

HOUSE BILL No. 5019

July 8, 1997, Introduced by Reps. Schroer, Brater, LaForge, Mans, Varga, Baird, Bobier, LeTarte and Profit and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 332.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 332 EXOTIC SPECIES

2 SEC. 33201. AS USED IN THIS PART:

3 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

4 (B) "INFESTED WATERS" MEANS WATER AND WATER BODIES IDENTI-
5 FIED BY THE DEPARTMENT AS HAVING POPULATIONS OF EURASIAN WATER
6 MILFOIL UNDER SECTION 33202(1).

7 (C) "LITTORAL AREA" MEANS THOSE AREAS OF A WATER BODY 15
8 FEET OR LESS IN DEPTH.

9 SEC. 33202. (1) THE DEPARTMENT SHALL IDENTIFY WATER BODIES
10 HAVING INFESTATIONS OF EURASIAN WATER MILFOIL. THE DEPARTMENT
11 SHALL PUBLISH THE NAMES OF IDENTIFIED WATER BODIES IN THE

1 MICHIGAN REGISTER BEFORE MAY 1 OF EACH YEAR AND PROVIDE NOTICE OF
2 THIS INFORMATION THROUGH OTHER AVAILABLE MEANS WHERE PRACTICAL.
3 THE DEPARTMENT SHALL POST SIGNS DESCRIBING THE INFESTATION AT ALL
4 PUBLIC ACCESSES TO INFESTED WATERS. AT ANY TIME THE DEPARTMENT
5 MAY IDENTIFY ADDITIONAL INFESTED WATERS OR IDENTIFY THOSE WATER
6 BODIES WHICH NO LONGER ARE INFESTED WITH EURASIAN WATER MILFOIL.

7 (2) IN WATER BODIES IDENTIFIED UNDER SUBSECTION (1), THE
8 DEPARTMENT OR A PERSON AUTHORIZED BY THE DEPARTMENT SHALL MARK
9 AREAS OF INFESTATION OF EURASIAN WATER MILFOIL WHERE CONTROL IS
10 PLANNED USING BUOYS OR SIGNS. A MINIMUM OF 3 BUOYS OR SIGNS
11 SHALL BE USED TO DELINEATE AN INFESTED AREA, AND PLACED AT INTER-
12 VALS OF NOT MORE THAN 300 FEET APART. IN ADDITION, AT LEAST 2
13 BUOYS OR SIGNS SHALL BE PLACED AT OR NEAR THE SHORELINE TO DELIN-
14 EATE AN INFESTED AREA IF ADJACENT TO SHORE. BUOYS OR SIGNS SHALL
15 BE REMOVED AFTER CONTROL ACTIONS ARE COMPLETED.

16 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON SHALL NOT
17 ENTER OR ALLOW HIS OR HER EQUIPMENT TO ENTER AN AREA MARKED WITH
18 BUOYS OR SIGNS UNDER SUBSECTION (2), EXCEPT IN EMERGENCY SITUA-
19 TIONS WHERE HUMAN LIFE OR PROPERTY IS ENDANGERED.

20 (4) ENFORCEMENT, EMERGENCY, RESOURCE MANAGEMENT, AND OTHER
21 GOVERNMENT PERSONNEL OR THEIR AGENTS MAY ENTER INTO WATERS WHERE
22 INFESTATIONS OF EURASIAN WATER MILFOIL HAVE BEEN MARKED BY BUOYS
23 OR SIGNS UNDER SUBSECTION (2) WHEN PERFORMING OFFICIAL DUTIES.
24 OWNERS OR LESSEES OF LAND ADJACENT TO MARKED AREAS WHO DO NOT
25 HAVE WATER ACCESS TO THEIR LAND OTHER THAN THROUGH THE MARKED
26 AREA MAY USE THE SHORTEST AND MOST DIRECT ROUTE THROUGH THE
27 MARKED AREA FOR SUCH ACCESS.

