



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2293

PRINTERS NO. 4150

PRIME SPONSOR: Peifer

Revenue Increase / (Decrease)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	\$0
Fish Fund	\$133,500	\$178,000

SUMMARY:

Amends Title 30 (Fish & Boat Code) to:

- create a new category of offenses for “serious unlawful take” and “taking or possessing by illegal methods”, and to provide for penalties and assessment of costs for these violations;
- increase fines for certain summary offenses;
- provide for license revocation time-frames; and
- remove the sunset provision that applies to deposit of fees for Lake Erie Fishing Permits.

ANALYSIS:

New Offenses:

HB 2293 amends Title 30 Chapter 21 (relating to general provisions) to create a new Section (2109) titled “Serious unlawful take” under which it is unlawful to take, catch, kill or possess three or more times the daily limit of fish, or during the closed season, fish having a replacement cost in excess of \$500. Any person violating Section 2109 commits a misdemeanor of the second degree and is subject to a fine of not less than \$500 nor more than \$5,000, or imprisonment of up to two years, or both.

The bill also creates a new Section (2110) titled “Taking or possessing by illegal methods” under which it is unlawful to take, catch, kill or possess fish by any method not specifically authorized by law or regulation. The grading for a violation of this section is as follows: a violation relating to a single fish is a summary offense of the second degree; a violation related to two or more fish, up to and including the legal daily limit is a summary offense of the first degree; a violation relating to more than the legal daily limit of fish, or a second or subsequent violation is a misdemeanor of the second degree.

A new subsection (c.1) is added to Section 923 (relating to classification of offenses and penalties) to provide an additional penalty for the 2 new offenses. A person convicted of or acknowledging guilt for violating Sections 2109 or 2110 shall be assessed the costs incurred by the Commission for the replacement of the species involved in the violation in an amount determined by regulation of the Commission consistent with the values established by the American Fisheries Society or other recognized professional fisheries organization. Replacement costs may only be assessed for violations relating to federally listed threatened and endangered species and any other species of fish designated by the Commission.

Fine Increases for Summary Offenses:

The bill also amends Section 923 (a) (general rule) to increase the fine for a summary offense of the first degree to \$250, up from the current \$200; to increase the fine for a summary offense of the second degree to \$150, up from the current \$100; and to increase the fine for a summary offense of the third degree to \$75, up from the current \$50. Section 923 (b) (relating to additional fine) is also amended to change the flat \$20 additional fine that may be imposed for each fish taken, caught, killed, possessed or sold in violation of the title to a fine of not less than \$20 nor more than \$50. Language is also added to this section to clarify that the additional fine may be imposed for each illegal device used by an angler while in the act of fishing.

License Revocation Time-frame:

Section 928 (b) (relating to revocation, suspension or denial of license, permit or registration) is amended to provide that a suspension of an adjudicated delinquent or other person for operating a watercraft under the influence, or homicide by watercraft, may not commence until the date of the individual's release from prison.

Removal of Sunset Provision:

Additionally, the bill amends Section 2907.2 (relating to Lake Erie Fishing Permits) Subsection (F.1) to remove the sunset provision related to the deposit of fees from the sale of Lake Erie Fishing Permits and combination Trout/Salmon Permits. As a result, funding will continue to go to the restricted account within the Fish Fund, required to be used to provide public fishing access or to protect and improve fish habitat on or at Lake Erie, Presque Isle Bay, and their tributaries.

Effective date: Immediately

FISCAL IMPACT: As a result of increasing citation fines for first, second and third degree summary offenses, the Fish and Boat Commission estimates an increase of revenue by about \$178,000 based on the number of citations given in 2011. Furthermore, the new categories of offenses may increase revenue collected through additional fines. Enactment of this legislation will have no adverse impact on Commonwealth Funds.

PREPARED BY: Thomas Gwinn
House Appropriations Committee (R)

DATE: October 10, 2012

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.