

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

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 Notes: 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