

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Subpart I

DEFINITIONS

324.48701 Definitions.

Sec. 48701.

As used in this part:

- (a) "Amphibian" means any frog, toad, or salamander of the class amphibia.
- (b) "Crustacea" means any freshwater crayfish, shrimp, or prawn of the order decapoda.
- (c) "Dip net" means a square net that is constructed from a piece of webbing of heavy twine, hung on heavy cord or frame so as to be without sides or walls, and suspended from the corners and attached in such a manner that when the net is lifted no part is more than 4 feet below the plane formed by the imaginary lines connecting the corners from which the net is suspended. As used in fishing, it shall be lowered and raised vertically as nearly as possible.
- (d) "Game fish" includes all of the following:
 - (i) Lake trout (*Salvelinus namaycush*).
 - (ii) Brook trout (*Salvelinus fontinalis*).
 - (iii) Brown trout (*Salmo trutta*).
 - (iv) Rainbow or steelhead trout (*Oncorhynchus mykiss*).
 - (v) Atlantic landlocked salmon (*Salmo salar sebago*).
 - (vi) Grayling (*Thymallus arcticus*).
 - (vii) Largemouth bass (*Micropterus salmoides*).
 - (viii) Smallmouth bass (*Micropterus dolomieu*).
 - (ix) Bluegill (*Lepomis macrochirus*).
 - (x) Pumpkinseed or common sunfish (*Lepomis gibbosus*).
 - (xi) Black crappie and white crappie, also known as calico bass and strawberry bass (*Pomoxis nigromaculatus* and *Pomoxis annularis*).
 - (xii) Yellow perch (*Perca flavescens*).
 - (xiii) Walleye (*Sander vitreus*).
 - (xiv) Northern pike (*Esox lucius*).
 - (xv) Muskellunge (*Esox masquinongy*).
 - (xvi) Lake sturgeon (*Acipenser fulvescens*).
 - (xvii) Splake (*Salvelinus namaycush* x *Salvelinus fontinalis*).
 - (xviii) Coho salmon (*Oncorhynchus kisutch*).
 - (xix) Chinook (King) salmon (*Oncorhynchus tshawytscha*).
 - (xx) Pink salmon (*Oncorhynchus gorbuscha*).
- (e) "Genetically engineered" refers to a fish whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques.
- (f) "Hand net" means a mesh bag of webbing or wire suspended from a circular, oval, or rectangular frame attached to a handle.
- (g) "Inland waters of this state" means the waters within the jurisdiction of the state except Saginaw river, Lakes Michigan, Superior, Huron, and Erie, and the bays and the connecting waters. The connecting waters between Lake Superior and Lake Huron are that part of the Straits of St. Mary in this state extending from a line drawn from Birch Point Range front light to the most westerly point of Round Island, thence following the shore of Round Island to the most northerly point thereof, thence from the most northerly point of Round Island to Point Aux Pins light, Ontario, to a line drawn due east and west from the most southerly point of Little Lime Island. The connecting waters of Lake Huron and Lake Erie are all of the St. Clair river, all of Lake St. Clair, and all of the Detroit river extending from Fort Gratiot light in Lake Huron to a line extending due east and west of the most southerly point of Celeron Island in the Detroit river.
- (h) "Mollusks" means any mollusk of the classes bivalvia and gastropoda.
- (i) "Nongame fish" includes all kinds of fish except game fish.
- (j) "Nonresident" means a person who is not a resident.
- (k) "Nontrot streams" means all streams or portions of streams other than trout streams.
- (l) "Open season" means the time during which fish may be legally taken or killed and includes both the first and last day of the season or period designated by this part.
- (m) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism.

- (n) "Reptiles" means any turtle, snake, or lizard of the class reptilia.
- (o) "Resident" means either of the following:
 - (i) A person who resides in a settled or permanent home or domicile with the intention of remaining in this state.
 - (ii) A student who is enrolled in a full-time course at a college or university within this state.
- (p) "Trout lake" means a lake designated by the department in which brook trout, brown trout, or rainbow trout are the predominating species of game fish. The department may designate certain trout lakes in which certain species of fish are not desired and in which it is unlawful to use live fish of any kind for bait.
- (q) "Trout stream" means any stream or portion of a stream that contains a significant population of any species of trout or salmon as determined by the department. The department shall designate not more than 212 miles of trout streams in which only lures or baits as the department prescribes may be used in fishing, and the department may prescribe the size and number of fish that may be taken from those trout streams. The department shall not restrict children under 12 years old from taking a minimum of 1 fish, except for lake sturgeon (*Acipenser fulvescens*), in any trout stream. Any trout stream in a county that includes a city with a population of 750,000 or more shall be so designated. In addition, the department shall issue an order adopting criteria for determining which trout streams should be so designated. Before the department issues the order, the department shall submit the proposed order to the commission. The commission shall receive public comment on the proposed order. The department shall consider any guidance provided by the commission on the proposed order and may make changes to the proposed order based on that guidance.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 434, Imd. Eff. June 10, 2002 ;-- Am. 2003, Act 270, Eff. Mar. 30, 2004 ;-- Am. 2008, Act 291, Imd. Eff. Oct. 6, 2008

