normal logging practices or normal agricultural practices.

(c) The storage or use of feed for agricultural purposes if 1 or more of the following apply:

(i) The area is occupied by livestock actively consuming the feed on a daily basis.

(ii) The feed is covered to deter wild, free-ranging white-tailed deer or elk from gaining access to the feed.

(iii) The feed is in a storage facility that is consistent with normal agricultural practices.

(d) Baiting to take game as provided by an order of the commission under section 40113a.

(10) "Disability" means a determinable physical characteristic of an individual that may result from disease, injury, congenital condition of birth, or functional disorder.

(11) "Feed" means a substance composed of grain, mineral, salt, fruit, vegetable, hay, or any other food material or combination of these materials, whether natural or manufactured, that may attract white-tailed deer or elk. Feed does not include any of the following:

(a) Plantings for wildlife.

(b) Standing farm crops under normal agricultural practices.

(c) Agricultural commodities scattered solely as the result of normal agricultural practices.

(12) "Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive. A pneumatic gun, as defined in section 1 of 1990 PA 319, MCL 123.1101, other than a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact, is also considered a firearm for the purpose of this act.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000;—Am. 2007, Act 48, Imd. Eff. Aug. 3, 2007;—Am. 2015, Act 24, Eff. July 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.40103 Definitions; G to R; "conservation" defined.

Sec. 40103. (1) "Game" means any species of wildlife designated by the legislature or the commission as game under section 40110 and any of the following animals but does not include privately owned cervidae species located on a cervidae livestock facility registered under the privately owned cervidae producers marketing act, 2000 PA 190, MCL 287.951 to 287.969:

- (a) Badger.
- (b) Bear.
- (c) Beaver.
- (d) Bobcat.
- (e) Brant.
- (f) Coot.
- (g) Coyote.
- (h) Crow.
- (i) Deer.
- (j) Duck.
- (k) Elk.
- (l) Fisher.
- (m) Florida gallinule.
- (n) Fox.
- (o) Geese.
- (p) Hare.
- (q) Hungarian partridge.
- (r) Marten.
- (s) Mink.
- (t) Moose.
- (u) Muskrat.
- (v) Opossum.
- (w) Otter.
- (x) Pheasant.
- (y) Quail.
- (z) Rabbit.
- (aa) Raccoon.
- (bb) Ruffed grouse.
- (cc) Sharptailed grouse.
- (dd) Skunk.
- (ee) Snipe.
- (ff) Sora rail.
- (gg) Squirrel.
- (hh) Virginia rail.
- (ii) Weasel.
- (jj) Wild turkey.
- (kk) Wolf.
- (ll) Woodchuck.
- (mm) Woodcock.

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

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

(4) "Normal agricultural practices" means generally accepted agricultural and management practices as defined by the commission of agriculture and rural development.

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

(6) "Parts" means any or all portions of an animal, including the skin, plumage, hide, fur, entire body, or egg of an animal.

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

(8) "Residence" means a permanent building serving as a temporary or permanent home. Residence may include a cottage, cabin, or mobile home, but does not include a structure designed primarily for taking game, a tree blind, a tent, a recreational or other vehicle, or a camper.

(9) "Conservation" means the wise use of natural resources.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2000, Act 191, Eff. June 1, 2001;—Am. 2012, Act 520, Imd. Eff. Dec. 28, 2012;—Am. 2013, Act 21, Imd. Eff. May 8, 2013;—Am. 2014, Act 281, Eff. Mar. 31, 2015;—Am. 2016, Act 382, Imd. Eff. Dec. 22, 2016.

Compiler's note: Act 160 of 2004, which was approved by the governor and filed with the secretary of state on June 18, 2004, provided for the amendment of Act 451 of 1994 by amending Sec. 40103 and adding Sec. 40110a. The amended and added sections were effective June 18, 2004. On March 28, 2005, a petition seeking a referendum on Act 160 of 2004 was filed with the Secretary of State. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 160 of 2004 was presented to the electors at the November 2006 general election as Proposal 06-3, which read as follows:

"PROPOSAL 06-3

"A REFERENDUM ON PUBLIC ACT 160 OF 2004 — AN ACT TO ALLOW THE ESTABLISHMENT OF A HUNTING SEASON FOR MOURNING DOVES

"Public Act 160 of 2004 would:

"Authorize the Natural Resources Commission to establish a hunting season for mourning doves.

"Require a mourning dove hunter to have a small game license and a \$2.00 mourning dove stamp.

"Stipulate that revenue from the stamp must be split evenly between the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund.

"Require the Department of Natural Resources to address responsible mourning dove hunting; management practices for the propagation of mourning doves; and participation in mourning dove hunting by youth, the elderly and the disabled in the Department's annual hunting guide.

"Should this law be approved?

"Yes []

"No []"

Act 160 of 2004 was rejected by a majority of the electors voting thereon at the November 2006 general election.

Enacting section 1 of Act 281 of 2014 provides:

"Enacting section 1. This act reenacts all or portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108. If any portions of 2012 PA 520 or 2013 PA 21 or 2013 PA 22 or 2013 PA 108 not amended by this act are invalidated pursuant to referendum or any other reason, then any such invalidated portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108 which are otherwise included in this act, shall be deemed to be reenacted pursuant to this act."

Enacting section 2 of Act 281 of 2014 provides:

"Enacting section 2. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Public Act 281 of 2014 was proposed by initiative petition pursuant to Const 1963, art II, § 9. The initiative petition was approved by an affirmative vote of the majority of the Senate on August 13, 2014 and by the House of Representatives on August 27, 2014. The initiative petition was filed with the Secretary of State on August 27, 2014.

In *Keep Michigan Wolves Protected v State of Michigan*, an unpublished opinion issued November 22, 2016, (Docket No. 328604), the Michigan Court of Appeals held that 2014 PA 281, which amended sections of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, is unconstitutional as it violates the title-object clause of section 24 of article IV of the state constitution of 1963.

Popular name: Act 451

Popular name: NREPA

324.40104 Definitions; T, V.

Sec. 40104. (1) "Take" means to hunt with any weapon, dog, raptor, or other wild or domestic animal trained for that purpose; kill; chase; follow; harass; harm; pursue; shoot; rob; trap; capture; or collect animals, or to attempt to engage in such an activity.

(2) "Transport" means to carry or ship animals within this state or to points outside this state.

(3) "Trap" means taking or attempting to take animals by means of a trap or other device designed to kill or capture animals.

(4) "Vehicle" means every device in, upon, or by which any person or property is or may be transported, except devices exclusively moved by human power.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40105 Animals as property of state; taking of animals to be regulated.

Sec. 40105. All animals found in this state, whether resident or migratory and whether native or introduced, are the property of the people of the state, and the taking of all animals shall be regulated by the department as provided by law.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40106 Game or protected animal; taking, releasing, transporting, selling, buying, or possessing; construction of section.

Sec. 40106. A person shall not take, release, transport, sell, buy, or have in his or her possession game or any protected animal, whether living or dead, or parts of any game or protected animal, from this state or from outside of this state, except as provided for in this part or by an order of the department or an interim order of the department. This section does not enhance the department's powers to establish an open season for an animal that is not game or give the department the power to designate a species as game.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40107 Management of animals; orders of department; procedures for exercising power; revision of order; filing orders to take place of former 1929 PA 286; filing and effective date of orders.

Sec. 40107. (1) The department shall manage animals in this state. In managing animals, the department may issue orders to do all of the following:

(a) Make recommendations to the legislature regarding animals that should be added or deleted from the category of game.

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

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

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

(e) Establish lawful methods of taking game.

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

(g) Establish bag limits.

(h) Establish geographic areas within the state where certain regulations may apply to the taking of animals.

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

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

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

(l) Require that a person involved in a chase of an animal have in his or her possession a valid license that would authorize the taking of the animal being chased.

(m) Establish conditions under which animals taken or possessed outside of this state may be imported into this state.

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

(o) Establish methods of taking animals that are primarily taken because of the value of their pelts, which methods supplement the lawful methods of taking such animals that exist on October 1, 1988.

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

(a) An order shall be prepared by the department after comments from department field personnel and interested persons have been solicited and considered.

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

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

(d) Except as otherwise provided in this subdivision, the department prior to issuance of an order shall provide a copy of each order to each member of the senate and the house of representatives standing committees that consider legislation pertaining to conservation, environment, recreation, tourism, and natural resources. The members of the standing committees have 30 days to review and submit comments to the department regarding an order. This subdivision shall not apply to an order that does not alter the substance of a lawful provision that exists in the form of a statute, rule, regulation, or order at the time the order is prepared.

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

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

(4) Not later than January 1, 1990, the commission shall issue orders pursuant to subsection (1) and file orders with the secretary of state that the commission considers sufficient to take the place of former 1929 PA 286. The orders filed with the secretary of state pursuant to this subsection shall indicate that the orders become effective upon filing with the secretary of state. Following the effective date of this part, the

department shall undertake all of the powers given to the commission in former 1988 PA 256.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

Popular name: Act 451

Popular name: NREPA

324.40107a Repealed. 2003, Act 242, Eff. Jan. 4, 2009.

Compiler's note: The repealed section pertained to raptors.

Popular name: Act 451

Popular name: NREPA

324.40107b Taking of live raptors for use in falconry; order; establishment of season; scope of section.

Sec. 40107b. (1) The department shall issue an order in the manner provided in section 40107(2) establishing a season or seasons for falconers to take live raptors for use in falconry. The order shall designate the numbers of raptors that may be taken and possessed and any other conditions pertaining to the taking and possession of raptors that the department considers advisable.

(2) This section does not, and an order issued under this section shall not, designate any species of raptor as game. This section does not prohibit the department from determining that any species of raptor is a protected animal.

History: Add. 2009, Act 36, Imd. Eff. June 4, 2009.

Popular name: Act 451

Popular name: NREPA

324.40107c Control and management of double-crested cormorants; administration of program; organization of states; funds.

Sec. 40107c. (1) To reduce cormorant damage, the department shall administer a program to control and manage double-crested cormorants. The department shall administer the program in cooperation with federal agencies and in a manner that complies with the cormorant depredation order.

(2) In consultation with the department of environmental quality, the department shall participate in a federally recognized organization of states, such as the Mississippi flyway council, to coordinate a regional effort to reduce cormorant damage that includes urging the federal government to do both of the following:

(a) Expand state options for double-crested cormorant control by revising the cormorant depredation order.

(b) Seek to amend the migratory bird convention with Mexico to designate the double-crested cormorant as a game species.

(3) The department shall seek funding from the Great Lakes protection fund authorized under part 331 for deposit in the cormorant control fund created in section 40107d.

History: Add. 2007, Act 47, Imd. Eff. Aug. 3, 2007.

Popular name: Act 451

Popular name: NREPA

324.40107d Control and management of double-crested cormorants; administration of program; organization of states; funds.

Sec. 40107d. (1) The cormorant control fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only to implement section 40107c.

History: Add. 2007, Act 49, Imd. Eff. Aug. 3, 2007.

