

# HOUSE BILL No. 5759

April 23, 1998, Introduced by Rep. Gagliardi and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 40115 (MCL 324.40115), as added by 1995  
PA 57.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 40115. (1) As used in this section:  
2       (A) "COORDINATION" MEANS THE ABILITY OF MUSCLES TO WORK  
3 TOGETHER TO PERFORM A TASK WITH SMOOTH, ACCURATE, CONTROLLED  
4 MOVEMENT, AS CONTRASTED WITH INCOORDINATION OR COORDINATION DEFICI-  
5 TIES, WHICH DESCRIBES ABNORMAL MOTOR FUNCTION CHARACTERIZED BY  
6 AWKWARD, EXTRANEIOUS, UNEVEN, OR INACCURATE MOVEMENTS, CAUSED BY  
7 CENTRAL NERVOUS DISORDERS, INCLUDING, BUT NOT LIMITED TO,  
8 PARKINSON'S DISEASE, CEREBRAL PALSY, HEMIPLEGIA, HEMIPARESIS, AND  
9 CLOSED HEAD TRAUMA; OR BY PROGRESSIVE NEUROMUSCULAR DISEASES,

1 SUCH AS MUSCULAR DYSTROPHY, MULTIPLE SCLEROSIS, AND AMYOTROPHIC  
2 LATERAL SCLEROSIS.

3 (B) ~~-(a)-~~ "Crossbow" means a weapon consisting of a bow  
4 mounted transversely on a stock or frame and designed to fire an  
5 arrow, bolt, or quarrel by the release of a bow string which is  
6 controlled by a mechanical or electric trigger and has a working  
7 safety and a draw weight of 100 pounds or greater.

8 ~~-(b)- "Physical therapist" means a person licensed to engage~~  
9 ~~in the practice of physical therapy under article 15 of the~~  
10 ~~public health code, Act No. 368 of the Public Acts of 1978, being~~  
11 ~~sections 333.16101 to 333.18838 of the Michigan Compiled Laws.~~

12 (c) "Physician" means a person licensed by the state to  
13 engage in the practice of medicine or the practice of osteopathic  
14 medicine and surgery under article 15 of the public health code,  
15 ~~Act No. 368 of the Public Acts of 1978~~ 1978 PA 368, MCL  
16 333.16101 TO 333.18838.

17 (2) The department may issue a permit to a person who is  
18 certified as being permanently disabled by a physician as pro-  
19 vided in this section. That permit shall be issued without cost  
20 to the applicant and shall authorize that person to take game  
21 with a crossbow during the open season for that game if that  
22 person holds a license to take that game issued pursuant to  
23 part 435 and complies with all other laws and rules for the  
24 taking of game.

25 (3) An applicant for a permit under this section shall  
26 submit to the department a signed certification from a physician  
27 indicating that the physician ~~received from a physical therapist~~

~~1 and reviewed and confirmed objective test findings indicating the~~  
~~2 percentage~~ PERFORMED OBJECTIVE TESTS TO DETERMINE THE DEGREE of  
~~3 disability~~ ~~determined to be~~ present in the permit applicant.  
~~4 by the physical therapist.~~ Based on the test findings, the phy-  
 5 sician may certify that the applicant is permanently disabled as  
 6 required by this section if the physician finds ~~that~~ EITHER OF  
 7 THE FOLLOWING:

8 (A) THAT THE PERMIT APPLICANT HAS MUSCLE WEAKNESS IN 1 ARM  
 9 EQUIVALENT TO GRADE 4 OUT OF 5, OR WEAKER, IN THE MUSCLE WEAKNESS  
 10 GRADING SCHEME IN HISLOP, DANIELS AND WORTHINGHAM'S MUSCLE  
 11 TESTING: TECHNIQUES OF MANUAL EXAMINATION (PHILADELPHIA:  
 12 SAUNDERS, 6TH ED, 1995) AND THAT THE WEAKNESS IS ATTRIBUTABLE TO  
 13 NEUROMUSCULAR-SKELETAL PROBLEMS.

14 (B) THAT the permit applicant has at least 80% ~~, in combi-~~  
 15 ~~nation or individual impairment, of a~~ hand, elbow, or shoulder  
 16 IMPAIRMENT, IN COMBINATION OR INDIVIDUALLY. In support of such a  
 17 determination, the physician and the physical therapist shall  
 18 utilize the following standards and criteria:

19 (i) ~~(a)~~ If applicable, muscle weaknesses with a grade of  
 20 fair or below for involved upper extremity muscle groups. ~~will~~  
 21 ~~be used to determine if a person is eligible for a permit under~~  
 22 ~~this section.~~ Testing by the ~~physical therapist will~~ PHYSICIAN  
 23 SHALL use as a guideline ~~"Techniques of Manual Muscle Testing",~~  
 24 ~~by Daniels and Worthingham,~~ HISLOP, DANIELS AND WORTHINGHAM'S  
 25 MUSCLE TESTING: TECHNIQUES OF MANUAL EXAMINATION (PHILADELPHIA:  
 26 SAUNDERS, 6TH ED, 1995) or other guidelines accepted by the  
 27 American medical association.

