

# HOUSE BILL No. 4861

June 19, 2003, Introduced by Reps. Brown, Adamini and Gillard and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 43553 (MCL 324.43553), as amended by 1996  
PA 585, and by adding part 413.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### PART 413 WILDLIFE DAMAGE CLAIMS

Sec. 41301. As used in this part:

(a) "Agricultural commodity" means any of the following:

(i) Commercial seedings or crops growing on land used for  
agriculture.

(ii) Crops that have been harvested for sale or use from land  
used for agriculture but that have not been removed from the land  
where harvested.

(iii) Orchard trees or nursery stock.

(iv) Apiaries.

(v) Livestock.

(b) "Agricultural commodity owner" means an owner, lessee, or person who controls land where the seedings, crops, orchard trees, or nursery stock referred to in subdivision (a)(i) to (iii) are located or the owner of the apiaries or livestock referred to in subdivision (a)(iv) or (v).

(c) "Fund" means the wildlife damage fund created under section 41309.

(d) "Generally accepted agricultural and management practices" means that term as defined in the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(e) "Wildlife damage" means damage caused by any of the following noncaptive wild animals:

(i) Deer.

(ii) Bear.

(iii) Geese.

(iv) Turkey.

(v) Sandhill cranes, if sandhill cranes are classified as game under part 401.

Sec. 41303. Subject to the requirements of this part, the department shall implement a program to do all of the following:

(a) Recommend to agricultural commodity owners measures to prevent wildlife damage to agricultural commodities.

(b) Reimburse agricultural commodity owners for the costs of implementing measures described in subdivision (a).

(c) Compensate agricultural commodity owners for wildlife damage to agricultural commodities.

1       Sec. 41305. (1) An agricultural commodity owner may file  
2 with the department a request that the department make  
3 recommendations on, and a commitment to provide reimbursement  
4 for, measures to prevent wildlife damage to the agricultural  
5 commodity. The agricultural commodity owner shall file the  
6 request on a form provided by the department.

7       (2) The department shall review each request filed under  
8 subsection (1). If the department determines that wildlife  
9 damage to an agricultural commodity is occurring or likely to  
10 occur and that any other requirements set forth in rules adopted  
11 under this part are satisfied, the department shall recommend  
12 wildlife damage prevention measures to the agricultural commodity  
13 owner and may make a commitment to the agricultural commodity  
14 owner to provide reimbursement for those measures if they are  
15 implemented.

16       (3) The department shall recommend under subsection (2) only  
17 wildlife damage prevention measures that are all of the  
18 following:

19       (a) Authorized in rules adopted under this part.

20       (b) Appropriate for the type of wildlife damage, type of  
21 agricultural commodity, and other circumstances.

22       (c) Cost-effective in relation to the wildlife damage claims  
23 that would likely be paid under this part if the wildlife damage  
24 prevention measures were not recommended and implemented.

25       Sec. 41307. (1) Within 14 days after first sustaining  
26 wildlife damage to an agricultural commodity, the agricultural  
27 commodity owner may file with the department a claim for

1 compensation for wildlife damage to the agricultural commodity.  
2 The agricultural commodity owner shall file the claim on a form  
3 provided by the department.

4 (2) The department shall investigate every claim filed under  
5 subsection (1) and determine the dollar amount of wildlife damage  
6 that occurred. Subject to subsection (3) and section 41309(5),  
7 the department shall pay the agricultural commodity owner the  
8 dollar amount of wildlife damage if all of the following apply:

9 (a) The owner requested and implemented recommendations for  
10 wildlife damage prevention measures for the agricultural  
11 commodity under section 41305.

12 (b) The agricultural commodity owner managed the agricultural  
13 commodity in a manner consistent with generally accepted  
14 agricultural and management practices.

15 (c) Any other requirements set forth in rules adopted under  
16 this part are satisfied.

17 (3) The department shall determine the amount to be paid for  
18 a claim under subsection (1) as follows:

19 (a) If the amount of the claim is \$250.00 or less, nothing  
20 shall be paid.

21 (b) If the amount of the claim is more than \$250.00 but not  
22 more than \$5,250.00, the amount paid shall be 100% of the amount  
23 of the claim that exceeds \$250.00.