Popular name: Act 451

Popular name: NREPA

324.40108 Interim orders.

Sec. 40108. The department may modify an order issued under section 40107 by issuing an interim order

consistent with federal regulations or when the department determines that animals are at risk of being depleted or extirpated, or the animal is threatening public safety or inflicting damage to horticulture, agriculture, or other property. The department shall publicize an interim order in a manner that ensures that interested persons are provided notice of the proposed interim order, the reasons for the requested modifications, and the proposed effective date of the order. In addition, the department shall provide a copy of an interim order to each member of the senate and the house of representatives standing committees that consider legislation pertaining to conservation, environment, recreation, tourism, and natural resources. An interim order under this section shall be in effect for not longer than 6 months.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40109 Transportation of game; identification of sex and species; tagging; section inapplicable to skins, pelts, and hides.

Sec. 40109. If game is transported, the sex and species of the game shall be readily identifiable unless the game is game that has been cleaned at a hunting preserve and tagged as required by law. If game is transported, it shall be tagged as required by law or a department order authorized under section 40107. This section does not apply to skins, pelts, or hides of game that is lawfully taken and legally possessed.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40109a Conduct in another state; prosecution, punishment, or penalty prohibited.

Sec. 40109a. An individual shall not be prosecuted, punished, or penalized by this state for any of the following:

- (a) Lawfully taking game in another state.
- (b) Lawfully engaging in a hunt in another state.
- (c) Possessing game that was lawfully taken in another state or this state if that game is possessed in compliance with this act and with orders issued under this act.

History: Add. 2013, Act 111, Imd. Eff. Sept. 24, 2013.

Popular name: Act 451

Popular name: NREPA

324.40110 Designation of species as game; establishment of first open season; removal from list; orders; definitions.

Sec. 40110. (1) Only the legislature or the commission may designate a wildlife species as game. Only the legislature or commission may establish the first open season for a game species designated under this section. The legislature retains the sole authority to remove a wildlife species from the list of game species. The commission shall exercise its authority under this subsection by issuing orders consistent with its duty to use principles of sound scientific wildlife management, as expressed in section 40113a. The commission may decline to issue orders authorizing an open season for a game species if doing so would conflict with principles of sound scientific wildlife management. The commission shall not designate any of the following as game under this subsection:

- (a) A domestic animal.
- (b) Livestock.
- (c) Any species added to the game list by a public act that is rejected by a referendum before May 14, 2013.

(2) After the legislature or commission authorizes the establishment of the first open season for game under this section, the department may issue orders pertaining to that animal for each of the purposes listed in section 40107.

(3) As used in this section:

- (a) "Domestic animal" means those species of animals that live under the husbandry of humans.
- (b) "Livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, and rabbits. Livestock does not include dogs and cats.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2013, Act 21, Imd. Eff. May 8, 2013;—Am. 2014, Act 281, Eff. Mar. 31, 2015;—Am. 2016, Act 382, Imd. Eff. Dec. 22, 2016.

Compiler's note: Enacting section 1 of Act 281 of 2014 provides:

"Enacting section 1. This act reenacts all or portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108. If any portions of 2012 PA 520 or 2013 PA 21 or 2013 PA 22 or 2013 PA 108 not amended by this act are invalidated pursuant to referendum or any other reason, then any such invalidated portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108 which are otherwise included in this act, shall be deemed to be reenacted pursuant to this act."

Enacting section 2 of Act 281 of 2014 provides:

"Enacting section 2. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Public Act 281 of 2014 was proposed by initiative petition pursuant to Const 1963, art II, § 9. The initiative petition was approved by an affirmative vote of the majority of the Senate on August 13, 2014 and by the House of Representatives on August 27, 2014. The initiative petition was filed with the Secretary of State on August 27, 2014.

In *Keep Michigan Wolves Protected v State of Michigan*, an unpublished opinion issued November 22, 2016, (Docket No. 328604), the Michigan Court of Appeals held that 2014 PA 281, which amended sections of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, is unconstitutional as it violates the title-object clause of section 24 of article IV of the state constitution of 1963.

Popular name: Act 451

Popular name: NREPA

324.40110a Open season for moose.

Sec. 40110a. The legislature hereby authorizes the establishment of the first open season for moose. The commission may issue orders pertaining to moose for each of the purposes listed in section 40113a, including, but not limited to, orders establishing the first open season for moose.

History: Add. 2010, Act 366, Imd. Eff. Dec. 22, 2010.

Compiler's note: Act 160 of 2004, which was approved by the governor and filed with the secretary of state on June 18, 2004, provided for the amendment of Act 451 of 1994 by amending Sec. 40103 and adding Sec. 40110a. The amended and added sections were effective June 18, 2004. On March 28, 2005, a petition seeking a referendum on Act 160 of 2004 was filed with the Secretary of State. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 160 of 2004 was presented to the electors at the November 2006 general election as Proposal 06-3, which read as follows:

"PROPOSAL 06-3

"A REFERENDUM ON PUBLIC ACT 160 OF 2004 — AN ACT TO ALLOW THE ESTABLISHMENT OF A HUNTING SEASON FOR MOURNING DOVES

"Public Act 160 of 2004 would:

"Authorize the Natural Resources Commission to establish a hunting season for mourning doves.

"Require a mourning dove hunter to have a small game license and a \$2.00 mourning dove stamp.

"Stipulate that revenue from the stamp must be split evenly between the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund.

"Require the Department of Natural Resources to address responsible mourning dove hunting; management practices for the propagation of mourning doves; and participation in mourning dove hunting by youth, the elderly and the disabled in the Department's annual hunting guide.

"Should this law be approved?"

"Yes []

"No []"

Act 160 of 2004 was rejected by a majority of the electors voting thereon at the November 2006 general election.

Popular name: Act 451

Popular name: NREPA

324.40110b Legislative findings and declaration; establishment of first open season for wolf.

Sec. 40110b. (1) The legislature finds and declares that:

(a) The wildlife populations of the state and their habitat are of paramount importance to the citizens of this state.

(b) The sound management of wolf populations in this state is necessary, including the use of hunting as a management tool, to minimize negative human and wolf encounters and to prevent wolves from threatening or harming humans, livestock, and pets.

(2) The legislature hereby authorizes the establishment of the first open season for wolf. The commission may issue orders under section 40113a establishing annual wolf hunting seasons throughout the state.

History: Add. 2012, Act 520, Imd. Eff. Dec. 28, 2012.

Popular name: Act 451

Popular name: NREPA

324.40111 Taking animal from in or upon vehicle; transporting or possessing firearm in or upon vehicle; person with disability; transporting or possessing unloaded firearm in or upon vehicle on sporting clays range; individual holding permit to hunt from standing vehicle; possessing and discharging firearm to take game from personal assistive mobility

device; transporting or possessing bow or crossbow in or upon vehicle while on public land or highway, road, or street; written permission to hunt or discharge firearm within certain distance of property; definitions.

Sec. 40111. (1) Except as otherwise provided in subsection (3) or (5), this part, or in a department order authorized under section 40107, an individual shall not take an animal from in or upon a vehicle.

(2) Except as otherwise provided in subsection (3), (4), or (5), this part, or in a department order authorized under section 40107, an individual shall not transport or possess a firearm in or upon a vehicle, unless the firearm is unloaded and enclosed in a case, unloaded and carried in the trunk of a vehicle, or unloaded in a motorized boat.

(3) A person with a disability may transport or possess a firearm in or upon a vehicle, except for a car or truck, on a state licensed game bird hunting preserve if the firearm is unloaded and the vehicle is operated at a speed of not greater than 10 miles per hour. A person with a disability may possess a loaded firearm and may discharge that firearm to take an animal from in or upon a vehicle, except for a car or truck, on a state licensed game bird hunting preserve if the vehicle is not moving. The department may demand proof of eligibility under this subsection. An individual shall possess proof of his or her eligibility under this subsection and furnish the proof upon the request of a peace officer.

(4) An individual may transport or possess an unloaded firearm in or upon a vehicle on a sporting clays range.

(5) An individual holding a valid permit to hunt from a standing vehicle under section 40114 may transport or possess an uncased firearm with a loaded magazine on a personal assistive mobility device if the action is open. An individual holding a valid permit to hunt from a standing vehicle under section 40114 may possess a loaded firearm and may discharge that firearm to take game from a personal assistive mobility device if each of the following applies:

(a) The personal assistive mobility device is not moving.

(b) The individual holds a valid base license under section 43523a, holds any other necessary license under part 435, and complies with all other laws and rules for the taking of game.

(6) An individual may transport or possess a bow or crossbow in or upon a vehicle while that vehicle is operated on public land or on a highway, road, or street in this state if the bow or crossbow is unloaded and uncocked, enclosed in a case, or carried in the trunk of a vehicle.

(7) An individual shall not hunt with a firearm within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property.

(8) As used in this section:

(a) "Person with a disability" means a disabled person as that term is defined in section 19a of the Michigan vehicle code, 1949 PA 300, MCL 257.19a, and who is in possession of 1 of the following:

(i) A certificate of identification or windshield placard issued to a disabled person under section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675.

(ii) A special registration plate issued to a disabled person under section 803d of the Michigan vehicle code, 1949 PA 300, MCL 257.803d.

(b) "Personal assistive mobility device" means any device, including, but not limited to, one that is battery-powered, that is designed solely for use by an individual with mobility impairment for locomotion and is considered an extension of the individual.

(c) "Uncocked" means the following:

(i) For a bow, that the bow is not in the drawn position.

(ii) For a crossbow, that the crossbow is not in the cocked position.

(d) "Unloaded" means the following:

(i) For a firearm, that the firearm does not have ammunition in the barrel, chamber, cylinder, clip, or magazine when the barrel, chamber, cylinder, clip, or magazine is part of or attached to the firearm.

(ii) For a bow, that an arrow is not nocked.

(iii) For a crossbow, that a bolt is not in the flight groove.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2012, Act 246, Imd. Eff. July 2, 2012;—Am. 2012, Act 340, Imd. Eff. Oct. 16, 2012;—Am. 2015, Act 24, Eff. July 1, 2015;—Am. 2015, Act 185, Eff. Jan. 1, 2016;—Am. 2018, Act 272, Eff. Sept. 27, 2018.

Popular name: Act 451

Popular name: NREPA

324.40111a Deer and elk feeding; order; definition.

Sec. 40111a. (1) The commission, after consultation with the commission of agriculture and rural

development, shall issue in the manner provided in section 40113a an order concerning deer and elk feeding in this state.

(2) As used in this section, "deer and elk feeding" means the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer and elk to prevent them from starving or for recreational viewing. Deer and elk feeding does not include any of the following:

(a) Baiting to take game as provided by an order of the commission under section 40113a.

(b) The scattering of feed solely as the result of normal logging practices or normal agricultural practices.

(c) The storage or use of feed for agricultural purposes if 1 or more of the following apply:

(i) The area is occupied by livestock actively consuming the feed on a daily basis.

(ii) The feed is covered to deter wild, free-ranging white-tailed deer and elk from gaining access to the feed or is being used on a daily basis.

(iii) The feed is in a storage facility or is stored in a manner that is consistent with normal agricultural practices.

(d) Feeding wild birds or other wildlife if done in such a manner as to exclude wild, free-ranging white-tailed deer and elk from gaining access to the feed.