1 SEC. 33203. A PERSON SHALL NOT TAKE WILD ANIMALS FROM
2 INFESTED WATERS FOR BAIT PURPOSES.

3 SEC. 33204. NETS, TRAPS, BUOYS, ANCHORS, STAKES, AND LINES
4 USED FOR COMMERCIAL FISHING PURPOSES THAT ARE USED IN INFESTED
5 WATERS SHALL BE DRIED FOR A MINIMUM OF 10 DAYS OR FROZEN FOR A
6 MINIMUM OF 2 DAYS BEFORE THEY ARE USED IN NONINFESTED WATERS.
7 ALL AQUATIC VEGETATION SHALL BE REMOVED FROM NETS AND OTHER
8 EQUIPMENT WHEN THEY ARE REMOVED FROM INFESTED WATERS. COMMERCIAL
9 OPERATORS SHALL NOTIFY THE DEPARTMENT'S REGIONAL OR AREA FISH-
10 ERIES OFFICE OR A CONSERVATION OFFICER WHEN REMOVING NETS FROM
11 INFESTED WATERS AND AGAIN BEFORE RESETTING THOSE NETS IN NONIN-
12 FESTED WATERS.

13 SEC. 33205. (1) A PERSON SHALL NOT USE WATER FROM INFESTED
14 WATERS TO TRANSPORT FISH. LIVE FISH TAKEN UNDER A COMMERCIAL
15 FISHING LICENSE MAY BE TRANSPORTED FROM INFESTED WATERS TO OTHER
16 WATERS OR HOLDING FACILITIES FROM MAY 1 TO OCTOBER 31 WITH A
17 TRANSPORTATION PERMIT ISSUED BY THE DEPARTMENT.

18 (2) WATER USED TO TRANSPORT LIVE FISH FROM INFESTED WATERS
19 PURSUANT TO SUBSECTION (1), INCLUDING WATER FROM WATERS OR FACIL-
20 ITIES PERMITTED TO HOLD FISH FROM INFESTED WATERS, MAY BE DIS-
21 POSED OF ONLY AT SITES APPROVED IN WRITING BY THE DEPARTMENT.

22 (3) THE OWNER OR OPERATOR OF WATERCRAFT LEAVING INFESTED
23 WATERS SHALL DRAIN BAIT CONTAINERS, OTHER BOATING-RELATED EQUIP-
24 MENT HOLDING WATER, AND LIVEWELLS AND BILGES BY REMOVING THE
25 DRAIN PLUG BEFORE TRANSPORTING THE WATERCRAFT AND ASSOCIATED
26 EQUIPMENT ON PUBLIC ROADS.

1 (4) WATER FROM INFESTED WATERS SHALL NOT BE TRANSPORTED ON A
2 PUBLIC ROAD OR OFF PROPERTY RIPARIAN TO INFESTED WATERS EXCEPT
3 UNDER 1 OF THE FOLLOWING CIRCUMSTANCES:

4 (A) IN EMERGENCIES, SUCH AS FIRE EMERGENCIES.

5 (B) UNDER A PERMIT ISSUED PURSUANT TO THIS PART.

6 (5) WATER FROM INFESTED WATERS SHALL NOT BE DIVERTED TO
7 OTHER WATERS WITHOUT A PERMIT ISSUED PURSUANT TO THIS PART.

