



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1181

Introduced 2/8/2005, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

515 ILCS 5/1-53 new	
515 ILCS 5/1-55	from Ch. 56, par. 1-55
515 ILCS 5/1-125	from Ch. 56, par. 1-125
515 ILCS 5/10-100	from Ch. 56, par. 10-100
515 ILCS 5/20-35	from Ch. 56, par. 20-35
515 ILCS 5/20-70	from Ch. 56, par. 20-70

Amends the Fish and Aquatic Life Code. Defines "indigenous species" as aquatic life specified by administrative rule. Excludes Asian carp from the definition of "minnow". Provides that possession, transport, or release of viable gametes listed by administrative rule is a Class A misdemeanor. Provides for "aquatic life dealers" (rather than "fish dealers"). Provides that licensing requirements concerning wholesale and retail aquatic life dealers do not apply to minnows or saltwater species commonly used as seafood. Makes a violation of certain laws and administrative rules concerning aquatic life dealers a Class B misdemeanor. Makes other changes.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning fish and aquatic life.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Fish and Aquatic Life Code is amended by
5 changing Sections 1-55, 1-125, 10-100, 20-35, and 20-70 and by
6 adding Section 1-53 as follows:

7 (515 ILCS 5/1-53 new)

8 Sec. 1-53. Indigenous species."Indigenous species" means
9 those species of aquatic life specified by administrative rule.

10 (515 ILCS 5/1-55) (from Ch. 56, par. 1-55)

11 Sec. 1-55. Minnow. "Minnow" means any fish in the family
12 Cyprinidae except common carp (Cyprinus carpio), and goldfish
13 (Carassius auratus), and Asian carp [bighead carp
14 (Hypophthalmichthys nobilis), black carp (Mylopharyngodon
15 piceus), grass carp (Ctenopharyngodon idella), and silver carp
16 (Hypophthalmichthys molotrix)].

17 (Source: P.A. 87-833.)

18 (515 ILCS 5/1-125) (from Ch. 56, par. 1-125)

19 Sec. 1-125. Administrative rules. The Department is
20 authorized to issue administrative rules for carrying out,
21 administering, and enforcing the provisions of this Code. The
22 administrative rules shall be promulgated in accordance with
23 the Illinois Administrative Procedure Act.

24 Rules, after becoming effective, shall be enforced in the
25 same manner as are any other provisions of this Code. It is
26 unlawful for any person to violate any provision of any
27 administrative rule promulgated by the Department. Violators
28 of administrative rules are subject to the penalties set out in
29 this Code.

30 (Source: P.A. 89-66, eff. 1-1-96.)

1 (515 ILCS 5/10-100) (from Ch. 56, par. 10-100)

2 Sec. 10-100. Release of aquatic life.

3 (a) It shall be unlawful to release any aquatic life into
4 the wild in waters of this State without first securing
5 permission of the Department to do so, except that the owner of
6 a body of water may release aquatic life indigenous to the
7 State of Illinois into waters wholly upon his or her property
8 ~~that are indigenous to the State of Illinois~~. The Department
9 shall have the authority to promulgate necessary rules and
10 regulations, under the Illinois Administrative Procedure Act,
11 regulating the possession, transportation, and shipping of
12 aquatic life not indigenous to the State of Illinois. All
13 aquatic life may be immediately returned unharmed ~~released into~~
14 ~~waters~~ from where ~~which~~ they were taken.

15 (b) It is unlawful to possess, transport, or release any
16 live specimen or viable gametes of any species listed as
17 injurious by administrative rule, unless authorized by that
18 rule. A violation of this subsection (b) is a Class A
19 misdemeanor.

20 (Source: P.A. 89-66, eff. 1-1-96.)

21 (515 ILCS 5/20-35) (from Ch. 56, par. 20-35)

22 Sec. 20-35. Offenses.

23 (a) Except as prescribed in Section 5-25 and unless
24 otherwise provided in this Code, any person who is found guilty
25 of violating any of the provisions of this Code, including
26 administrative rules, is guilty of a petty offense.

27 Any person who violates any of the provisions of Section
28 5-20, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-50,
29 10-60, 10-70, 10-75, 10-95, 10-115, 10-135, 15-5, 15-10, 15-15,
30 15-20, 15-30, 15-32, 15-40, 15-45, 15-55, 15-60, 15-65, 15-75,
31 15-80, 15-85, 15-90, 15-95, 15-100, 15-105, 15-110, 15-115,
32 15-120, 15-130, 15-140, 20-70, 20-75, 20-80, 20-85, 25-10,
33 25-15, or 25-20 of this Code, including administrative rules
34 relating to those Sections, is guilty of a Class B misdemeanor.