History: Add. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2004, Act 537, Imd. Eff. Jan. 3, 2005;—Am. 2009, Act 199, Imd. Eff. Dec. 29, 2009;—Am. 2015, Act 265, Imd. Eff. Dec. 23, 2015.

Popular name: Act 451

Popular name: NREPA

324.40111c Use of tranquilizer propelled from bow or firearm; use of unmanned vehicle or device; prohibitions.

Sec. 40111c. (1) A person other than the department shall not take game using a tranquilizer propelled from a bow or firearm.

(2) An individual shall not take game or fish using an unmanned vehicle or unmanned device that uses aerodynamic forces to achieve flight or using an unmanned vehicle or unmanned device that operates on the surface of water or underwater.

History: Add. 2008, Act 301, Imd. Eff. Nov. 13, 2008;—Am. 2015, Act 13, Eff. July 13, 2015.

Popular name: Act 451

Popular name: NREPA

324.40112 Obstructing or interfering in lawful taking of animals or fish; prohibited conduct; petition; injunction; violation as misdemeanor; penalties; section inapplicable to peace officer.

Sec. 40112. (1) An individual shall not obstruct or interfere in the lawful taking of animals or fish by another individual.

(2) An individual violates this section when the individual intentionally or knowingly does any of the following:

(a) Drives or disturbs animals or fish for the purpose of disrupting a lawful taking.

(b) Blocks, impedes, or harasses another individual who is engaged in the process of lawfully taking an animal or fish.

(c) Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus or an unmanned vehicle or unmanned device that uses aerodynamic forces to achieve flight or that operates on the surface of the water or underwater, to affect animal or fish behavior in order to hinder or prevent the lawful taking of an animal or a fish.

(d) Erects barriers to deny ingress or egress to areas where the lawful taking of animals or fish may occur. This subdivision does not apply to an individual who erects barriers to prevent trespassing on his or her property.

(e) Interjects himself or herself into the line of fire of an individual lawfully taking wildlife.

(f) Affects the condition or placement of personal or public property intended for use in the lawful taking of an animal or a fish in order to impair the usefulness of the property or prevent the use of the property.

(g) Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating this section.

(h) Engages in any other act or behavior for the purpose of violating this section.

(3) Upon petition of an aggrieved person or an individual who reasonably may be aggrieved by a violation of this section, a court of competent jurisdiction, upon a showing that an individual was engaged in and threatens to continue to engage in illegal conduct under this section, may enjoin that conduct.

(4) An individual who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$500.00 or more than \$1,000.00, or both, and the costs of prosecution. An individual who violates this section a second or subsequent time is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than \$2,500.00, or both, and the costs of prosecution. In addition to the penalties provided for in this subsection, any permit or license issued by the department authorizing the individual to take animals or fish shall be revoked. A prosecution under this section does not preclude prosecution or other action under any other criminal or civil statute.

(5) This section does not apply to a peace officer while the peace officer performs his or her lawful duties.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 316, Eff. July 1, 1996;—Am. 2015, Act 12, Eff. July 13, 2015

Popular name: Act 451

Popular name: NREPA

324.40113 Artificial light.

Sec. 40113. (1) Except as otherwise provided in a department order authorized under section 40107 for a specified animal, a person shall not use an artificial light in taking game or in an area frequented by animals; throw or cast the rays of a spotlight, headlight, or other artificial light in a field, woodland, or forest while having a bow or firearm or other weapon capable of shooting a projectile in the person's possession or under the person's control unless otherwise permitted by law. A licensed hunter may use an artificial light 1 hour before and 1 hour after shooting hours while in possession of any unloaded firearm or bow and traveling afoot to and from the licensed hunter's hunting location.

(2) Except as otherwise provided in a department order authorized under section 40107, a person shall not throw, cast, or cause to be thrown or cast, the rays of an artificial light from December 1 to October 31 between the hours of 11 p.m. and 6 a.m. for the purpose of locating animals. Except as otherwise permitted by law or an order of the department, from November 1 to November 30, a person shall not throw, cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light for the purpose of locating animals. This subsection does not apply to any of the following:

(a) A peace officer while in the performance of the officer's duties.

(b) A person operating an emergency vehicle in an emergency.

(c) An employee of a public or private utility while working in the scope of his or her employment.

(d) A person operating a vehicle with headlights in a lawful manner upon a street, highway, or roadway.

(e) A person using an artificial light to identify a house or mailbox number.

(f) The use of artificial lights used to conduct a census by the department.

(g) A person using an artificial light from November 1 to November 30 on property that is owned by that person or by a member of that person's immediate family.

(3) The operator of a vehicle from which the rays of an artificial light have been cast in a clear attempt to locate game shall immediately stop the vehicle upon the request of a uniformed peace officer or when signaled by a peace officer with a flashing signal light or siren from a marked patrol vehicle.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40113a Legislative findings and declarations; taking of game; issuance of orders; right to hunt, fish, and take game.

Sec. 40113a. (1) The legislature finds and declares that:

(a) The fish and wildlife populations of the state and their habitat are of paramount importance to the citizens of this state.

(b) The conservation of fish and wildlife populations of the state depend upon the wise use and sound scientific management of the state's natural resources.

(c) The sound scientific management of the fish and wildlife populations of the state, including hunting of bear, is declared to be in the public interest.

(d) The sound scientific management of bear populations in this state is necessary to minimize human and bear encounters and to prevent bears from threatening or harming humans, livestock, and pets.

(2) The commission has the exclusive authority to regulate the taking of game as that term is defined in section 40103 and to regulate sport fishing under part 487 in this state, including, but not limited to, regulating the use of commercial hunting guides or sport fishing guides in taking game and fish. The commission shall, to the greatest extent practicable, utilize principles of sound scientific management in making decisions

regarding the taking of game. The commission may take testimony from department personnel, independent experts, and others, and review scientific literature and data, among other sources, in support of its duty to use principles of sound scientific management. The commission shall issue orders regarding the taking of game following a public meeting and an opportunity for public input. Not less than 30 days before issuing an order, the commission shall provide a copy of the order to each of the following:

(a) Each member of each standing committee of the senate or house of representatives that considers legislation pertaining to conservation, the environment, natural resources, recreation, tourism, or agriculture.

(b) The chairperson of the senate appropriations committee and the chairperson of the house of representatives appropriations committee.

(c) The members of the subcommittee of the senate appropriations committee and the subcommittee of the house of representatives appropriations committee that consider the budget of the department of natural resources.

(3) The legislature declares that hunting, fishing, and the taking of game are a valued part of the cultural heritage of this state and should be forever preserved. The legislature further declares that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural resources. Therefore, the legislature declares that the citizens of this state have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by subsection (2) and law.

History: Add. 1996, Act 377, Eff. Dec. 5, 1996;—Am. 1997, Act 19, Imd. Eff. June 12, 1997;—Am. 2013, Act 21, Imd. Eff. May 8, 2013;—Am. 2013, Act 22, Imd. Eff. May 8, 2013;—Am. 2014, Act 281, Eff. Mar. 31, 2015;—Am. 2016, Act 382, Imd. Eff. Dec. 22, 2016;—Am. 2023, Act 222, Eff. Feb. 20, 2024.

Compiler's note: This section, as added by Act 377 of 1996, was submitted to, and approved by, the electors of the state at the general election held on November 5, 1996.

Enacting section 1 of Act 281 of 2014 provides:

"Enacting section 1. This act reenacts all or portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108. If any portions of 2012 PA 520 or 2013 PA 21 or 2013 PA 22 or 2013 PA 108 not amended by this act are invalidated pursuant to referendum or any other reason, then any such invalidated portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108 which are otherwise included in this act, shall be deemed to be reenacted pursuant to this act."

Enacting section 2 of Act 281 of 2014 provides:

"Enacting section 2. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Public Act 281 of 2014 was proposed by initiative petition pursuant to Const 1963, art II, § 9. The initiative petition was approved by an affirmative vote of the majority of the Senate on August 13, 2014 and by the House of Representatives on August 27, 2014. The initiative petition was filed with the Secretary of State on August 27, 2014.

In *Keep Michigan Wolves Protected v State of Michigan*, an unpublished opinion issued November 22, 2016, (Docket No. 328604), the Michigan Court of Appeals held that 2014 PA 281, which amended sections of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, is unconstitutional as it violates the title-object clause of section 24 of article IV of the state constitution of 1963.

Popular name: Act 451

Popular name: NREPA

324.40114 Permits or licenses; issuance to individual who is paraplegic, amputee, or permanently disabled; taking of game with modified bow; permits for additional activities; activities not considered hunting; suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of permit; disposition of fees; report; sterilization of game; deer management zones; ordinance; "cub bear" defined.

Sec. 40114. (1) The department may issue a permit to an individual who is unable to walk because the individual is a paraplegic or an amputee or because of a disease or injury that has rendered the individual permanently disabled. A permit issued under this subsection authorizes the individual to take game during the open season for that game, including deer of either sex, from or upon a standing vehicle if that individual holds a license to take that game issued under part 435 and complies with all other laws and rules for the taking of game.

(2) The department may issue a permit to an individual who is permanently disabled, who has full use of only 1 arm, and who upon investigation is unable to hold, aim, and shoot a bow. A permit issued under this subsection authorizes the individual to take game during the open season for that game with a bow that has been modified so that the bow may be held, aimed, and shot with 1 arm, if that individual holds a license to take that game issued under part 435 and complies with all other laws and rules for the taking of game.

(3) The commission may issue an order under section 40113a regulating the taking of game with a modified bow that may be shot with 1 arm. Subsection (2) does not apply on or after the effective date of such an order.

(4) In addition, the department may issue permits authorizing 1 or more of the following:

(a) The taking or possession of animals for the purpose of rehabilitating animals.

(b) The taking of animals to prevent or control damage to crops or feed, disease, or nuisance caused by the animals. The taking of animals to prevent or control damage to crops or feed is subject to the following:

(i) Except during an open season for deer, deer may be taken under this subdivision if the department determines that deer have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices. If the department receives a request for a permit to take deer under this subdivision, the department shall, within 5 business days after receiving the request, determine whether a permit should be issued. If the department determines that a permit should not be issued under this subdivision, the department shall deny the request in writing within 10 business days after receiving the request. In denying the request for a permit, the department shall advise the applicant on other techniques for controlling or preventing damage caused by deer.

(ii) A permittee under a deer damage shooting permit may designate not more than 15 authorized shooters to implement the provisions of the permit unless the department authorizes otherwise.