24 (c) If the amount of the claim is more than \$5,250.00, the  
25 amount paid shall be \$5,000.00, plus 80% of the amount of the  
26 claim that exceeds \$5,250.00, but not more than a total of  
27 \$15,000.00 for each claim.

1       (4) The department shall pay compensation for wildlife damage  
2 under subsection (2) by June 1 of the year after the year in  
3 which the claim was filed.

4       Sec. 41309. (1) The wildlife damage fund is created within  
5 the state treasury.

6       (2) The state treasurer may receive money or other assets  
7 from any source for deposit into the fund. Fifteen percent of  
8 the revenue from all bear hunting licenses issued under part 435  
9 shall be deposited in the fund.

10       (3) The state treasurer shall direct the investment of the  
11 fund. The state treasurer shall credit to the fund interest and  
12 earnings from fund investments.

13       (4) Money in the fund at the close of the fiscal year shall  
14 remain in the fund and shall not lapse to the general fund.

15       (5) The department shall expend money from the fund, upon  
16 appropriation, only for the following purposes:

17       (a) The costs of administering this part.

18       (b) Reimbursement for wildlife damage prevention measures  
19 under section 41305.

20       (c) Compensation for wildlife damage under section 41307.

21 Payments under this subdivision shall be made from the unexpended  
22 balance of the appropriation from the fund remaining after paying  
23 costs and making reimbursements under subdivisions (a) and (b).  
24 If the unexpended balance of the appropriation is not sufficient  
25 to pay the full amount required under section 41307(2) and (3),  
26 the department shall compensate claimants on a prorated basis.

27       Sec. 41311. (1) Subject to subsections (2) and (3), a

1 person who receives reimbursement for a wildlife damage  
2 prevention measure or compensation for a wildlife damage claim  
3 under this part and any other person who owns, leases, or  
4 controls the land on which was located the agricultural commodity  
5 that was the subject of the wildlife damage prevention measure or  
6 the wildlife damage claim shall permit hunting of the type of  
7 wildlife that is the focus of the prevention measures or that  
8 caused the wildlife damage, during the appropriate open season.  
9 Hunting shall be permitted on areas of that land and contiguous  
10 land under the same ownership, lease, or control determined by  
11 the department to be suitable for hunting.

12 (2) Hunting under subsection (1) is subject to all of the  
13 following conditions:

14 (a) A hunter shall notify the landowner of his or her intent  
15 to hunt on the land.

16 (b) A hunter shall not bring a motor vehicle onto the land  
17 without the permission of the landowner.

18 (c) A hunter shall not use a hunting stand on the land  
19 without the permission of the landowner.

20 (d) A landowner may deny a hunter access to the land for  
21 reasonable cause, including, but not limited to, any of the  
22 following:

23 (i) If the hunter hunts on the land, 3 or more hunters will  
24 be present per 40 acres of the area determined under subsection  
25 (1) to be suitable for hunting.

26 (ii) The hunter appears to be intoxicated or is unruly.

27 (iii) The hunter causes property damage.

1       (iv) The hunter violates any of the conditions under  
2 subdivisions (a) to (c).

3       (3) The requirement to allow hunting under subsection (1)  
4 does not apply if the agricultural commodity owner does not have  
5 authority to control entry on the land for the purpose of  
6 hunting.

7       (4) A person who violates subsection (1) is not eligible for  
8 reimbursement or compensation under this part for 10 years after  
9 on the day on which the refusal to permit hunting occurred. In  
10 addition, the person is liable to the department for all of the  
11 following:

12       (a) Repayment of any reimbursement received by that person  
13 under this part for wildlife damage prevention measures  
14 implemented on that land or on contiguous land under the same  
15 ownership, lease, or control.

16       (b) Repayment of any compensation received under this part by  
17 that person for wildlife damage on that land or on contiguous  
18 land under the same ownership, lease, or control.

19       (c) Payment of the costs incurred by the department to review  
20 and approve any reimbursement for wildlife damage prevention  
21 measures described in subdivision (a) or compensation for  
22 wildlife damage described in subdivision (b).

23       (d) Payment of costs incurred by the department to  
24 investigate the failure to permit hunting on the land.

