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House Bill 4038 (Substitute H-1 as passed by the House)
Sponsor: Representative Nancy Jenkins
House Committee: Natural Resources
Senate Committee: Natural Resources, Environment and Great Lakes

Date Completed: 5-30-14

CONTENT

The bill would amend Part 413 (Transgenic and Nonnative Organisms) of the Natural Resources and Environmental Protection Act to do the following:

- **Designate autumn olive and a hybrid or genetically engineered variant of the species as a restricted species (whose possession, introduction, and sale are prohibited).**
- **Refer to giant hogweed and Japanese knotweed as prohibited terrestrial species rather than prohibited aquatic species.**

Part 413 prohibits a person from knowingly possessing a live organism that is a prohibited or restricted species, except under any of the following circumstances:

- The person intends to present the specimen for identification or similar purposes to a certified or registered pesticide applicator, to a public or private institution of higher education, or to the Department of Natural Resources, the Michigan Department of Agriculture and Rural Development, or any other State, local, or Federal agency with responsibility for the environment, natural resources, or agriculture.
- The person has been presented with a specimen of a prohibited or restricted species for identification or similar purposes.
- The person possesses the species in conjunction with otherwise lawful activity to eradicate or control it.

The definitions of "prohibited species" and "restricted species" include certain aquatic plant, bird, crustacean, fish, insect, mammal, and mollusk species, including a hybrid or genetically engineered variant of the species, or the listed species' fragments, seeds, or eggs, as applicable. Additionally, the Natural Resources Commission and the Agriculture and Rural Development Commission may by order add to or delete from the lists of prohibited and restricted species. The applicable Commission must list a species as prohibited or as restricted if it makes certain determinations specified in Part 413.

The bill would designate as a restricted terrestrial plant species autumn olive (*Eleaagnus umbellata*), including a hybrid or genetically engineered variant or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant. (The penalties for violations of Part 413 involving restricted species are described below, under **BACKGROUND.**)

The list of prohibited species includes a number of aquatic plant species. Giant hogweed (*Heracleum mantegazzianum*) and Japanese knotweed (*Fallopia japonica*) are listed as

prohibited aquatic plant species. The bill would establish a separate category of prohibited terrestrial plant species and include giant hogweed and Japanese knotweed in that category.

MCL 324.41301

BACKGROUND

Part 413 prescribes penalties for offenses involving restricted and prohibited species. The penalties for restricted species violations are shown in Table 1. In addition to any other civil or criminal sanction imposed under Part 413, a violator is liable for any damages to natural resources resulting from the violation, including costs incurred to prevent or minimize such damage.

Table 1

Violation	Type of Offense	Fine	Prison Sentence
Possession	Civil	\$5,000 maximum	N/A
Knowing unlawful possession; willful or grossly negligent violation of permit condition	Misdemeanor	\$1,000-\$10,000	One year maximum
Possession with intent to damage natural, agricultural, or silvicultural resources or human health	Felony	\$1,000-\$250,000	Two years maximum
Sale	Civil	\$1,000-\$10,000	N/A
Introduction	Misdemeanor	\$500-\$5,000	Six months maximum
Introduction knowing species' identity	Misdemeanor	\$1,000-\$10,000	One year maximum
Knowing unlawful introduction	Felony	\$1,000-\$250,000	Two years maximum
Introduction with intent to damage natural, agricultural, or silvicultural resources or human health	Felony	\$1,000-\$500,000	Three years maximum

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

To the extent that the additional restricted species led to increased violations of Part 413, the bill could result in costs to the courts and penal institutions, as well as civil and criminal fine revenue.

Fiscal Analyst: John Maxwell

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