(iii) Except during an open season for bear, bear may be taken under this subdivision if the department determines that bear have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices. If the department receives a request for a permit to take bear under this subdivision, the department shall, within 4 days after receiving the request, respond to the request and evaluate whether a permit should be issued. The department may, within 10 days after responding to the request for a permit, attempt or recommend that the applicant attempt other methods for controlling or preventing damage caused by bear, if the applicant is not required to pay for those methods. Within 10 days after responding to a request for a permit, the department shall grant or deny the request in writing. In denying the request for a permit, the department shall advise the applicant on other techniques for controlling or preventing damage caused by bear. A permittee under a bear damage shooting permit may allow only an individual with a bear hunting license issued under section 43528 for that bear management unit and calendar year to implement the provisions of this subdivision. If an individual takes a bear under this subdivision, that individual shall not take another bear under a bear hunting license issued under section 43528 during that calendar year. An individual implementing this section is subject to the rules and regulations for a bear hunting license issued under section 43528 except that individuals shall not use bait to take a bear under this subdivision. An individual shall not take a cub bear or a female bear accompanied by a cub bear under this subdivision. The department shall not allow more than 5% of the bear hunting licenses issued for a bear management unit to be used to implement the provisions of this subdivision. However, in a bear management unit that offers fewer than 20 licenses, the department may allow 1 of those bear hunting licenses to be used to implement this subdivision. If an individual takes a bear under this subdivision, that individual shall register that bear at a field office of the department within 72 hours after taking the bear.

(c) The collection, transportation, possession, or disposition of animals and parts of animals for scientific purposes.

(d) The public exhibition of animals.

(e) Taxidermy.

(f) The disposition of accidentally or unlawfully taken or injured animals or animals that are unlawfully possessed.

(g) The taking of game with a crossbow by an individual who is permanently or temporarily disabled.

(h) The taking or possession of raptors for the purposes of falconry.

(5) The taking of animals pursuant to a permit issued under subsection (4)(a), (b), (c), (d), (e), (f), or (h) is not considered hunting.

(6) A permit issued under this section may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the holder of a permit is convicted of violating the permit or this section, his or her permit or license may be revoked and any animal and the parts of any animal in his or her possession shall be disposed of in a manner approved by the department.

(7) The department shall forward fees received for permits and licenses issued under this section to the state treasurer to be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(8) By March 30, 2018, the department shall issue a report in electronic form to each member of the legislature that includes all of the following:

(a) The number of bear damage shooting permits issued under subsection (4)(b)(iii).

(b) The number of bears taken under subsection (4)(b)(iii).

(c) Any recommendations for changes to the bear damage shooting permits under subsection (4)(b)(iii).

(9) Until April 1, 2022, the department shall not issue a permit authorizing the sterilization of game. The

department shall submit, to the standing committees of the senate and house of representatives with primary responsibility for natural resources issues, 2 reports on the results of research under any permit authorizing the sterilization of game issued before the effective date of the amendatory act that added this subsection. A preliminary report shall be submitted by December 31, 2020 and a final report by March 31, 2022. The reports shall include any recommendations for legislation, including whether and how sterilization of deer should be authorized as a manner of taking game.

(10) The commission may establish, in or adjacent to urban areas with a high concentration of deer, special deer management zones for which a higher number of deer kill tags are issued.

(11) The legislative body of a municipality may by ordinance adopt a firearm hunting distance requirement shorter than the 150-yard requirement under section 40111 as part of a deer management plan. The 150-yard requirement under section 40111 does not apply in circumstances addressed by the ordinance.

(12) As used in this section, "cub bear" means a bear that is less than 1 year of age.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2008, Act 169, Imd. Eff. July 2, 2008;—Am. 2009, Act 109, Imd. Eff. Oct. 1, 2009;—Am. 2010, Act 87, Imd. Eff. May 27, 2010;—Am. 2012, Act 65, Imd. Eff. Mar. 27, 2012;—Am. 2014, Act 407, Eff. Mar. 30, 2015;—Am. 2016, Act 356, Eff. Mar. 29, 2017;—Am. 2018, Act 390, Eff. Mar. 19, 2019.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.40115 Possession of certain game killed in collision with motor vehicle.

Sec. 40115. (1) Subject to subsections (9) and (10), an individual may possess game, other than badger, bobcat, brant, coot, crow, cub bear, duck, elk, fisher, Florida gallinule, geese, marten, moose, otter, snipe, sora rail, spotted fawn deer, Virginia rail, wild turkey, wolf, and woodcock, that is either killed by, or injured and euthanized as allowed under law following, a collision with a motor vehicle. The driver of the motor vehicle has first priority to take possession of the game.

(2) An individual in possession of deer under subsection (1) shall do 1 of the following:

(a) Obtain a salvage tag under subsection (8).

(b) Promptly notify the department or a local law enforcement agency of his or her intent to maintain possession of the game under subsection (1) by telephone or on the department's website.

(c) If the individual is the driver of the motor vehicle involved in the collision and as a result of that collision is calling 9-1-1 to report the collision, the individual must state his or her intent to maintain possession of the game under subsection (1).

(3) An individual in possession of beaver, coyote, fox, mink, muskrat, opossum, raccoon, skunk, weasel, or small game under subsection (1) shall prepare a written record with all of the following information:

(a) The date and time the individual took possession of the game.

(b) The location where the possession of the game occurred.

(c) The type of game the individual seeks to possess.

(d) Whether the individual has requested a salvage tag under subsection (8).

(e) The individual's full name, including middle initial, date of birth, mailing address, telephone number, and driver license number.

(f) The intended purpose for obtaining possession of the game, including, but not limited to, human consumption, bait, or other uses.

(4) An individual in possession of bear under subsection (1) shall obtain a salvage tag for that bear under subsection (8).

(5) If an individual notifies 9-1-1, the department, or a local law enforcement agency under subsection (2) of his or her intent to legally maintain possession of the game under subsection (1), that individual shall provide 9-1-1, the department, or the local law enforcement agency with the following information:

(a) The date and time the individual took possession of the game.

(b) The location where the possession of the game occurred.

(c) The type of game the individual seeks to possess. If the game is a deer, identify whether the deer is an antlered deer or antlerless deer. If it is an antlered deer, identify the number of antler points.

(d) Whether the individual has requested a salvage tag under subsection (8).

(e) The individual's full name, including middle initial, date of birth, mailing address, telephone number, and driver license number.

(f) The intended purpose for obtaining possession of the game, including, but not limited to, human consumption, bait, or other uses.

(6) For beaver, coyote, fox, mink, muskrat, opossum, raccoon, skunk, weasel, and small game, an individual shall maintain the written record prepared under subsection (3) until the individual obtains a salvage tag under subsection (8) or until the game and its parts are consumed, are composted, or are no longer possessed by any person. The record shall be kept at the location where the game or its parts are kept. The individual shall exhibit the record upon request of a law enforcement officer.

(7) An individual in possession of game under subsection (1) who has obtained a salvage tag under subsection (2), (4), or (8) shall upon the request of a conservation officer or peace officer produce the salvage tag. Immediately following the issuance of a salvage tag, an individual possessing game shall securely attach the salvage tag to the game. The salvage tag shall remain attached until the game is processed, butchered for consumption, or delivered to a business for the purpose of taxidermy or tanning. If the game is used for bait, the salvage tag may be removed, but the individual possessing that game shall produce the salvage tag if requested by a conservation officer or peace officer.

(8) The department shall promptly issue a salvage tag if requested by an individual in possession of game under subsection (1).

(9) The director may immediately suspend all salvage mechanisms for disease-affected areas by issuing an order based on sound science to address disease control. The department shall provide public notice of that order and notify the legislative committees with primary oversight of natural resources before issuing that order. The director shall revoke the suspension after the department verifies the absence of the identified disease in the affected area. The department shall provide public notice of the suspension and of the revocation of the suspension by posting notice on the department's website and at department offices throughout the disease-affected areas.

(10) This section does not apply to an individual who intentionally uses a motor vehicle to kill or injure game.

(11) The department shall annually issue a report in electronic form to each member of the legislature that includes all of the following:

(a) The number of salvage tags issued under subsection (8).

(b) The number of animals reported to the department under subsection (2)(b).

(c) If available, the number of animals reported to local law enforcement agencies or 9-1-1 under subsection (2)(b) and (c).

History: Add. 2014, Act 255, Eff. Sept. 28, 2014.

Compiler's note: Former MCL 324.40115, which pertained to issuance of permit to person with a disability, was repealed by Act 347 of 2000, Eff. July 1, 2000.

Popular name: Act 451

Popular name: NREPA

324.40116 Hunter orange or other authorized color; exceptions; noncompliance not as evidence of contributory negligence; review and determination by commission; "hunter orange" and "hunter pink" defined.

Sec. 40116. (1) An individual shall not take game during the established daylight shooting hours from August 15 through April 30 unless the individual wears a cap, hat, vest, jacket, or rain gear of hunter orange or a color authorized by the commission under subsection (4). Hunter orange or a color authorized by the commission under subsection (4) includes camouflage that is not less than 50% hunter orange or a color authorized by the commission under subsection (4). The garments that are hunter orange or a color authorized by the commission under subsection (4) must be the hunter's outermost garment and be visible from all sides of the hunter.

(2) Subsection (1) does not apply to an individual engaged in the taking of deer with a bow or crossbow during archery deer season, an individual taking bear with a bow or crossbow, an individual engaged in the taking of turkey or migratory birds other than woodcock, an individual engaged in the sport of falconry, or an individual who is stationary and in the act of hunting bobcat, coyote, or fox.

(3) The failure of an individual to comply with this section is not evidence of contributory negligence in a civil action for injury to the individual or for the individual's wrongful death.

(4) The commission shall review and determine whether hunter pink or any additional colors are effective and safe for individuals to wear while hunting. By October 1, 2017, the commission shall issue an order under section 40113a authorizing what additional garment colors may be worn under subsection (1) based on the determination made by the commission under this subsection.

(5) As used in this section:

(a) "Hunter orange" means the highly visible color commonly referred to as hunter orange and includes blaze orange, flame orange, and fluorescent blaze orange.

(b) "Hunter pink" means the highly visible color commonly referred to as hunter pink and includes blaze pink, flame pink, and fluorescent blaze pink.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 154, Imd. Eff. Apr. 3, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2009, Act 65, Imd. Eff. July 2, 2009;—Am. 2016, Act 377, Imd. Eff. Dec. 22, 2016.

Popular name: Act 451

Popular name: NREPA

324.40117 Possession of parts of animal as prima facie evidence of violation.

Sec. 40117. In a prosecution for a violation of this part or an order or interim order issued under this part, the possession of the parts of any game or protected animal, except when the taking is permitted by this part, is prima facie evidence that the animal was taken in violation of this part by the person possessing the animal.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000.

Popular name: Act 451

Popular name: NREPA

324.40118 Violation as misdemeanor; penalty; additional penalties.

Sec. 40118. (1) An individual who violates this part, an order or interim order issued under this part, or a condition of a permit issued under this part, except for a violation specified in subsections (2) to (19), is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$500.00, or both, and the costs of prosecution. In addition, a permit issued by the department under this part must be revoked pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of any game, except deer, bear, wild turkey, wolf, waterfowl, moose, or elk, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(3) Except as otherwise provided in this subsection or subsection (19), an individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of deer, bear, wild turkey, or wolf is guilty of a misdemeanor and may be imprisoned for not more than 90 days, shall be fined not less than \$200.00 or more than \$1,000.00, and shall be ordered to pay the costs of prosecution. An individual shall not be punished under this subsection for lawfully removing, capturing, or destroying a wolf under 2008 PA 290, MCL 324.95151 to 324.95155, or 2008 PA 318, MCL 324.95161 to 324.95167.

