



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bills 226 and 227 (as introduced 2-27-03)  
Sponsor: Senator Bev Hammerstrom  
Committee: Natural Resources and Environmental Affairs

Date Completed: 10-13-03

**CONTENT**

**Senate Bill 226 would amend the Natural Resources and Environmental Protection Act to:**

- **Prohibit the release of a genetically engineered organism (GEO) or a nonnative organism without a permit from the Department of Natural Resources (DNR).**
- **Provide that someone who released an organism in violation of the bill would be guilty of a felony.**
- **Include genetically engineered variants in provisions that restrict the importation of live game fish, and establish a misdemeanor penalty for a violation involving a GEO or a species not naturalized in this State.**
- **Provide that a permit to possess or import live game fish would not include a genetically engineered variant unless it was specifically identified in the permit.**
- **Establish a felony penalty for someone who knowingly violated the permit restrictions with respect to a GEO that was a variant.**
- **Include liability for damages to the natural resources in all of the proposed penalties.**

**Senate Bill 227 would amend the Code of Criminal Procedure to add to the sentencing guidelines the felonies of knowingly releasing genetically engineered or nonnative organisms, possessing or importing genetically engineered game fish, and planting genetically engineered aquatic organisms, as proposed by Senate Bill 226. These offenses would be Class E felonies against property, with a statutory maximum term of imprisonment of five years.** Senate Bill 227 is tie-barred to Senate Bill 226.

A more detailed description of Senate Bill 226 follows.

**Terms**

The bill would define "genetically engineered" as "an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably using recombinant nucleic acid techniques". "Recombinant nucleic acid techniques" would mean "laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism".

**Prohibited Release**

The bill would add Part 413 (Transgenic and Nonnative Organisms) to the Act. Under this part, unless authorized by a permit issued by the DNR, a person could not knowingly release or allow to be released into this State a GEO or a nonnative organism that was not naturalized in the location of the release.

A person would have to apply for a permit on a form developed by the DNR. The application would have to be accompanied by a fee established by the Department based on the cost of administering Part 413. The DNR could revoke or modify a permit after providing an opportunity for a hearing under the Administrative Procedures Act.

A person who knowingly violated Part 413 or a permit issued under it would be guilty of a felony punishable by imprisonment for up to five years, a maximum fine of \$250,000, or both. The person also would be liable for any damages to the natural resources of the State resulting from the violation.

The DNR would have to promulgate rules to implement Part 413.

### Game Fish Importation

Part 459 (Propagation of Game Fish in Private Waters) of the Act prohibits a person from importing into the State any live game fish, including the viable eggs of any game fish, without a license. The bill provides that a license would not apply to a genetically engineered variant of a live game fish species unless the variant was specifically identified in the license.

The DNR may promulgate rules to prohibit or restrict the importation of game fish or other fish when importation of that species would endanger the State's public fishery resources. Under the bill, a prohibition or restriction in these rules would apply to a GEO that was a variant of the species unless the restriction or prohibition specifically provided otherwise. Also, a prohibition or restriction in rules could be limited to a GEO.

A person who knowingly violated the import prohibition or a rule prohibiting or restricting importation with respect to a GEO or any species that was not naturalized in this State, would be guilty of a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$1,000. Any license issued to the person under Part 459 could be revoked, and the person would be liable for damages to natural resources resulting from the violation.

### Game Fish Permits

Part 487 (Sport Fishing) of the Act allows the DNR to issue permits to possess live game fish in public or private ponds, pools, or aquariums under rules and regulations prescribed by the Department. This part also prohibits a person from importing live game fish, including viable eggs, into the State, or planting any spawn, fry, or fish in the waters of the State, without a permit issued by the DNR. The bill provides that a permit issued under these provisions would not include a genetically engineered variant of a species identified in the permit, unless the variant was specifically identified in the permit.

If a person violated the prohibition against possessing live game fish, or importing live game fish or planting any spawn, fry, or fish without a permit, or violated a permit, with respect to a GEO that was a variant of a species, he or she would be guilty of a felony punishable by imprisonment for up to five years and/or a maximum fine of \$250,000. The person also would be liable for any damages to the natural resources of the State resulting from the violation. The person's fishing license would have to be revoked, and he or she could not receive a license during the remainder of the year in which he or she was convicted or during the next three license years.

MCL 324.45901 et al. (S.B. 226)  
MCL 777.13e (S.B. 227)

Legislative Analyst: Claire Layman

## **FISCAL IMPACT**

Senate Bills 226 and 227 would have an indeterminate fiscal impact on State and local government.

There are no data to indicate how many offenders would be convicted of knowingly releasing, possessing or importing a genetically engineered or nonnative organism. Offenders would receive a sentence with a minimum range of 0-3 months to 24-38 months and would be subject to probation or incarceration in a local or State facility. Local units would incur the cost of incarceration in a local facility, while the State would incur the cost of felony probation estimated at \$4.80 per day, and the cost of incarceration in a State facility at an average annual cost of \$27,000.

Public libraries would benefit from any additional penal fine revenue.

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