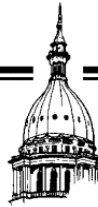




Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 16 (as reported without amendment)
Sponsor: Senator Howard C. Walker
Committee: Outdoor Recreation and Tourism

(as passed by the Senate)

Date Completed: 2-8-13

RATIONALE

Public Act 235 of 2004 authorized Michigan to enter into the Interstate Wildlife Violator Compact. The Compact is an agreement between member states that provides for information-sharing regarding fish and game violators and reciprocal recognition of license suspensions. Among other things, the Compact requires participating states to treat residents and nonresidents alike in regard to issuing citations for violations of wildlife laws. Previously, nonresident violators were often arrested, required to pay bond, jailed, or taken to court immediately. Now, like residents who violate wildlife laws, nonresidents are issued a citation and required to pay a fine or appear in court, but are not taken into custody. The Compact also provides for participating states to suspend residents' and nonresidents' license privileges if they are suspended by another member state.

The provisions enacted in 2004, however, do not authorize the Michigan Department of Natural Resources (DNR) to suspend a violator's hunting or fishing privileges. This means that a Michigan resident can violate the law in another Compact state, receive a citation, return to this State without resolving the matter, and retain his or her hunting and fishing privileges in Michigan. The DNR also cannot deny a license to a nonresident whose privileges were suspended in another state participating in the Compact. To ensure that the Compact is enforced and individuals do not violate wildlife laws without consequences, it has been suggested that the DNR be given the statutory authority to suspend hunting and fishing privileges under these circumstances.

CONTENT

The bill would amend Parts 16 (Enforcement of Laws for Protection of Wild Birds, Wild Animals, and Fish) and 435 (Hunting and Fishing Licensing) of the Natural Resources and Environmental Protection Act to do the following:

- **Require the Department of Natural Resources to enforce the Wildlife Violator Compact and effectuate its purposes and intent.**
- **Require the DNR to suspend the license privileges of a Michigan resident who failed to comply with the terms of a wildlife citation issued by another state participating in the Compact.**
- **Require the DNR to suspend the license privileges of a Michigan resident who was convicted of a wildlife violation in another participating state, if the conviction would have resulted in a mandatory suspension had it occurred in Michigan.**
- **Allow the DNR to suspend the license privileges of any person whose privileges were suspended in any participating state, if the violation leading to the suspension would have led to a suspension under Michigan law.**
- **Require the DNR to give a person whose license privileges were suspended under the Compact an opportunity for a hearing.**
- **Require a person who requested a hearing to surrender to the DNR any licenses issued to him or her, and**

prescribe a misdemeanor penalty for failure to do so.

- Require the DNR to suspend the hunting, fishing, and trapping licenses of a person who failed to answer a citation or a notice to appear in court, or failed to comply with a court order or judgment within a prescribed time period.**
- Authorize the DNR to withdraw from the Compact and adopt amendments to it, as provided in the Compact.**

Compact Enforcement & Effectuation

The bill would require the DNR to enforce the Compact and do all things within the Department's jurisdiction that were appropriate in order to effectuate the Compact's purposes and intent.

On behalf of the State of Michigan, the DNR could do either of the following:

- Withdraw from the Compact under Article VIII.
- Adopt amendments to the Compact under Article IX.

(Under Article VIII, a participating state may withdraw from participation by official written notice to each participating state. Withdrawal becomes effective 90 days after the notice is given.)

Article IX requires Compact amendments to be presented in resolution form to the Board of Compact Administrators. Amendments must be initiated by at least one participating state. Adoption of an amendment requires endorsement by all participating states, and becomes effective 30 days after the date of the last endorsement.)

Suspension of License Privileges

Under the bill, pursuant to Article IV(a) of the Compact, if the DNR received notice from the licensing authority of an issuing state that a Michigan resident had failed to comply with the terms of a citation, the DNR would have to suspend the resident's license privileges.

(Under Article IV(a), upon receiving a report from the licensing authority of the issuing state reporting a violator's failure to comply with the terms of a citation, the home

state's licensing authority must notify the violator and initiate a suspension action in accordance with the home state's suspension procedures, and suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the citation is furnished by the issuing state. Due process safeguards must be accorded.

The Compact defines "suspension" as any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.)

Pursuant to Article IV(b), if the DNR received notice of a conviction of a Michigan resident from the licensing authority of an issuing state, the Department would be required to suspend the resident's license privileges if the conviction would have resulted in a mandatory suspension had it occurred in Michigan. The Department would be permitted to suspend the privileges if the conviction could have resulted in discretionary suspension had the conviction occurred in Michigan.

(Under Article IV(b), upon receiving a report of a conviction from the issuing state's licensing authority, the licensing authority of the home state must enter the conviction in its records and treat it as though it occurred in the home state for the purposes of the suspension of license privileges.)