25       Sec. 41313. (1) An agricultural commodity owner who files a  
26 request for reimbursement for wildlife damage prevention measures  
27 or a claim for compensation for wildlife damage shall do both of

1 the following:

2 (a) Retain all records relating to the reimbursement or  
3 compensation as required by the department and make them  
4 available to the department for inspection at reasonable times.

5 (b) Allow representatives of the department to enter and  
6 inspect, at reasonable times, any land for which the application  
7 or claim was filed.

8 (2) The department, if requested, shall furnish to an  
9 agricultural commodity owner described in subsection (1) a report  
10 setting forth all of the factual findings by the department that  
11 relate to an inspection under this section.

12 Sec. 41315. The department shall arrange for an annual  
13 audit of any reimbursements for wildlife damage prevention  
14 measures and compensation for wildlife damage paid under section  
15 41305 or 41307, respectively, to department officers and  
16 employees.

17 Sec. 41317. (1) A person who makes, or causes to be made, a  
18 false statement or representation of a material fact in a request  
19 for reimbursement for a wildlife damage prevention measure or in  
20 a claim for compensation for wildlife damage is civilly liable  
21 for both of the following:

22 (a) Repayment of any money paid by the department as  
23 reimbursement for the wildlife damage prevention measure or  
24 compensation for the wildlife damage.

25 (b) Payment of the costs for reviewing and approving the  
26 application for reimbursement or claim for compensation and the  
27 costs in investigating and determining that a false statement or



1 representation was made.

2       (2) A person who knowingly makes or causes to be made a false  
3 statement or representation of material fact in a request for  
4 reimbursement for a wildlife damage prevention measure or in a  
5 claim for compensation for wildlife damage is guilty of a  
6 misdemeanor. Upon conviction, the court shall prohibit the  
7 person from receiving any reimbursement or compensation under  
8 this part for 10 years beginning on the date of conviction. In  
9 addition, the person may be punished by either or both of the  
10 following:

11       (a) Payment of a fine equal to 2 times the total amount of  
12 the reimbursement or compensation received, plus an amount not to  
13 exceed \$1,000.00.

14       (b) Revocation of the person's hunting, fishing, or trapping  
15 licenses if the person is licensed to hunt, fish, or trap in this  
16 state, and a prohibition against seeking or possessing such a  
17 license for the remainder of the calendar year in which the  
18 person is convicted and for up to 3 succeeding calendar years.

19       (3) An owner of an agricultural commodity with respect to  
20 which another person was convicted under subsection (2) is not  
21 eligible for reimbursement or compensation under this part for 10  
22 years beginning on the date of conviction.

23       Sec. 41319. The department shall promulgate rules to  
24 implement this part. The rules shall address all of the  
25 following:

26       (a) Eligibility and funding requirements for reimbursement  
27 for wildlife damage prevention measures and compensation for

1 wildlife damage that maximize the cost-effectiveness of the  
2 program under this part.

3 (b) Authorized wildlife damage prevention measures and  
4 methods for implementing these prevention measures.

5 (c) Procedures for processing and paying reimbursement for  
6 wildlife damage prevention measures, including verification of  
7 the costs and implementation of those measures.

8 (d) Procedures for processing and paying claims for  
9 compensation for wildlife damage, including both of the  
10 following:

11 (i) Standards for determining the amount of wildlife damage.

12 (ii) A methodology for proration of compensation for wildlife  
13 damage under section 41309.

14 (e) Procedures for inspections under section 41313.

15 (f) Any other matter necessary for the enforcement and  
16 administration of this part.

17 Sec. 41321. (1) The department shall prepare an annual  
18 report concerning wildlife damage and the program provided for by  
19 this part. The report shall include at least a summary of each  
20 of the following:

21 (a) All of the wildlife damage to apiaries believed to have  
22 occurred in this state.

23 (b) The claims for compensation for wildlife damage that were  
24 filed under this part.

25 (c) The wildlife damage prevention measures that were  
26 recommended or implemented under this part.

27 (d) The percentage of the total number of claims for

1 compensation for wildlife damage that are rejected for failure to  
2 meet the requirements of this part or rules promulgated under  
3 this part.

4 (e) The percentage of the total number of claims for  
5 compensation for wildlife damage for which the amount of the  
6 payment to the claimant was prorated under section 41309.