(4) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of elk is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(5) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of moose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year and a fine of not less than \$1,000.00 or more than \$5,000.00, and the costs of prosecution.

(6) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of waterfowl is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$500.00, or both, and the costs of prosecution. An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of waterfowl a second or subsequent time is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of \$500.00, or both, and the costs of prosecution.

(7) An individual sentenced under subsection (3), (14), or (15) shall not secure or possess a license of any kind to hunt during the remainder of the year in which convicted and the next 3 succeeding calendar years. An individual sentenced under subsection (11) shall not secure or possess a license to hunt during the remainder of the year in which convicted and the next succeeding calendar year, or longer in the discretion of the court.

(8) In addition to the penalties provided for violating this part or an order issued under this part, an individual convicted of the illegal killing, possessing, purchasing, or selling of a bear or an antlered white-tailed deer is subject to the following penalties:

(a) For a first offense, the individual shall not secure or possess a license of any kind to hunt for an additional 2 calendar years after the penalties imposed under subsection (7).

(b) For a second or subsequent offense, the individual shall not secure or possess a license of any kind to hunt for an additional 7 calendar years after the penalties imposed under subsection (7).

(9) In addition to the penalties provided for violating this part or an order issued under this part, an individual convicted of the illegal killing, possessing, purchasing, or selling of a wild turkey shall not secure or possess a license of any kind to hunt for an additional 2 calendar years after the penalties imposed under subsection (7).

(10) An individual sentenced under subsection (4) or (5) is subject to the following penalties:

(a) For a first offense, the individual shall not secure or possess a license of any kind to hunt for the remainder of the year in which convicted and the next 15 succeeding calendar years.

(b) For a second offense, the individual shall not secure or possess a license of any kind to hunt for the remainder of that individual's life.

(11) An individual who violates section 40113(1) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both, and the costs of prosecution.

(12) An individual who violates section 40113(2) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$500.00, or both, and the costs of prosecution.

(13) An individual who violates section 40113(3) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both, and the costs of prosecution.

(14) An individual who violates a provision of this part or an order or interim order issued under this part regarding the taking or possession of an animal that has been designated by the department to be a protected animal, other than an animal that appears on a list prepared under section 36505, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(15) An individual who buys or sells game or a protected animal in violation of this part or an order or interim order issued under this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both, for the first offense, and is guilty of a felony for each subsequent offense.

(16) An individual who willfully violates a provision of this part or an order or interim order issued under this part by using an illegally constructed snare or cable restraint is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of \$1,000.00 for the first illegally constructed snare or cable restraint and \$250.00 for each subsequent illegally constructed snare or cable restraint, or both, and the costs of prosecution.

(17) An individual who violates a provision of this part or an order or interim order issued under this part regarding the importation of a cervid carcass or parts of a cervid carcass, other than hides, deboned meat, quarters or other parts of a cervid that do not have any part of the spinal column or head attached, finished taxidermy products, cleaned teeth, antlers, or antlers attached to a skullcap cleaned of brain and muscle tissue, from another state or province is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(18) If an individual is convicted of a violation of this part or an order or interim order issued under this part and it is alleged in the complaint and proved or admitted at trial or ascertained by the court after conviction that the individual had been previously convicted 2 times within the preceding 5 years for a violation of this part or an order or interim order issued under this part, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(19) An individual who violates a provision of this part or an order or interim order issued under this part regarding any of the following is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$150.00:

(a) Attaching that individual's name, driver license number, or sportcard number to a ground blind.

(b) Attaching that individual's name, driver license number, or sportcard number to a tree stand, scaffold, or raised platform.

(c) Supplemental feeding of deer.

(d) Reporting of a deer harvest or retention of a deer harvest confirmation number.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000;—Am. 2012, Act 520, Imd. Eff. Dec. 28, 2012;—Am. 2015, Act 188, Eff. Feb. 14, 2016;—Am. 2017, Act 124, Eff. Jan. 10, 2018;—Am. 2020, Act 385, Eff. Mar. 24, 2021;—Am. 2022, Act 23, Eff. June 8, 2022;—Am. 2023, Act 55, Imd. Eff. July 12, 2023.

Compiler's note: Enacting section 2 of Act 124 of 2017 provides:

"Enacting section 2. This amendatory act may be referred to as the "John Kivela amendatory act"."

Popular name: Act 451

Popular name: NREPA

324.40119 Reimbursement of state for value of game or protected animal; restitution for illegal killing, possessing, purchasing, or selling antlered white-tailed deer, antlered elk, antlered moose, and turkey with beard; forfeiture; default as civil contempt; additional time for payment; reduction of amount forfeited; revocation of forfeiture; collection of default in payment; disposition of forfeiture damages; "point" defined.

Sec. 40119. (1) In addition to the penalties provided for violating this part or an order issued under this part, and the penalty provided in section 36507, an individual convicted of the illegal killing, possessing, purchasing, or selling of game or protected animals, in whole or in part, shall reimburse the state for the value of the game or protected animal as follows:

- (a) Elk, \$5,000.00 per animal.
- (b) Moose, \$5,000.00 per animal.
- (c) Bear, \$3,500.00 per animal.
- (d) Eagle, \$1,500.00 per animal.
- (e) Hawk or any animal that appears on a list specified in section 36505, \$1,500.00 per animal.
- (f) Deer, owl, and wild turkey, \$1,000.00 per animal.
- (g) Waterfowl, \$500.00 per animal.
- (h) Other game not listed in subdivisions (a) to (g), not less than \$100.00 or more than \$500.00 per animal.
- (i) Other protected animals, \$100.00 per animal.

(2) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered white-tailed deer also shall pay an additional restitution value that is equal to \$1,000.00 plus 1 of the following:

- (a) For an antlered white-tailed deer with at least 8 but not more than 10 points, \$500.00 for each point.
- (b) For an antlered white-tailed deer with 11 or more points, \$750.00 for each point.

(3) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered elk shall pay an additional restitution value that is equal to 1 of the following:

- (a) For an antlered elk with at least 8 but not more than 10 points, \$250.00 for each point.
- (b) For an antlered elk with 11 or more points, \$500.00 for each point.

(4) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered moose shall pay an additional restitution value that is equal to \$5,000.00.

(5) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of a turkey with a beard shall pay an additional restitution value of \$1,000.00.

(6) The court in which a conviction for a violation described in subsections (1) to (5) is obtained shall order the defendant to forfeit to the state a sum as set forth in subsections (1) to (5). If 2 or more defendants are convicted of the illegal killing, possessing, purchasing, or selling, in whole or in part, of game or protected animals listed in subsections (1) to (5), the forfeiture prescribed shall be declared against them jointly.

(7) If a defendant fails to pay upon conviction the sum ordered by the court to be forfeited, the court shall either impose a sentence and, as a condition of the sentence, require the defendant to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the sum to be forfeited in installments at those times and in those amounts that, in the opinion of the court, the defendant is able to pay.

(8) If a defendant defaults in payment of the sum forfeited or of an installment, the court on motion of the department or upon its own motion may require the defendant to show cause why the default should not be treated as a civil contempt, and the court may issue a summons or warrant of arrest for his or her appearance. Unless the defendant shows that the default was not due to an intentional refusal to obey the order of the court or to a failure to make a good-faith effort to obtain the funds required for the payment, the court shall find that the default constitutes a civil contempt.

(9) If it appears that the defendant's default in the payment of the forfeiture does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the forfeiture or of each installment, or revoking the forfeiture or the unpaid portion of the forfeiture, in whole or in part.

(10) A default in the payment of the forfeiture or an installment payment may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) A court receiving forfeiture damages shall remit the damages to the county treasurer, who shall deposit the damages with the state treasurer, who shall deposit the damages in the game and fish protection account established in section 2010.

(12) As used in this section, "point" means a projection on the antler of a white-tailed deer or elk that is at least 1 inch long as measured from its tip to the nearest edge of the antler beam.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2013, Act 175, Eff. Feb. 25, 2014;—Am. 2015, Act 187, Eff. Feb. 14, 2016.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.40120 Michigan big game trophy records; official keeper; recognition.

Sec. 40120. The department shall recognize commemorative bucks of Michigan, inc., as the official keeper of Michigan big game trophy records for deer, bear, elk, and turkey.

History: Add. 2006, Act 145, Imd. Eff. May 22, 2006.

Popular name: Act 451

Popular name: NREPA

PART 403 WILDLIFE PRESERVATION

324.40301 Sale of items signifying interest in wildlife preservation.

Sec. 40301. The department may issue for sale to the public a stamp, decal, medallion, or other item of personal property intended to signify the interest of the purchaser in contributing to wildlife preservation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40302 Use of net proceeds.

Sec. 40302. Net proceeds from the sale of an item authorized by this part shall be used by the department exclusively for wildlife research and habitat improvement for nongame wild animals or designated endangered species or designated plant species.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40303 Rights and privileges; marketing items.

Sec. 40303. The department may attach such rights and privileges to the items sold as will best serve the interests of wildlife preservation and shall market the items without the use of general fund appropriation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 405 WILDLIFE RESTORATION, MANAGEMENT, AND RESEARCH

324.40501 Wildlife restoration, management, and research projects; authority of department to cooperate with federal government; use of hunters' license fees; expenditures for game and fish habitat.

Sec. 40501. The department shall perform such acts as may be necessary to conduct and establish wildlife restoration, management, and research projects and areas in cooperation with the federal government under the Pittman-Robertson wildlife restoration act, 16 USC 669 to 669i, and regulations promulgated by the United States secretary of the interior under that act. In compliance with that act, funds accruing to this state from license fees paid by hunters shall not be used for any purpose other than game and fish activities under the administration of the department. The department shall manage land acquired with money received under the Pittman-Robertson wildlife restoration act, 16 USC 669 to 669i, to manage game and fish habitat or to

increase recreational hunting, fishing, and shooting opportunities. Expenditures to enhance game and fish habitat must be primarily for the management of game species, but may benefit nongame species.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2008, Act 416, Imd. Eff. Jan. 6, 2009;—Am. 2018, Act 238, Eff. Sept. 25, 2018.

Popular name: Act 451

Popular name: NREPA

PART 409 HOMING PIGEONS

324.40901 Homing pigeons; prohibited acts.

Sec. 40901. A person shall not at any time of the year or in any manner, hunt, take, pursue, capture, wound, kill, maim, or disfigure the homing pigeons of another person.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40902 Homing pigeons; use of certain devices prohibited.

Sec. 40902. A person shall not at any time make use of any pit, pitfalls, deadfall, scaffold, cage, snarl, trap, net, baited hook, or any similar device, or any drug poison, chemical, or explosive for the purpose of injuring, capturing, or killing a homing pigeon of another person.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.40903 Violation of part as misdemeanor; penalty.

Sec. 40903. A person who violates this part, upon conviction of a first offense, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$25.00 or more than \$100.00 and the cost of prosecution, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 411 PROTECTION AND PRESERVATION OF FISH, GAME, AND BIRDS

324.41101 Definitions.

Sec. 41101. As used in this part:

(a) "Area" means the whole of the state and the whole or any designated portion of any township or townships or county or counties within the state.

