

I would like to thank Rep Alexander and this committee for letting me speak today. In 2012 I sat in front of this committee with then Rep. Shirkey, on a bill to allow the exportation of imported minnows. At the time there was no way to export minnows from the state of Michigan either imported or wild caught. We asked for the change because at the time there was a lot of pressure from USFW and other agencies on the movement of bait fish and we wanted to make sure we complied being our business is close to the southern boarder with both Ohio and Indiana. At the time in 2012 we were trying to find a way to keep minnows a viable part of the sportfishing industry. The industry has just gone through some very trying times starting in 2006/2007 with the VHS virus. When the DNR implemented it's VHS safeguards the minnow industry lost 50% of the licensed minnow dealers in the state of Michigan. During that house committee meeting there were a few Reps on the committee that wanted to open exportation of all minnows, Imported or Michigan wild caught. During that meeting it was obvious the DNR was not receptive to that change. The bill was passed to allow imported minnows to be exported and it was signed by the Governor.

In early January of this year while having a conversation with my son and his girl friend over dinner she mentioned a US Supreme court case they had studied in a Law class that was based on Minnows. The case, Hughes v Oklahoma. (see attachment) In the case Mr. Hughes had transported minnows from OK to his commercial business in TX. Oklahoma like Michigan's current law did not allow minnows caught in state waters to be exported. Oklahoma lost the case based on the Commerce Clause of the Constitution.

The bill before you will remove the section of current State law that bans the exportation of Minnows to make it compliant with that Supreme court ruling. We thank you for taking the time to consider this Bill. The Minnow industry has been hit hard since the VHS Virus came into existence. This will give some the catchers a few more options and places to sell their product and maybe the ability to continue survive.

Thank You

Tom Knutson

Knutson's Rec. Sales Inc.

*Hughes v. Oklahoma*, 441 U.S. 322 (1979)

- Decision by U.S. Supreme Court
- OK statute: “no person may transport or ship minnows for sale outside the state which were seined or procured within the waters of this state”
  - Hughes transported natural minnows purchased in OK to his commercial minnow business in TX and was arrested and charged with violating the statute
- Commerce Clause: “The Congress shall have Power To regulate Commerce among the several States”
  - Test:
    1. Whether the challenged statute regulates evenhandedly with only “incidental” effects on interstate commerce, or discriminates against interstate commerce either on its face or in practical effect
    2. Whether the statute serves a legitimate local purpose
    3. Whether alternative means could promote this local purpose as well without discriminating against interstate commerce
- Court
  1. The OK statute discriminates on its face
  2. OK’s interest in conservation and maintaining the ecological balance in state waters by avoiding the removal of inordinate numbers of minnows may qualify as a legitimate purpose
  3. But OK’s statute is the most discriminatory way to approach conservation and there are less discriminatory alternatives that would likely be more effective
- Holding: the OK statute is repugnant to the Commerce Clause

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Mr. Tom Knutson  
Knutson Recreational Sales Inc.

Tom,

Please share my comments at the Committee hearing on Tuesday in reference to the DNR rule change.

**My name is Benjamin Gollon and I am a 4th generation live baitfish producer, harvester, and wholesaler in Central Wisconsin. My company has been supplying wholesale fishing bait distributors across the entire State of Michigan, Indiana, Ohio, Pennsylvania and New York with weekly truck routes that haul live minnows for over 30 years, and my family has had a history of doing the same dating back to the 1960's .**

**Michigan has very little production of farm raised baitfish because of climate and terrain, but there is an abundant supply of wild baitfish in the Great Lakes, mainly the Emerald Shiner, which is harvested to supply the Michigan sportfish industry. When conditions for harvest are not optimal, or when other species of baitfish are needed, that is where I supplement.**

**The Michigan DNR prohibition of baitfish export has always seemed restrictive to me. No other State that I am aware of prohibits export of properly health tested and procured baitfish. Clearly it can be a States right to regulate what is imported, and that does vary from State to State. But I've often asked myself what other product or commodity that one has legal possession of is limited to where you can take it by the residing State when the receiving State accepts it. This is key.**

**Which brings us to our review of Hughes v. Oklahoma decision by the US Supreme Court. In my opinion this is exactly what we have here in Michigan, a State law prohibiting the export of legally obtained baitfish, without a sound environmental reason. This decision backs up my long standing opinion that this Michigan DNR law is unconstitutional and should be retracted. I highly suspect this rule originated as a tool for individual economic protectionism.**

**When this section was amended in 2012, I urged my counterparts in the Michigan baitfish industry to push for a total repeal, but with the political climate at the time, I believe they felt it easiest to compromise with DNR.**

**I must also note that technically there isn't a restriction on personal use baitfish export, most likely as it would be impossible to enforce. Can't imagine a border checkpoint for minnows.**

**The Great Lakes baitfish industry depends on all the States to keep supplies available. Many times, especially in winter, there is a surplus of baitfish held by Michigan harvesters and suppliers and a shortage in other States. These fish are health tested and are acceptable to the neighboring States for import. We would gladly purchase baitfish from Michigan harvesters at those times, bringing money into the State, and revenue into this industry hard hit by overregulation from the VHS virus scare that basically turned out to be an overblown non issue. There is NO biological or natural resource management reason to LIMIT the export of baitfish. Again, no other States natural resource agency does. And make no mistake, there is an export market for Michigan at times.**

**Please consider moving this Bill along by striking this unconstitutional section limiting commerce and allow needed money coming in to hardworking Michigan residents.**

**-Benjamin C Gollon**