

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706GEORGE H. RYAN
GOVERNOR

August 17, 2001

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 2528 "AN ACT to amend the Fish and Aquatic Life Code," with my specific recommendations for change.

House Bill 2528 provides for the seizure and forfeiture of any fishing tackle, other apparatus, vehicle or watercraft used to take or attempt to take aquatic life from an aquatic life farm without the consent of the owner. However, the forfeiture language contained in the bill does not set forth the constitutionally required due process procedure, nor does it provide for the ability of an innocent owner or lien holder of the property to assert their interest against forfeiture. Under current law, the Fish and Aquatic Life Code does contain a provision for forfeiture which provides due process protections and allows for a jury trial to contest forfeiture. However, as written, House Bill 2528 eliminates the ability to use the existing forfeiture provisions in the underlying statute.

The provisions of House Bill 2528 provide additional protection for individuals whose livelihoods are dependent on their aquaculture business by providing adequate penalties for persons who take or attempt to take these business owners' assets. However, the bill's lack of due process procedure in the forfeiture provisions must be addressed.

Therefore, I offer the following specific recommendations for change:

on page 2, line 15, by inserting after the period the following:

"Except as otherwise provided in this subsection, the seizure and confiscation procedures set forth in Section 1-215 of this Code shall apply."; and

on page 3, line 6, by inserting after the period the following:

"Except as otherwise provided in this subsection, the seizure and confiscation procedures set forth in Section 1-215 of this Code shall apply.".

With these changes, House Bill 2528 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor