

The Angler Harassment Law

This law is set forth in Section 48702a of Part 487 (Sport Fishing) of the Natural Resources and Environmental Protection Act (MSA 324.48702a). Under this law: "A person shall not obstruct or interfere in the lawful taking of aquatic species by another person." The law goes on to state that a person violates this section when the person intentionally or knowingly does any of the following 11 things:

- (a) Operates a vessel or a device designed to be used on the water which does not meet the definition of a vessel in a manner likely to significantly alter the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.
- (b) Wades or swims in a manner or at a location likely to cause a significant alteration in the behavior of aquatic species in order to hinder or prevent the lawful taking of an aquatic species.
- (c) Tosses, drops, or throws any stone, rock, or other inert material in order to hinder or prevent the lawful taking of an aquatic species.
- (d) Drives, herds, or disturbs any aquatic species in order to hinder or prevent the lawful taking of an aquatic species.
- (e) Blocks, impedes, or harasses another person who is engaged in the process of lawfully taking an aquatic species.
- (f) Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus to affect aquatic species behavior in order to hinder or prevent the lawful taking of an aquatic species.
- (g) Erects barriers to deny ingress or egress to areas where the lawful taking of aquatic species may occur. This subdivision does not apply to a person who erects barriers to prevent trespassing on his or her property.
- (h) Interjects himself or herself into the area where nets, fishing lines, or traps may be placed by a person lawfully taking aquatic species.
- (i) Affects the condition or placement of personal or public property intended for use in the lawful taking of an aquatic species in order to impair the usefulness of the property or prevent the use of the property.
- (j) Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating this section.

(k) Engages in any other act or behavior for the purpose of violating this section.

Section 48702b provides teeth for this law. It states that a person who is aggrieved by a violation of this law, or who reasonably may be aggrieved by a violation, has the right to petition a court for relief. The court has the power to issue a cease and desist order against a person "who was engaged in and threatens to continue to engage in" conduct violating this law. In addition, a person who violates Section 48702a is guilty of a misdemeanor, punishable by imprisonment for up to 93 days, or a fine of not less than \$500 or more than \$1,000, or both. A person who violates the law a second or subsequent times may be sentenced to imprisonment for up to 1 year, and fined not less than \$1,000 and up to \$2,500.

Another related state law is Section 324.43555 of NREPA, which provides that 35 cents from each license and stamp fee shall be transmitted to the MDNR for deposit in the Wildlife Resource Protection Fund. The Fund "shall" be expended by the MDNR for, among other things:

- rewards for information leading to the arrest and prosecution of persons who obstruct or interfere in the lawful taking of aquatic species in violation of section 48702a; and
- a promotional and educational campaign to inform the general public on (i) the reward for information that leads to the arrest and prosecution of persons who obstruct or interfere in the lawful taking of aquatic species, and (ii) how to identify and report persons who obstruct or interfere in the lawful taking of aquatic species.

Finally, there are two additional general provisions in NREPA for fisherman:

Section 324.45301 states as follows:

In any of the navigable or meandered waters of this state where fish have been or are propagated, planted, or spread at the expense of the people of this state or the United States, the people have the right to catch fish with hook and line during the seasons and in the waters that are not otherwise prohibited by the laws of this state.

Section 324.45302 states:

An action shall not be maintained against a person entering upon the waters for the purpose of fishing, by the owner, lessee, or other person having the right of possession of adjoining lands, except for actual damage done. In such an action, the defendant under a proper notice may dispute at trial the plaintiff's right to either title or possession of the land claimed to have been trespassed upon.