1       (ii) ~~(b)~~ Impaired range of motion ~~— Goniometric~~  
2 DETERMINED BY GONIOMETRIC measurements using ~~the —~~ American  
3 medical association ~~guide to evaluation and permanent impairment~~  
4 ~~rating—~~ GUIDES TO THE EVALUATION OF PERMANENT IMPAIRMENT  
5 (CHICAGO: 4TH ED, 1993), or other guidelines accepted by the  
6 American medical association.

7       (iii) ~~(c)~~ Peripheral nerve involvement, DETERMINED using  
8 the ~~—~~ American medical association ~~guide to evaluation and~~  
9 ~~permanent impairment rating—~~ GUIDES TO THE EVALUATION OF  
10 PERMANENT IMPAIRMENT (CHICAGO: 4TH ED, 1993), or other guide-  
11 lines accepted by the American medical association.

12       (iv) ~~(d)~~ Amputations involving 4 fingers at the proximal  
13 interphalangeal joint, wrist, elbow, and shoulder. THESE do not  
14 require objective test findings. However, the applicant is  
15 required to present a physician's diagnosis to be qualified for a  
16 permit.

17       (v) ~~(e)~~ Unilateral hand weakness disabilities. In addi-  
18 tion to manual muscle testing, a grip dynamometer, pinch grip,  
19 and lateral grip measurements ~~will~~ SHALL be used to compare  
20 dominant to nondominant hand. A 5% deficit is standard accep-  
21 tance for the nondominant hand. Bilateral hand weaknesses or  
22 bilateral upper extremity weaknesses, or both, are subject to  
23 manual muscle testing only.

24       (vi) ~~(f)~~ Any spinal cord injury above the level of C-8,  
25 resulting in permanent disability to the lower extremities, leav-  
26 ing the applicant permanently nonambulatory, as diagnosed by a  
27 physician. ~~—, do~~ THIS DOES not require objective test findings.

1 However, the applicant is required to present a physician's  
2 diagnosis to be qualified for a permit.

3 (vii) ~~-(g)-~~ Coordination assessment. ~~Coordination is the~~  
4 ~~ability to execute smooth, accurate, controlled movement.~~  
5 ~~Incoordination or coordination deficit describes abnormal motor~~  
6 ~~function characterized by awkward, extraneous, uneven, or inaccu-~~  
7 ~~rate movements, caused by central nervous disorders, including,~~  
8 ~~but not limited to, Parkinson's disease, cerebral palsy, hemiple-~~  
9 ~~gia, hemiparesis, and closed head trauma; or by progressive neu-~~  
10 ~~romuscular diseases, such as muscular dystrophy, multiple sclero-~~  
11 ~~sis, and amyotrophic lateral sclerosis. Purpose: to assess the~~  
12 ~~ability of muscles or groups of muscles to work together to per-~~  
13 ~~form a task. For safety considerations, this test will~~  
14 ASSESSMENT IS INTENDED TO eliminate severely impaired applicants  
15 from qualifying for a permit.

16 (4) A person shall not seek diagnosis from ~~a physical ther-~~  
17 ~~apist or~~ a physician for purposes of meeting the requirements of  
18 this section on more than 2 occasions within a 6-month period.  
19 If a person seeks a diagnosis from a ~~physical therapist~~  
20 PHYSICIAN and the results of the testing do not meet the require-  
21 ments of this section for eligibility for a permit, the person  
22 may do either of the following:

23 (a) Within 30 days of obtaining the test results, seek  
24 another opinion from the same or a different ~~physical therapist~~  
25 PHYSICIAN.

26 (b) After 180 days or more, seek another opinion from the  
27 same or a different ~~physical therapist~~ PHYSICIAN.

1       (5) A permit issued under this section to a person who is  
2 eligible for that permit because he or she has a progressive neu-  
3 romuscular disease or a central nervous disorder shall be issued  
4 for 2 years and then is renewable only upon reapplication pursu-  
5 ant to this section. All other crossbow permits issued pursuant  
6 to this section are valid unless revoked pursuant to the adminis-  
7 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~  
8 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
9 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

10       (6) Arrows, bolts, and quarrels used for taking deer, bear,  
11 elk, and turkey with a crossbow under a permit issued under this  
12 section ~~are required to~~ SHALL have a broadhead hunting type of  
13 point not less than 7/8 of an inch wide and ~~must~~ SHALL be a  
14 minimum of 14 inches in length.

15       (7) A person who falsely obtains or uses a permit authorized  
16 in this section is guilty of a misdemeanor, punishable by impris-  
17 onment for not more than 90 days, or a fine of not less than  
18 \$200.00 or more than \$1,000.00, or both, and the cost of  
19 prosecution.