(b) "Waters" means any inland lake, stream, river, pond, or other body of water including the Great Lakes and connecting waters, any part or portion of such waters, and any and all chains, systems, or combinations of such waters, in any township or townships or county or counties, within this state, and in which any species of fish or waterfowl are protected by the laws of this state.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.41102 Regulatory powers of department; exception.

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

(2) This section does not apply to privately owned cervidae species located on a registered cervidae livestock facility or involved in a registered cervidae livestock operation under the privately owned cervidae producers marketing act.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2000, Act 191, Eff. June 1, 2001.

Popular name: Act 451

Popular name: NREPA

324.41103 Orders protecting fish, animals, or birds; provisions; duration; notice; newspaper publication; filing; printing order in Michigan fish and game laws; fisheries research; experimental game management areas; notice of availability of annual sports fishing handbook and amendments, corrections, or additions thereto.

Sec. 41103. (1) If the department determines that any fish, game or fur-bearing animals, or game birds of any kind or species are in danger of depletion or extermination and require additional protection in any designated waters or area within the state, the department may issue an order suspending or abridging the open season on fish, game or fur-bearing animals, or game birds, or may regulate their taking or killing in the waters or area as the department considers necessary for the further protection of fish, game or fur-bearing animals, or game birds in those waters or areas. The orders shall clearly specify the manner and condition relative to the taking or killing. The orders shall clearly and distinctly describe and set forth the waters or area affected by each order, and whether the order is applicable to all fish, game or fur-bearing animals, or game birds, or only to certain kinds or species designated in the order, and shall also clearly specify and set forth the length of time during which the order shall remain in effect. However, an order shall not remain in effect for more than 5 years. The public shall be notified of orders changing the rules pertaining to hunting, fishing, or trapping in the annual hunting, fishing, and trapping guides available by licensed agents of the department and field offices of the department or the department may publish the orders at least 21 days but not more than 60 days prior to taking effect, and at least once annually while in force, in at least 1 newspaper in each county, if a newspaper is published in a county, the whole or any portion of which is affected by the order. The first newspaper publication shall appear at least once each week for 3 successive weeks. A copy of the order as printed in the newspaper shall be filed with the clerk of each county. Proof by affidavit of the newspaper publication or other form of publication allowed in this section shall be filed with the department, and a copy of the order, while it is in force and effect, shall be included and printed in the authorized biennial compilation of the Michigan fish and game laws. The original of all orders on file in the Lansing office of the department shall be under the seal of the department and shall bear the signatures of the chairperson and secretary of the commission and shall be countersigned by the department. The department shall establish the seasons, size limits, creel limits, and methods of taking fish in certain designated inland lakes not to exceed 20 in number at any 1 time and in certain designated streams or portions of streams not to exceed 10 in number at any 1 time for the purpose of fisheries research. The department may establish not more than 1 experimental game management area that shall not exceed 40,000 acres in size, 4 experimental game management areas not to exceed 5,000 acres each in size, and 1 experimental game management area that shall include Beaver island in its entirety and the 4 islands that comprise the Little Beaver islands state game area. The department shall establish rules and orders governing the kind of game that may be taken in the areas designated in this subsection and the time, place, and manner or method of the taking.

(2) The department shall publish annually in 1 or more newspapers of general circulation in this state notice of the availability of the annual sports fishing handbook. The published notice shall inform the public of when, where, and how the annual sports fishing handbook may be obtained.

(3) The department shall notify the public of an amendment, correction, or addition to the annual sports fishing handbook in the same manner as provided for newspaper publication in subsection (1).

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.41104 Suspended open season; rescission or modification; exception.

Sec. 41104. If the open season during which any species of fish, game or fur-bearing animals, or game birds may be taken or killed has been suspended or abridged in any waters or area by an order of the department as provided in this part, if that order is still in force, and if it appears to the department that the conditions existing in the waters or area affected by the order no longer require that additional protection for those species, then the department shall cause a thorough investigation to be made of the waters or area and the conditions prevailing in the waters or area. If after the investigation the department is satisfied that

because of the increase of the fish, game or fur-bearing animals, or game birds protected by the order in the waters or area, or because of the removal of the cause threatening those species with depletion or extermination, the additional protection afforded by the order is no longer needed, the department may rescind or modify the original order. Notices of the rescinding or modifying of the order shall be published in the same manner as notice of the original order and filed in the same manner in the office of the clerk of each county. This part does not suspend, abridge, or regulate the open seasons established by law for the taking of fish for commercial purposes from the waters of Lakes Superior, Michigan, Huron, and Erie, and the bays of those waters.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.41105 Violation as misdemeanor; penalty.

Sec. 41105. A person who takes or kills any fish, game, fur-bearing animal, or game bird, contrary to an order issued or rule promulgated under this part, or who violates this part, is guilty of a misdemeanor, punishable for the first offense by imprisonment for not more than 60 days or a fine of not more than \$100.00. For each offense that is charged as a second or subsequent offense, the person is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$250.00.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2020, Act 385, Eff. Mar. 24, 2021.

Popular name: Act 451

Popular name: NREPA

PART 413

TRANSGENIC AND NONNATIVE ORGANISMS

324.41301 Definitions; possession of live organism.

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

- (a) "Amphibian" means any frog, toad, or salamander of the class Amphibia.
- (b) "Aquatic", except as used in subdivision (q), describes an amphibian, crustacean, fish, mollusk, reptile, wiggler, or aquatic plant.
- (c) "Aquatic plant" means a submergent, emergent, obligate wetland, facultative wetland, or floating-leaf plant or a fragment thereof, including a seed or other propagule. Aquatic plant does not include wild rice (*Zizania aquatica* or *Zizania palustris*).
- (d) "Crustacean" means freshwater crayfish, shrimp, or prawn of the order Decapoda.
- (e) "Genetically engineered" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, or the progeny of such an organism.
- (f) "Introduce", with reference to an organism, means to knowingly and willfully stock, place, plant, release, or allow the release of the organism in this state at any specific location where the organism is not already naturalized.
- (g) "Mollusk" means any mollusk of the classes Bivalvia and Gastropoda.
- (h) "Native" means indigenous to any location in this state.
- (i) "Nonaquatic" describes a bird, insect other than a wiggler, or mammal.
- (j) "Nonnative" means not native.
- (k) "Prohibited species", subject to section 41302, means any of the following:
 - (i) Any of the following prohibited species of aquatic plant, including a hybrid or genetically engineered variant of the species:
 - (A) African oxygen weed (*Lagarosiphon major*).
 - (B) Brazilian elodea (*Egeria densa*).
 - (C) Cyllindro (*Cylindrospermopsis raciborskii*).
 - (D) European frogbit (*Hydrocharis morsus-ranae*).
 - (E) Fanwort (*Cabomba caroliniana*).
 - (F) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or *herzogii*).
 - (G) Hydrilla (*Hydrilla verticillata*).
 - (H) Parrot's feather (*Myriophyllum aquaticum*).
 - (I) Starry stonewort (*Nitellopsis obtusa*).
 - (J) Water chestnut (*Trapa natans*).
 - (K) Yellow floating heart (*Nymphoides peltata*).

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

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

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

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

(iv) The following prohibited crustacean species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant: rusty crayfish (*Faxonius resticus*, formerly *Orconectes rusticus*).

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

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

(B) Bitterling (*Rhodeus sericeus*).

(C) Black carp (*Mylopharyngodon piceus*).

(D) Eurasian ruffe (*Gymnocephalus cernuus*).

(E) Grass carp (*Ctenopharyngodon idellus*).

(F) Ide (*Leuciscus idus*).

(G) Japanese weatherfish (*Misgurnus anguillicaudatus*).

(H) Round goby (*Neogobius melanostomus*).

(I) Rudd (*Scardinius erythrophthalmus*).

(J) Silver carp (*Hypophthalmichthys molitrix*).

(K) A fish of the snakehead family (family *Channidae*).

(L) Tench (*Tinca tinca*).

(M) Tubenose goby (*Proterorhinus marmoratus*).

(vi) Any of the following prohibited insect species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:

(A) Asian longhorned beetle (*Anoplophora glabripennis*).

(B) Emerald ash borer (*Agrilus planipennis*).

(vii) The following prohibited mammal species, including a hybrid or genetically engineered variant: nutria (*Myocastor coypus*).

(viii) Any of the following prohibited mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:

(A) Brown garden snail (*Helix aspersa*).

(B) Carthusian snail (*Monacha cartusiana*).

(C) Giant African snail (*Achatina fulica*).

(D) Girdled snail (*Hygromia cinctella*).

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

(F) Wrinkled dune snail (*Candidula intersepta*).

(l) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism.

(m) "Relevant commission", "relevant department", or "relevant director" means the following:

(i) With respect to a species other than a plant or insect, but including a wiggler, the natural resources commission, department of natural resources, or the director of the department of natural resources, respectively.

(ii) With respect to a plant species or insect species, other than a wiggler, the commission of agriculture and rural development, the department of agriculture and rural development, or the director of the department of agriculture and rural development, respectively.

(n) "Reptile" means any turtle, snake, or lizard of the class Reptilia.

(o) "Restricted species", subject to section 41302, means any of the following:

(i) Any of the following restricted species of aquatic plant, including a hybrid or genetically engineered variant of the species:

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

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

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

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

(E) Purple loosestrife (*Lythrum salicaria*), except that cultivars of purple loosestrife developed and

recognized to be sterile and approved by the director of the department of agriculture and rural development under section 16a of the insect pest and plant disease act, 1931 PA 189, MCL 286.216a, are not a restricted species.

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

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

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

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

(p) "Watercraft" means any conveyance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat.

(q) "Wiggler" means an aquatic egg, nymph, or larva of an insect.

(2) For the purposes of this part:

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

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

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

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 77, Imd. Eff. July 19, 2005;—Am. 2009, Act 51, Eff. Sept. 21, 2009;—Am. 2014, Act 358, Imd. Eff. Dec. 9, 2014;—Am. 2014, Act 537, Eff. Apr. 15, 2015;—Am. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41302 Adding or deleting from list of prohibited species or restricted species; consultation; procedure; determination; review; emergency order; order setting conditions for harvesting, possessing, and transporting naturalized organism of aquatic restricted species.

Sec. 41302. (1) The relevant commission may by order add to or delete a species from the list of prohibited species or restricted species under section 41301. Before the natural resources commission issues an order under this subsection, it shall consult with the department of agriculture and rural development. Before the commission of agriculture and rural development issues an order under this subsection, it shall consult with the department of natural resources. After the consultation, and at least 30 days before the relevant commission issues the order, the relevant department shall post a copy of the proposed order on the relevant department's website and shall submit a copy of the proposed order to all of the following:

(a) The legislature.

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

(i) Agricultural issues.

(ii) Environmental issues.

(iii) Natural resources issues.

(2) The relevant commission shall list a nonaquatic species as a prohibited species or restricted species if the relevant commission determines the following:

(a) For a nonaquatic prohibited species, all of the following requirements are met:

(i) The organism is not native.

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

(iii) Based on a risk assessment, any of the following apply:

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

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

(b) For a nonaquatic restricted species, all of the following requirements are met:

(i) The organism is not native.