8 SEC. 33206. APPLICATIONS FOR PERMITS ISSUED PURSUANT TO
9 THIS PART, TO DIVERT OR TRANSPORT WATER FROM INFESTED WATERS,
10 SHALL BE MADE ON FORMS OBTAINED FROM THE DEPARTMENT AND SHALL
11 CONTAIN INFORMATION AS THE DEPARTMENT MAY PRESCRIBE. THE DEPART-
12 MENT SHALL GRANT A PERMIT TO DIVERT OR TRANSPORT WATER FROM
13 INFESTED WATERS ONLY IF THE DIVERSION OR TRANSPORTATION WILL NOT
14 EXACERBATE THE SPREAD OF EURASIAN WATER MILFOIL. THE DEPARTMENT
15 SHALL ACT UPON THE APPLICATION WITHIN 90 DAYS OF RECEIPT.
16 FAILURE ON THE PART OF THE DEPARTMENT TO ACT UPON THE PERMIT
17 WITHIN THE REQUIRED TIME SHALL NOT BE CONSTRUED AS APPROVAL OF
18 THE APPLICATION. PERMITS SHALL STATE ALL THE CONDITIONS AND LIM-
19 ITATIONS UPON WHICH THEY ARE BASED.

20 SEC. 33207. IF THE DEPARTMENT DETERMINES THAT A VIOLATION
21 OF THIS PART HAS OCCURRED, THE DEPARTMENT MAY CONFISCATE THE
22 EURASIAN WATER MILFOIL IMMEDIATELY UPON DISCOVERY WHEREVER FOUND
23 AND, AT THE DEPARTMENT'S DISCRETION, DESTROY IT. IF THE DEPART-
24 MENT DETERMINES THAT WATER FROM INFESTED WATER IS BEING DIVERTED
25 OR TRANSPORTED WITHOUT A PERMIT, OR OTHERWISE CONTRARY TO THIS
26 PART, THE DEPARTMENT MAY ORDER THAT THE ACTIVITIES CEASE. ANY

1 EXPENSE OR LOSS IN CONNECTION WITH ENFORCEMENT OF THE ORDER SHALL
2 BE BORNE BY THE PERMITTEE OR RESPONSIBLE PERSON.

3 (2) THE ATTORNEY GENERAL, ON BEHALF OF THE DEPARTMENT, MAY
4 BRING AN ACTION IN CIRCUIT COURT TO ENFORCE AN ORDER ISSUED UNDER
5 THIS SECTION. THE CIRCUIT COURT, IN AN ACTION BROUGHT UNDER THIS
6 SECTION, MAY ISSUE AN INJUNCTION OR PROVIDE OTHER EQUITABLE
7 RELIEF.

8 SEC. 33208. (1) A PERSON WHO VIOLATES THIS PART IS RESPON-
9 SIBLE FOR THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$500.00.

10 (2) A DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS
11 ORDERED UNDER THIS PART OR AN INSTALLMENT OF THE FINE OR COSTS
12 MAY BE REMEDIED BY AN MEANS AUTHORIZED UNDER THE REVISED JUDICA-
13 TURE ACT OF 1961, 1961 PA 236, MCL 600.101 TO 600.9948.

14 (3) ALL CIVIL FINES COLLECTED UNDER THIS SECTION SHALL BE
15 FORWARDED TO THE STATE TREASURER FOR DEPOSIT IN THE EXOTIC SPE-
16 CIES CONTROL FUND CREATED IN SECTION 33209.

17 SEC. 33209. (1) THE EXOTIC SPECIES CONTROL FUND IS CREATED
18 WITHIN THE STATE TREASURY.

19 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
20 FROM ANY SOURCE FOR DEPOSIT INTO THE EXOTIC SPECIES CONTROL
21 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
22 EXOTIC SPECIES CONTROL FUND. THE STATE TREASURER SHALL CREDIT TO
23 THE EXOTIC SPECIES CONTROL FUND INTEREST AND EARNINGS FROM FUND
24 INVESTMENTS.

25 (3) MONEY IN THE EXOTIC SPECIES CONTROL FUND AT THE CLOSE OF
26 THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO
27 THE GENERAL FUND.

1 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
2 APPROPRIATION, ONLY FOR THE CONTROL OF EURASIAN WATER MILFOIL OR
3 REMOVAL OF EURASIAN WATER MILFOIL FROM THE WATERS OF THE STATE.