1 Any person who violates any of the provisions of Section
2 1-200, 1-205, 10-55, 10-80, 10-100(b), 15-35, or 20-120 of this
3 Code, including administrative rules relating to those
4 Sections, is guilty of a Class A misdemeanor.

5 Any person who violates any of the provisions of this Code,
6 including administrative rules, during the 5 years following
7 the revocation of his or her license, permit, or privileges
8 under Section 20-105 is guilty of a Class A misdemeanor.

9 Any person who violates Section 5-25 of this Code,
10 including administrative rules, is guilty of a Class 3 felony.

11 (b) (1) It is unlawful for any person to take or attempt to
12 take aquatic life from any aquatic life farm except with the
13 consent of the owner of the aquatic life farm. Any person
14 possessing fishing tackle on the premises of an aquatic life
15 farm is presumed to be fishing. The presumption may be rebutted
16 by clear and convincing evidence. All fishing tackle,
17 apparatus, and vehicles used in the violation of this
18 subsection (b) shall be confiscated by the arresting officer.
19 Except as otherwise provided in this subsection, the seizure
20 and confiscation procedures set forth in Section 1-215 of this
21 Code shall apply. If the confiscated property is determined by
22 the circuit court to have been used in the violation of this
23 subsection (b), the confiscated property shall be sold at
24 public auction by the county sheriff of the county where the
25 violation occurred. The proceeds of the sale shall be deposited
26 in the county general fund; provided that the auction may be
27 stayed by an appropriate court order.

28 (2) A violation of paragraph (1) of this subsection (b) is
29 a Class A misdemeanor for a first offense and a Class 4 felony
30 for a second or subsequent offense.

31 (c) (1) It is unlawful for any person to trespass or fish on
32 an aquatic life farm located on a strip mine lake or other body
33 of water used for aquatic life farming operations, or within a
34 200 foot buffer zone surrounding cages or netpens that are
35 clearly delineated by buoys of a posted aquatic life farm, by
36 swimming, scuba diving, or snorkeling in, around, or under the

1 aquatic life farm or by operating a watercraft over, around, or
2 in the aquatic life farm without the consent of the owner of
3 the aquatic life farm.

4 (2) A violation of paragraph (1) of this subsection (c) is
5 a Class B misdemeanor for a first offense and a Class A
6 misdemeanor for a second or subsequent offense. All fishing
7 tackle, apparatus, and watercraft used in a second or
8 subsequent violation of this subsection (c) shall be
9 confiscated by the arresting officer. Except as otherwise
10 provided in this subsection, the seizure and confiscation
11 procedures set forth in Section 1-215 of this Code shall apply.
12 If the confiscated property is determined by the circuit court
13 to have been used in a violation of this subsection (c), the
14 confiscated property shall be sold at public auction by the
15 county sheriff of the county where the violation occurred. The
16 proceeds of the sale shall be deposited in the county general
17 fund; provided that the auction may be stayed by an appropriate
18 court order.

19 (d) Offenses committed by minors under the direct control
20 or with the consent of a parent or guardian may subject the
21 parent or guardian to the penalties prescribed in this Section
22 or as otherwise provided in this Code.

23 (e) In addition to any fines imposed under this Section, or
24 as otherwise provided in this Code, any person found guilty of
25 unlawfully taking or possessing any aquatic life protected by
26 this Code shall be assessed a civil penalty for that aquatic
27 life in accordance with the values prescribed in Section 5-25
28 of this Code. This civil penalty shall be imposed at the time
29 of the conviction by the Circuit Court for the county where the
30 offense was committed. Except as otherwise provided for in
31 subsections (b) and (c) of this Section, all penalties provided
32 for in this Section shall be remitted to the Department in
33 accordance with the provisions of Section 1-180 of this Code.

34 (Source: P.A. 92-385, eff. 8-16-01; 92-513, eff. 6-1-02;
35 92-651, eff. 7-11-02.)

1 (515 ILCS 5/20-70) (from Ch. 56, par. 20-70)

2 Sec. 20-70. Non-resident and resident aquatic life ~~fish~~
3 dealers. Non-resident and resident aquatic life ~~fish~~ dealers
4 shall maintain records of all fish and other aquatic life
5 bought, sold, or shipped in Illinois. These records shall
6 include the name of the seller and the species and poundage of
7 the fish or aquatic life involved. The records shall be kept
8 for a minimum of one year from the date of the transaction and
9 shall be made immediately available to authorized employees of
10 the Department upon request.

11 (a) Non-resident aquatic life ~~fish~~ dealers. Any person not
12 a resident of Illinois who sells or ships to other wholesalers,
13 retailers, or consumers any of the aquatic life protected by
14 this Code, whether from waters within or without the State is a
15 non-resident aquatic life ~~fish~~ dealer within the meaning of
16 this Code.

