

Legislative Analysis



CLASSIFY AUTUMN OLIVE AS RESTRICTED SPECIES

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4038 (Substitute H-1)
Sponsor: Rep. Nancy Jenkins
Committee: Natural Resources

(Enacted as PA 358 of 2014)

Complete to 5-22-13

A SUMMARY OF HOUSE BILL 4038 AS REPORTED FROM COMMITTEE 5-14-13

The bill would amend Part 413 (Transgenic and Nonnative Organisms) of the Natural Resources and Environmental Protection Act to establish the *autumn olive* as a restricted species in the state. Generally, individuals are prohibited from possessing a live organism that is a prohibited or restricted species, except under certain conditions (see *Background Information*).

Specifically, the bill would include the following language under the definition of restricted species: *the following restricted terrestrial plant species, 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).*

[According to the Department of Natural Resources "Michigan Natural Features Inventory" (Feb. 2012), autumn olive is an invasive species of shrubbery native to Asia. It was commonly planted for wildlife cover prior to its invasive traits being widely known. Its leaves appear earlier and are retained later than native species, causing desirable native species to be shaded out. It also has a unique root structure that can cause nitrogen levels in the soil to increase, causing harm to native species more accustomed to low nutrient levels.]

The bill would also create a new category of prohibited terrestrial plant species, and include the giant hogweed and Japanese knotweed under that category. Both species are currently listed as prohibited aquatic plant species under the act. The bill would just reclassify them into the new category.]

Specifically, the bill would include the following language: *any of the following prohibited terrestrial plant species, 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: giant hogweed (heracleum mantegazzianum); Japanese knotweed (fallopian japonica).*

MCL 324.41301

FISCAL IMPACT:

House Bill 4038 would have no significant fiscal impact on the State of Michigan or local units of government.

BACKGROUND INFORMATION AND DISCUSSION:

The bill would place the autumn olive on the restricted invasive species list, which would make possession of the plant illegal except as outlined below. According to testimony, the bill is intended to stop the intentional spreading of the plant species but will not result in the elimination of autumn olive from the wild.

There was concern expressed about why the Natural Resources Commission could not designate the autumn olive as a restricted invasive species without legislative action. According to testimony, such action would be beyond the scope of what is allowed under current law. Currently, the only category existing for prohibited or restricted plant species is of the aquatic variety; autumn olive would be incorrectly classified under such a category. As a result, legislation is needed to add additional categories to the act to allow non-aquatic plant species to be designated as restricted or prohibited.

Possession of a restricted or prohibited species

Under Part 13 (MCL 324.41303), individuals are generally prohibited from possessing a live organism that is a prohibited or restricted species, except under the following conditions:

- If the person intends to present a specimen of the prohibited or restricted species, for identification or similar purposes, to a certified or registered applicator, a public or private higher education institution, or to a governmental entity with responsibility for the environment, natural resources, or agriculture.
- The person in possession was presented with the prohibited or restricted species for identification purposes.
- The person in possession is doing so in conjunction with an otherwise lawful activity to eradicate or control the prohibited or restricted species.
- The possession is pursuant to an education or research permit

Individuals found in possession of a restricted species (except as mentioned above) would be subject to a \$5,000 fine. An individual in possession of a restricted species who knows the possession is unlawful, or an individual who violates a permit condition in a willfully or grossly negligent manner would be subject to a misdemeanor, including up to two years' imprisonment and a fine ranging from \$1,000 to \$10,000.

POSITIONS:

The Michigan Department of Agriculture and Rural Development supports the bill. (5-14-13)

Great Lakes Timber Professionals Association supports the bill. (5-14-13)

Michigan Association of Conservation Districts supports the bill. (5-14-13)

Michigan Association of Timbermen supports the bill. (5-14-13)

Michigan Farm Bureau supports the concept of the bill. (4-23-13)

Michigan Nursery and Landscape Association supports the concept of the bill. (4-23-13)

Legislative Analyst: Jeff Stoutenburg
Fiscal Analyst: Viola Bay Wild

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.