Popular Name: Act 451

Popular Name: NREPA

324.48702 Fish, reptiles, amphibians, mollusks, and crustaceans as property of state; exception; registration under Michigan aquaculture development act.

Sec. 48702.

- (1) Except as otherwise provided in subsection (2), all fish, reptiles, amphibians, mollusks, and crustaceans found in this state are the property of the state and may only be taken at times and in a manner as provided in this part.
- (2) Fish, reptiles, amphibians, mollusks, crustaceans, and any other aquaculture species propagated, reared, produced, or possessed pursuant to a registration or permit issued under the Michigan aquaculture development act are not the property of the state and may be taken, produced, purchased, acquired, lawfully exported or imported, or possessed only in compliance with that act.
- (3) The department shall consider a registration under the Michigan aquaculture development act as equivalent to a game fish breeders license for purposes of obtaining a planting permit under this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 200, Imd. Eff. May 17, 1996

Popular Name: Act 451

Popular Name: NREPA

324.48702a Definitions; obstruction or interference in lawful taking of aquatic species; prohibited conduct.

Sec. 48702a.

- (1) As used in this section and section 48702b:
 - (a) "Aquatic species" means fish, reptiles, mollusks, crustacea, minnows, wigglers, and amphibians of the class amphibia.
 - (b) "Take" and "taking" mean to fish for by any lawful method, catch, kill, capture, trap, or shoot any species of fish, reptiles, amphibians, mollusks, wigglers, or crustacea, regulated by this part, or to attempt to engage in any such activity.
 - (c) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

- (2) A person shall not obstruct or interfere in the lawful taking of aquatic species by another person.
- (3) A person violates this section when the person intentionally or knowingly does any of the following:
 - (a) Operates a vessel or a device designed to be used on the water which does not meet the definition of a vessel in a manner likely to significantly alter the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.
 - (b) Wades or swims in a manner or at a location likely to cause a significant alteration in the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.
 - (c) Tosses, drops, or throws any stone, rock, or other inert material in order to hinder or prevent the lawful taking of an aquatic species.
 - (d) Drives, herds, or disturbs any aquatic species in order to hinder or prevent the lawful taking of an aquatic species.
 - (e) Blocks, impedes, or harasses another person who is engaged in the process of lawfully taking an aquatic species.
 - (f) Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus to affect aquatic species behavior in order to hinder or prevent the lawful taking of an aquatic species.
 - (g) Erects barriers to deny ingress or egress to areas where the lawful taking of aquatic species may occur. This subdivision does not apply to a person who erects barriers to prevent trespassing on his or her property.
 - (h) Interjects himself or herself into the area where nets, fishing lines, or traps may be placed by a person lawfully taking aquatic species.
 - (i) Affects the condition or placement of personal or public property intended for use in the lawful taking of an aquatic species in order to impair the usefulness of the property or prevent the use of the property.
 - (j) Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating this section.
 - (k) Engages in any other act or behavior for the purpose of violating this section.

History: Add. 1996, Act 315, Eff. July 1, 1996

Compiler's Notes: Enacting Section 3 of Act 315 of 1996 , which provided: "Section 3. This amendatory act shall not take effect unless Senate Bill No. 964 of the 88th Legislature is enacted into law."

Popular Name: Act 451

Popular Name: NREPA

324.48702b Violation of MCL 324.48702a.

Sec. 48702b.

- (1) Upon petition of an aggrieved person or a person who reasonably may be aggrieved by a violation of section 48702a , a court of competent jurisdiction, upon a showing that a person was engaged in and threatens to continue to engage in illegal conduct under section 48702a, may enjoin that conduct.
- (2) A person who violates section 48702a 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. A person who violates section 48702a 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 person to take aquatic species shall be revoked. A prosecution under this subsection does not preclude prosecution or other action under any other criminal or civil statute.
- (3) Section 48702a does not apply to a peace officer while the peace officer performs his or her lawful duties.

History: Add. 1996, Act 318, Eff. July 1, 1996

Popular Name: Act 451

Popular Name: NREPA