17 All licenses issued to non-resident aquatic life ~~fish~~
18 dealers are valid only in the location described and designated
19 in the application for the license. Wholesalers may deliver
20 their products by truck or common carrier of any type but must
21 possess a separate license for each truck from which aquatic
22 life are being sold if business is solicited from the trucks.

23 Application for a non-resident aquatic life ~~fish~~ dealer's
24 license shall be made to and upon forms furnished by the
25 Department and shall be in the form as the Department may
26 prescribe. The annual fee for a non-resident aquatic life ~~fish~~
27 dealer's license shall be \$100. All non-resident aquatic life
28 ~~fish~~ dealer licenses shall expire on January 31 of each year.

29 Non-residents purchasing aquatic life ~~fish~~ in Illinois for
30 sale solely outside the State are exempt from possessing an
31 aquatic life ~~a fish~~ dealer's license if purchases are made from
32 a licensed resident wholesale or retail aquatic life ~~fish~~
33 dealer.

34 (b) Resident aquatic life ~~fish~~ dealer's licenses. Any
35 person conducting a fish market or buying, selling, or shipping
36 any aquatic life (except minnows) protected by this Code,

1 whether from waters within or without the State, shall first
2 procure a license from the Department to do so, including any
3 commercial fisherman selling live fish for stocking only. Any
4 commercial fisherman ~~person~~ selling fish legally caught or
5 taken by themselves to a resident licensed wholesale aquatic
6 life fish dealer, however, is exempt from the provisions of
7 this Section.

8 (1) Wholesale aquatic life fish dealer's license. Any
9 resident of this State who, within the State of Illinois,
10 conducts a wholesale fish market or who sells or ships to
11 any other wholesaler, retailer, or other commercial
12 institution aquatic life ~~indigenous to this State (except~~
13 ~~minnows)~~ and protected by this Code, whether from waters
14 within or without the State, is a resident wholesale
15 aquatic life fish dealer in the meaning of this Code.

16 This provision, however, does not apply to minnows or
17 saltwater species commonly used as seafood that will not
18 survive in freshwater, such as lobsters, clams, mussels,
19 and oysters.

20 All licenses issued to resident wholesale aquatic life
21 ~~fish~~ dealers are valid only in the location described and
22 designated in the application for license. Wholesale
23 aquatic life fish dealers may deliver their products by
24 truck or other common carrier but must possess a separate
25 license for each truck from which aquatic life is being
26 sold if business is solicited from the truck. Applications
27 for resident wholesale aquatic life fish dealer's licenses
28 shall be made to and upon forms furnished by the
29 Department, which shall be in the form as the Department
30 may prescribe. The annual license fee for each wholesale
31 aquatic life fish dealer's license is \$50. All wholesale
32 aquatic life fish dealer's licenses shall expire on January
33 31 of each year.

34 (2) Retail aquatic life fish dealer's license. Any
35 resident of the State of Illinois who, within the State of
36 Illinois, conducts a retail fish market where he or she

1 sells or offers for sale any aquatic life ~~indigenous to~~
2 ~~this State (except minnows)~~ and protected by this Code,
3 whether from waters from within or without the State, is a
4 retail aquatic life ~~fish~~ dealer in the meaning of this
5 Code.

6 This provision, however, does not apply to minnows or
7 saltwater species commonly used as seafood that will not
8 survive in freshwater, such as lobsters, clams, mussels,
9 and oysters.

10 All licenses issued to resident aquatic life ~~fish~~
11 dealers are valid only in the location described and
12 designated in the application for the license. Retailers
13 may deliver their products by truck or other common carrier
14 but must possess a separate license for each truck from
15 which aquatic life is being sold if business is solicited
16 from the truck.

17 Applications for resident retail aquatic life ~~fish~~
18 dealer's licenses shall be made to and upon forms furnished
19 by the Department, which shall be in the form the
20 Department may prescribe. The annual license for each
21 resident retail aquatic life ~~fish~~ dealer's license is \$10.
22 All these licenses shall expire on January 31 of each year.

23 (3) Separate licenses. A license shall be procured for
24 each separate fish market or place of business operated by
25 any wholesale or retail aquatic life ~~fish~~ dealer, whether a
26 resident or non-resident, and for each vehicle from which
27 aquatic life is sold. All licenses shall be conspicuously
28 displayed at all times.

29 (c) The Department may adopt administrative rules
30 pertaining to non-resident and resident aquatic life dealers.
31 Any person who violates any provision of this Section 20-70, or
32 related administrative rule, is guilty of a Class B
33 misdemeanor.

34 (Source: P.A. 89-66, eff. 1-1-96.)