7 (2) The department shall submit the report prepared under  
8 subsection (1) by June 1 of each year to the standing committees  
9 of the senate and house of representatives with primary  
10 responsibility for legislation related to agriculture or wildlife  
11 conservation. The first report shall be submitted by June 1,  
12 2004. Each report shall cover the 12-month period ending on the  
13 December 31 that immediately precedes the date of the report.

14 Sec. 41323. The department shall issue guidelines under  
15 chapter 2 of the administrative procedures act of 1969, 1969  
16 PA 306, MCL 24.221 to 24.228, to establish standards for  
17 tolerable levels of damage caused by deer living in the wild to  
18 crops on agricultural land, including commercial seedings,  
19 orchard trees, and nursery stock. The department shall use the  
20 standards in setting goals for managing the deer herd.

21 Sec. 43553. (1) Except as provided in ~~sections 43555 and~~  
22 ~~43556~~ **section 43555**, the department shall transmit all money  
23 received from the sale of licenses to the state treasurer,  
24 together with a statement indicating the amount of money received  
25 and the source of the money.

26 (2) The game and fish protection fund is created as a  
27 separate fund in the ~~department of~~ **state** treasury. Except as

1 provided in subsection (5) **and section 41309**, the state treasurer  
2 shall credit the money received from the sale of ~~passbooks and~~  
3 licenses to the game and fish protection fund.

4 (3) Except as provided in sections 43524, 43525, ~~43531,~~  
5 43554, and 43556 and subsection (4), money credited to the game  
6 and fish protection fund shall be paid out by the state treasurer  
7 pursuant to the accounting laws of this state for the following  
8 purposes:

9 (a) Services rendered by the department, together with the  
10 expenses incurred in the enforcement and administration of the  
11 game, fish, and fur laws of the state, including the necessary  
12 equipment and apparatus incident to the operation and enforcement  
13 of the game, fish, and fur laws, and the protection, propagation,  
14 distribution, and control of game, fish, birds, fur-bearing  
15 animals, and other wildlife. ~~forms.~~

16 (b) The propagation and liberation of game, fur-bearing  
17 animals, birds, or fish and for their increase at the time,  
18 place, and manner as the department considers advisable.

19 (c) The purchase, lease, and management of lands ~~—, together~~  
20 ~~with the necessary~~ **and** equipment for the purpose of propagating  
21 and rearing game, fur-bearing animals, birds, or fish, and for  
22 establishing and maintaining game refuges, wildlife sanctuaries,  
23 and public shooting and fishing grounds.

24 (d) Conducting investigations and compiling and publishing  
25 information relative to the propagation, protection, and  
26 conservation of wildlife.

27 (e) Delivering lectures, developing cooperation, and carrying

1 on appropriate educational activities relating to the  
2 conservation of the wildlife of this state.

3 (4) The department may make direct grants to colleges and  
4 universities in this state, out of funds appropriated from the  
5 game and fish protection fund, to conduct fish or wildlife  
6 research or both fish and wildlife research.

7 (5) The youth hunting and fishing education and outreach fund  
8 is created as a separate fund in the department of treasury. The  
9 state treasurer shall credit to the youth hunting and fishing  
10 education and outreach fund the money received from the sale of  
11 small game licenses and all-species fishing licenses under  
12 sections 43523 and 43532, respectively, to persons who are ~~12~~  
13 ~~years of age through 16~~ **under 17** years of age. Money in the  
14 youth hunting and fishing education and outreach fund at the  
15 close of the fiscal year shall remain in the fund and shall not  
16 lapse to the general fund.

17 (6) Money credited to the youth hunting and fishing education  
18 and outreach fund shall be paid out by the state treasurer  
19 pursuant to the accounting laws of this state for hunting and  
20 fishing education and outreach programs for youth ~~through 16~~  
21 **under 17** years of age.

22 (7) The department and any other executive department of the  
23 state that receives money from the game and fish protection fund  
24 or the youth hunting and fishing education and outreach fund  
25 shall submit an annual report to the legislature showing the  
26 amount of money received by the department or other executive  
27 department from the game and fish protection fund or the youth

1 hunting and fishing education and outreach fund and how that  
2 money was spent. An executive department required to submit a  
3 report as provided in this subsection shall send a copy of the  
4 report to the legislature and to the department.