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

- (iii) Based on a risk assessment, any of the following apply:
 - (A) The organism has the potential to harm human health or to harm natural, agricultural, or silvicultural resources.
 - (B) Effective management or control techniques for the organism are available.
- (3) The relevant commission shall list an aquatic species as a prohibited species or restricted species if the relevant commission determines the following based on a review by the relevant department:
 - (a) For an aquatic prohibited species, all of the following requirements are met:
 - (i) The organism is not native or is genetically engineered.
 - (ii) The organism is not naturalized in this state or, if naturalized, is not widely distributed.
 - (iii) Based on a risk assessment, any of the following apply:
 - (A) The organism has the potential to harm human health or to severely harm natural, agricultural, or silvicultural resources.
 - (B) Effective management or control techniques for the organism are not available.
 - (b) For an aquatic restricted species, all of the following requirements are met:
 - (i) The organism is not native.
 - (ii) The organism is naturalized in this state.
 - (iii) Based on a risk assessment, any of the following apply:
 - (A) The organism has the potential to harm human health or to harm natural, agricultural, or silvicultural resources.
 - (B) Effective management or control techniques for the organism are available.
- (4) The following apply to a review by the relevant department of an aquatic species for listing as a prohibited species or restricted species under subsection (3):
 - (a) The relevant department shall review each aquatic animal listed or delisted as injurious wildlife under the Lacey act, 16 USC 3371 to 3378, and each aquatic plant designated or removed from designation as a noxious weed under the plant protection act, title IV of Public Law 106-224, for listing or delisting as a prohibited species or restricted species within 180 days after the change in federal listing or designation.
 - (b) The relevant department shall review each aquatic species that has the potential to harm human health or natural, agricultural, or silvicultural resources for listing as a prohibited species or restricted species even if the species is not currently on either federal list described in subdivision (a).
 - (c) The relevant department may review other aquatic species for listing as prohibited or restricted species.
- (5) The relevant director may issue an emergency order designating an organism as a prohibited species or restricted species if the organism has the potential to harm human health or to severely harm natural, agriculture, or silvicultural resources. An emergency order is effective for 90 days or a shorter period if specified in the order. The relevant department shall do all of the following:
 - (a) Post a proposed emergency order on its website and otherwise publicize the proposed emergency order in a manner that ensures that interested persons are provided notice of the proposed emergency order, the reasons for the emergency order, and the proposed effective date of the order.
 - (b) Provide a copy of the proposed emergency order to each member of the standing committees of the senate and the house of representatives that consider legislation pertaining to conservation, the environment, recreation, tourism, or natural resources.
 - (c) Post the final emergency order on its website.
- (6) The relevant department may issue an order setting forth the conditions under which naturalized organisms of an aquatic restricted species may be harvested, possessed, and transported.

History: Add. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015;—Am. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41302a Repealed. 2018, Act 451, Eff. March 21, 2019.

Compiler's note: The repealed section pertained to a permitted aquatic species list.

Popular name: Act 451

Popular name: NREPA

324.41303 Possession of live prohibited or restricted organism; prohibition; exceptions; notification of location where found.

Sec. 41303. (1) A person shall not knowingly possess a live organism if the organism is a prohibited species or restricted species, except under 1 or more of the following circumstances:

- (a) The person intends to present a specimen of the prohibited species or restricted species, for

identification or similar purposes, to a person who is a certified applicator or registered applicator under part 83, to a public or private institution of higher education, or to the department of natural resources, the department of agriculture and rural development, or any other state, local, or federal agency with responsibility for the environment, natural resources, or agriculture.

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

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

(d) The possession is pursuant to a permit issued for education or research purposes by the relevant department under section 41306 or, if the prohibited species or restricted species is a plant species or an insect other than a wiggler, by the United States Department of Agriculture.

(e) The species is an aquatic restricted species and the person possesses the species in compliance with an order under section 41302(6).

(2) A person described in subsection (1)(b) or (c) shall notify the department of natural resources, the department of agriculture and rural development, or the department of environmental quality if the prohibited species or restricted species was found at a location where it was not previously known to be present.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 78, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015;—Am. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41305 Introduction of prohibited or restricted species, or genetically engineered or nonnative bird, crustacean, fish, insect, mammal, or mollusk, or aquatic plant; prohibition; exceptions.

Sec. 41305. A person shall not introduce a prohibited species, a restricted species, a genetically engineered or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant unless the introduction is authorized by 1 of the following, as applicable:

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

(b) For a plant or an insect other than a wiggler, by a permit issued by the department of agriculture and rural development under section 41306.

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

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 79, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41306 Permit; application; fee; granting or denying; revocation; modification; hearing; administration; enforcement.

Sec. 41306. (1) A person shall apply to the relevant department for a permit that section 41303 or 41305 describes as being issued under this section. The application shall be submitted on a form developed by the relevant department. The application shall be accompanied by a fee based on the cost of administering this part. The relevant department shall either grant an administratively complete application and issue a permit or deny the application.

(2) In determining whether to grant or deny an application for a permit for introduction of a genetically engineered organism required by section 41305, the relevant department shall consider whether any application for a federal permit or approval for the genetically engineered organism has been granted or denied.

(3) The relevant department may revoke or modify a permit it has issued under subsection (1) after providing an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) The relevant department shall administer and enforce sections 41302 to 41310. In addition, any peace officer may enforce the criminal provisions of this part.

History: Add. 2005, Act 79, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015;—Am. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41307 Rules.

Sec. 41307. The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to implement this part.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004.

Popular name: Act 451

Popular name: NREPA

324.41309 Violation; penalties; suspension or revocation of permit or license; order; liability for damages to natural resources; exceptions.

Sec. 41309. (1) A person who violates section 41303(2) is subject to a civil fine of not more than \$100.00.

(2) A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a restricted species is subject to a civil fine of not more than \$5,000.00. A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a prohibited species is subject to a civil fine of not more than \$10,000.00.

(3) A person who violates section 41303(1) knowing the possession is unlawful or who willfully or in a grossly negligent manner violates a condition of a permit issued under this part is guilty as follows:

(a) For a violation involving a restricted species, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(b) For a violation involving a prohibited species that is not an aquatic species, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(c) For a violation involving a prohibited species that is an aquatic species, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$2,000.00 or more than \$100,000.00.

(4) A person who, with intent to damage natural, agricultural, or silvicultural resources or human health:

(a) Violates section 41303(1) with respect to a restricted species or possesses a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) Violates section 41303(1) with respect to a prohibited species or possesses a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(5) A person who sells or offers to sell a restricted species is subject to a civil fine of not less than \$1,000.00 or more than \$10,000.00. A person who sells or offers to sell a prohibited species or who violates section 41303(3) is subject to a civil fine of not less than \$2,000.00 or more than \$20,000.00.

(6) A person who violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 6 months and shall be fined not less than \$500.00 or more than \$5,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(7) A person who violates section 41305 with respect to a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant and who has actual or constructive knowledge of the identity of the restricted species or that the organism, whether a restricted species or other bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, is nonnative is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(8) A person who violates section 41305 with respect to a prohibited species that is not an aquatic species or with respect to a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant and who has actual or constructive knowledge of the identity of the prohibited species or that the bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is genetically engineered, respectively, is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(9) A person who violates section 41305 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 is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$2,000.00 or more than \$100,000.00.

(10) A person who violates section 41305 knowing the introduction is unlawful, is guilty as follows:

(a) For a violation involving a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(11) A person who, with intent to damage natural, agricultural, or silvicultural resources or human health, violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$1,000.00 or more than \$500,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 5 years and shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

(12) If a person commits a criminal violation of this part or a rule promulgated or permit issued under this part or knowingly commits a violation described in subsection (5) and if the violation involves a prohibited species that is an aquatic species, the court shall order that any permit or license issued to the person under part 473 or 487 be suspended for 1 year, and that the person is not eligible to be issued any permit or license under part 473 or 487 for 1 year. If the remaining term of an existing permit or license under part 473 or 487 is less than 1 year, the court shall order that the permit or license be revoked and that the person is not eligible to be issued any permit or license under part 473 or 487 for 1 year. For a second violation described in this subsection, the court shall order that any permit or license issued to the person under part 473 or 487 be revoked and that the person is permanently ineligible to be issued any permit or license under part 473 or 487. An order under this subsection is self-effectuating. The clerk of the court shall send a copy of the order to the department of natural resources.

(13) In addition to any other civil or criminal sanction imposed under this section, a person who violates this part is liable for any damages to natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(14) This part does not apply to activities authorized under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 76, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 541, Eff. Apr. 15, 2015.

Compiler's note: In subsection (5), the phrase "or who violates section 41303(3)" evidently should have been removed when section 41303(3) was removed by Act 451 of 2018.

Popular name: Act 451

Popular name: NREPA

324.41310 Property used in criminal violation subject to seizure and forfeiture.

Sec. 41310. A vehicle, equipment, or other property used in a criminal violation of this part or a permit issued under this part involving a prohibited species that is an aquatic species is subject to seizure and forfeiture as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

History: Add. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41311 Invasive species fund; creation; disposition of funds; money remaining in fund; expenditures; purposes.

Sec. 41311. (1) The invasive species fund is created within the state treasury.

(2) The department of natural resources and the department of agriculture shall forward to the state treasurer and the state treasurer shall deposit into the fund civil fines collected under section 41309 and permit fees collected under section 41306. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of natural resources and the department of agriculture shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) The administration of this part, consistent with section 41306(4).

(b) Public education about preventing the introduction of, controlling, or eradicating prohibited species, restricted species, and other nonnative species and genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, and mollusks.

History: Add. 2005, Act 80, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

Popular name: Act 451

Popular name: NREPA

324.41313 Providing information on website; requirements.

Sec. 41313. The department of natural resources and the department of agriculture shall each provide all of the following information on its website:

(a) Information on the requirements of this part applicable to the public.

(b) The penalties for violating the requirements of this part.

(c) A list of prohibited species and restricted species along with a description and a photograph or drawing of each of those species.

(d) Each annual report of the department under section 41323, for not less than 3 years after its issuance.

History: Add. 2005, Act 80, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

Popular name: Act 451

Popular name: NREPA

324.41321 Repealed. 2009, Act 51, Eff. Sept. 21, 2009.

Compiler's note: The repealed section pertained to the invasive species advisory council.

Popular name: Act 451

Popular name: NREPA

324.41323 Duties of department.

Sec. 41323. (1) The department of natural resources shall do all of the following:

(a) By March 1 of each year, submit to the governor and the legislature a report that makes recommendations on all of the following:

(i) Additions to or deletions from the classes of genetically engineered or nonnative organisms covered by this part.

(ii) The status of various prohibited species and other problematic invasive species in this state, including, but not limited to, a list of infested waterbodies by species.

(iii) Preventing the introduction of and controlling or eradicating invasive species or genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, or mollusks.

(iv) Restoration or remediation of habitats or species damaged by invasive species or genetically engineered organisms.

(v) Prioritizing efforts to prevent violations of and otherwise further the purposes of this part.

(vi) The specific areas of responsibility for various state departments under this part and the sharing of information on permits under this part among responsible state departments.