Pursuant to Article V(a) of the Compact, if the DNR received notice of the suspension of any person's license privileges by a participating state, the Department would have to determine whether the violation leading to the suspension would have led to the suspension of license privileges under Michigan law in accordance with the Compact manual. If the Department determined that the person's privileges would have been suspended, the Department could suspend his or her privileges for the same period as imposed by the participating state, but not to exceed the maximum period allowed by Michigan law.

(Article V(a) requires each participating state to recognize the suspension of any person's license privileges by any participating state as though the violation resulting in the suspension had occurred in its state and would have been the basis for a

mandatory suspension of privileges in its state.)

Hearing; Surrender of Licenses

If the DNR suspended a person's license privileges pursuant to the Compact, the Department would have to give the person an opportunity for an evidentiary hearing under the Administrative Procedures Act limited to the following grounds:

- Whether the person failed to comply with the terms of a citation in another participating state under the Compact.
- Whether there was a conviction in another participating state and the conviction would have led to the suspension of license privileges under Michigan law, the conviction was on appeal in the participating state, or the alleged violator was not the proper party.
- Whether a participating state suspended the person's license privileges and the violation leading to the suspension would have led to the forfeiture of privileges under Michigan law, the conviction was on appeal in the participating state, or the alleged violator was not the proper party.

An evidentiary hearing would have to be requested within 20 days after the DNR sent the person notice of the suspension. The person would have to surrender to the Department any licenses issued to him or her under Part 435 within 10 days after the notice was sent. The DNR would have to send to any Michigan resident at his or her last known address, by first-class mail, notice of the suspension, the opportunity for an evidentiary hearing, and the obligation to surrender licenses.

A person who failed to surrender a license as required would be guilty of a misdemeanor punishable by imprisonment for a maximum of 90 days and/or a fine of at least \$25 but not more than \$250.

Failure to Comply

If a person were charged with, or convicted of, a violation of Part 435, or another law relative to hunting, fishing, or trapping, and he or she failed to answer a citation or a notice to appear in court, or for any matter pending, or failed to comply with an order or

judgment of the court, the court immediately would have to give notice that if the person failed to appear within seven days after the notice was issued, or failed to comply with the order or judgment within 14 days after the notice was issued, the DNR would suspend his or her hunting, fishing, and trapping licenses.

If the person failed to appear or comply within the prescribed time period, the court immediately would have to inform the DNR, and the Department immediately would have to suspend the person's licenses and notify him or her of the suspension.

MCL 324.43559 et al.

BACKGROUND

According to the Department of Natural Resources, in addition to Michigan, the states participating in the Wildlife Violator Compact are Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Although Michigan already has joined the Wildlife Violator Compact, and the enacted language requires or permits license suspensions for violations that occur in other participating states, the DNR cannot fully enforce or implement the Compact without the express authority to suspend violators' hunting and fishing privileges. The bill would enable Michigan to be a full partner in the Compact by requiring the Department to suspend the privileges of a Michigan resident who failed to comply with a wildlife citation issued by another Compact state, or who was convicted of a violation in a participating state (if Michigan law would require a suspension), and allowing the Department to suspend the privileges of

anyone whose license was suspended in any other Compact state. Currently, a court can order license sanctions if a person is convicted of a violation in Michigan, and the DNR can deny a license to a nonresident who is convicted in another state, but the DNR cannot suspend or deny a license on the basis of an out-of-State suspension.

Before Michigan entered into the Compact, the DNR pointed out that there was no assurance that a nonresident violator, upon returning to his or her home state, would answer a citation issued in this State. This meant that enforcement personnel had to manage nonresidents differently from residents in order to assure their appearance in court, by taking interim bond, lodging violators in jail, or taking them immediately to court. Michigan residents cited for wildlife violations in other states were treated similarly. In addition to the inconvenience posed for hunters and fishers, this placed a burden on the enforcement agency because of increased paperwork, mileage, and time. On the other hand, under the Compact, the suspension of license privileges in a violator's home state, and all other participating states, helps assure that the person will comply with a citation issued by a jurisdiction that is not his or her home state. This assurance is not present, however, if a state's DNR does not have authority to suspend license privileges.

Under current Michigan law, a resident of this State can travel to Montana, for example, receive a citation there for poaching an elk, return to Michigan without appearing in a Montana court, and continue to hunt in this State with impunity. A nonresident also can obtain a license in Michigan even though his or her privileges have been suspended in another Compact state. The bill would rectify these situations by authorizing the DNR to suspend a person's hunting, fishing, or trapping license for failure to comply with an out-of-State citation.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. It would likely result in some minor increased costs related to evidentiary hearings that would be allowed under the bill, and related

to the requirement that the Department of Natural Resources mail individuals convicted in other states notice of their license suspension, opportunity for an evidentiary hearing, and obligation to surrender any licenses.

In addition, the bill would create a misdemeanor for failure to surrender a license, which could result in minor, perhaps negligible, increases in costs for county jails and/or probation offices. Public libraries could realize some additional revenue from the fine of \$25 to \$250 that could be levied against individuals who failed to surrender their licenses.

Fiscal Analyst: Dan O'Connor
Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.