(vii) Educating citizens about their responsibilities under this part and their role in preventing the introduction of and controlling or eradicating prohibited species, restricted species, invasive species, and genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, or mollusks.

(viii) Simplifying citizen access to state government for compliance with this part.

(ix) Legislation and funding to carry out the recommendations of the department of natural resources and otherwise further the purposes of this part.

(x) Other matters that the department of natural resources considers pertinent to the purposes of this part.

(b) Establish criteria for identifying waterbodies infested by prohibited species.

(c) Monitor and promote efforts to rescind the exemption under 40 CFR 122.3(a) for ballast water discharges.

(2) The department of natural resources shall carry out its reporting and other duties under this section in cooperation with the aquatic nuisance species council created under Executive Order No. 2002-21 and the department of agriculture.

History: Add. 2005, Act 75, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

Popular name: Act 451

Popular name: NREPA

324.41325 Watercraft, watercraft equipment, or watercraft trailer with aquatic plant attached; placement in state waters prohibited; transport over land; order to remove aquatic organisms; release of baitfish prohibited; release of fish limited; notice; posting; violation as civil infraction; penalty.

Sec. 41325. (1) A person shall not do any of the following:

(a) Place a watercraft, watercraft equipment, or a watercraft trailer in the waters of this state if the watercraft, watercraft equipment, or watercraft trailer has an aquatic plant attached.

(b) Transport any watercraft over land without first doing all of the following:

(i) Removing all drain plugs from bilges, ballast tanks, and live wells.

(ii) Draining all water from any live wells and bilge.

(iii) Ensuring that the watercraft, trailer, and any conveyance used to transport the watercraft or trailer are free of aquatic organisms, including plants.

(2) A law enforcement officer may order the owner or operator of a watercraft, watercraft equipment, watercraft trailer, or any conveyance used to transport the watercraft or trailer to comply with subsection (1)(b). The owner or operator shall obey the order.

(3) A person shall not release baitfish in any waters of this state. A person who collects fish shall not use the fish as bait or cut bait except in the inland lake, stream, or Great Lake where the fish was caught, or in a connecting waterway of the inland lake, stream, or Great Lake where the fish was caught if the fish could freely move between the original location of capture and the location of release.

(4) A person, who catches fish other than baitfish in a lake, stream, Great Lake, or connecting waterway shall only release the fish in the lake, stream, or Great Lake where the fish was caught, or in a connecting waterway of the lake, stream, or Great Lake where the fish was caught if the fish could freely move between the original location of capture and the location of release.

(5) The department shall prepare a notice that contains a summary of subsections (1) to (4), (6), and (7) and the definition of aquatic plant in section 41301 and shall make copies of the notice available to owners of public boating access sites. The department shall include the notice in relevant department publications and post the notice on its website.

(6) The owner of a public boating access site shall post and maintain the notice described in subsection (5) at the public boating access site.

(7) A person who violates subsection (1), (2), (3), (4), or (6) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

History: Add. 2009, Act 91, Imd. Eff. Sept. 15, 2009;—Am. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Compiler's note: NREPA

324.41329 Sale or possession of nonnative aquatic species without registration prohibited; exceptions; applicability of section.

Sec. 41329. (1) A person shall not sell or offer for sale or possess for the purpose of sale or offering for sale a live, nonnative aquatic species except as authorized by a registration issued by the department of natural resources pursuant to part 13. A registration is nontransferable and expires on December 31 of the year for which issued. A separate registration is required for each place where an activity described in this subsection occurs.

(2) In addition to the exemption provided in section 41309(14), this section and section 41335 do not apply to any of the following:

(a) Activities authorized under part 459.

(b) The sale or offering for sale of aquatic species, other than prohibited species or restricted species, for human consumption.

(c) The 1-time sale or offering for sale of aquatic species if the sale or offering for sale involves not more than 20 organisms of a single species.

History: Add. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41331 Registration to sell or possess nonnative aquatic species; application; issuance.

Sec. 41331. To register under section 41329, a person shall submit an application to the department of natural resources. The application shall state the name and address of the applicant and include the description of the premises where the aquatic species are to be sold or offered for sale, together with any relevant

additional information required by the department of natural resources. The department shall issue a registration certificate to a registrant.

History: Add. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41333 Person registered to sell or possess nonnative aquatic species; duties.

Sec. 41333. A registrant under section 41329 shall do all of the following:

(a) Maintain the registration certificate conspicuously posted at the registered location at all times.

(b) Maintain, until submission under subdivision (c), electronic records of all of the following:

(i) The species and number of individuals of each aquatic species purchased. This subparagraph does not apply to species that are unable to survive in freshwater or in this state's climate as determined based on guidance developed by the relevant department.

(ii) The date of purchase or sale.

(iii) Other relevant information as required by the department.

(c) By March 1 each year, beginning in 2020, submit to the department of natural resources a report consolidating the electronic records maintained under subdivision (b) for the prior calendar year. However, the first submission shall cover records maintained since the effective date of the 2018 amendatory act that added this section.

(d) Notify the department if the registrant sells or offers for sale a live aquatic species not previously listed in a submission under subdivision (c). The department shall conduct a risk assessment of the aquatic species and take appropriate action. This subdivision does not apply to species that are unable to survive in freshwater or in this state's climate as determined based on guidance developed by the relevant department.

History: Add. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41335 Trade show for aquatic species; written notice required.

Sec. 41335. Subject to section 41329(2), a person shall not conduct a trade show for selling or trading aquatic species unless the person has given the department not less than 10 days' advance written notice of the time, date, and location of the trade show.

History: Add. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41337 Violation; penalties; suspension or revocation of registration; disposal of aquatic species.

Sec. 41337. (1) A person who violates sections 41329 to 41335 or rules promulgated under this part to implement those sections may be ordered to pay a civil fine of not more than \$1,000.00.

(2) A person who violates sections 41329 to 41335 or rules promulgated under this part to implement those sections a second or subsequent time is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

(3) In addition to the sanctions under subsections (1) or (2), the court may suspend or revoke any registration issued to the person under section 41329.

(4) If a person violates sections 41329 to 41335 or rules promulgated under this part to implement those sections, the department of natural resources may suspend or revoke the person's registration required under section 41329 or refuse to register the person after providing an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) If a registration is suspended or revoked under this section, the aquatic species held under the registration shall be disposed of only in a manner approved by the department of natural resources.

History: Add. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

324.41341 Inspection of site or facility permitted.

Sec. 41341. The department of natural resources or the department of agriculture and rural development shall have free access at all reasonable hours to any site, including, but not limited to, an aquaculture facility, as defined in section 2 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.872, if there is

probable cause to believe that activities subject to the permitting or registration requirements of this part take place and to any trade show described in section 41335 for any of the following purposes:

(a) To inspect and determine if this act is being violated. An inspection shall be conducted under generally recognized practices designed not to jeopardize the health of the aquatic species.

(b) To secure samples or specimens of any aquatic species after paying or offering to pay fair market value for the sample or specimen.

History: Add. 2018, Act 451, Eff. Mar. 21, 2019.

Popular name: Act 451

Popular name: NREPA

PART 414 AQUATIC INVASIVE SPECIES

324.41401 Definitions.

Sec. 41401. As used in this part:

(a) "Aquatic invasive plant species" means an aquatic plant species, hybrid, or genotype that is not native and whose introduction causes, or is likely to cause, economic or environmental harm or harm to human health.

(b) "Department" means the department of environmental quality.

(c) "Eligible applicant" means a person that meets the requirements under section 41402.

(d) "Eligible project" means a project that meets the requirements under section 41402.

(e) "Fund" means the inland lake aquatic invasive plant species control and eradication fund created in section 41403.

(f) "Grant" means an inland lake aquatic invasive plant species control or eradication grant issued through the program.

(g) "Program" means the inland lake aquatic invasive plant species control and eradication program established in section 41402.

History: Add. 2018, Act 671, Eff. Mar. 29, 2019.

Compiler's note: Former Part 414, MCL 324.41401-324.41415, which pertained to the Aquatic Invasive Species Advisory Council, was repealed by Act 286 of 2011, Eff. Dec. 21, 2015.

Popular name: Act 451

Popular name: NREPA

324.41402 Inland lakes aquatic invasive plant species control and eradication program; grants; application; requirements.

Sec. 41402. (1) The department shall establish an inland lake aquatic invasive plant species control and eradication program. The program shall provide grants to eligible applicants for eligible projects to control or eradicate inland lake aquatic invasive plant species using chemical, physical, or biological methods, or a combination of these methods. A grant may include funding for costs associated with preparation of a vegetation management plan, required monitoring, and any necessary permit fees associated with the eligible project.

(2) An eligible applicant must meet both of the following requirements:

(a) Be a legally constituted lake association or nonprofit organization, property owners association, homeowners association, lake board, or special assessment district.

(b) Have demonstrated that a permit from the department is in effect to conduct the control or eradication activities included in the eligible project.

(3) An eligible project must meet all of the following requirements:

(a) There is public access to the inland lake for all activities associated with the project.

(b) The waterbody has vegetation management goals created by a licensed commercial applicator or lake manager.

(c) All survey, control, eradication, and documentation activities have been completed by a qualified scientist, technician, licensed commercial aquatic applicator, or university representative.

(d) All control or eradication activities use best management practices.

(e) The project utilizes products approved or authorized by the United States Environmental Protection Agency, the department, or the department of agriculture and rural development for control or eradication activities.

(4) The department shall issue grants considering the following statewide priorities:

(a) Permit fees associated with an eligible project.

- (b) Eligible projects to manage pioneer infestations of inland lake aquatic invasive plant species.
- (c) Eligible projects to prevent or control the further spread of inland lake aquatic invasive plant species.
- (d) Eligible projects for recurring maintenance control.

(5) If an eligible applicant submits an application for an eligible project, but does not receive a grant because of a lack of available funds, that eligible applicant shall be given special consideration for approval in the following year.

(6) An eligible applicant that wishes to receive a grant shall submit an application to the department containing the information required by the department. Applications for grants shall be submitted by July 1. By September 1, the department shall notify each applicant whether its application has been approved. The department may require an applicant that receives a grant to enter into a grant agreement with the department prior to the issuance of the grant.

History: Add. 2018, Act 671, Eff. Mar. 29, 2019.

Compiler's note: Former Part 414, MCL 324.41401-324.41415, which pertained to the Aquatic Invasive Species Advisory Council, was repealed by Act 286 of 2011, Eff. Dec. 21, 2015.

Popular name: Act 451

Popular name: NREPA

324.41403 Inland lake aquatic invasive plant species control and eradication fund; creation; investment, disposition, and expenditure of money.

Sec. 41403. (1) The inland lake aquatic invasive plant species control and eradication fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only for the following:

- (a) Inland lake aquatic invasive plant species control or eradication grants.
- (b) Grant administration, in an amount not to exceed 3% of annual available funding.

History: Add. 2018, Act 671, Eff. Mar. 29, 2019.

Compiler's note: Former Part 414, MCL 324.41401-324.41415, which pertained to the Aquatic Invasive Species Advisory Council, was repealed by Act 286 of 2011, Eff. Dec. 21, 2015.

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