

PNEUMATIC GUN: INCLUDE BOLTS AND ARROWS

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House Bill 5180 as passed by the House
Sponsor: Rep. Beau Matthew LaFave
Committee: Natural Resources
Complete to 3-16-18

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 5180 would amend the Natural Resources and Environmental Protection Act (NREPA) to expand the definition of pneumatic gun to include devices that shoot bolts or arrows by spring, gas, or air.

FISCAL IMPACT: House Bill 5180 would have an indeterminate fiscal impact on the Department of Natural Resources. It is unclear whether the expanded definition of pneumatic gun in NREPA or the expansion of hunting opportunities for persons with disabilities would result in an increase in permit revenue for the department. It is also unclear whether these new provisions, as well as the mandate for the DNR to issue a permit to a person unable to walk through a dense wooded area due to disability, would affect departmental costs. These changes would be unlikely to affect local government revenues or costs.

THE APPARENT PROBLEM:

Michigan ranks at the top nationally for outdoor recreation, including hunting, which brings in billions of dollars in revenue annually. Because Michigan is a popular hunting destination, the bill sponsor wants to ensure that all hunters are given as many opportunities as possible to enjoy the recreation. Under current law in Michigan, it can be difficult for some persons with certain disabilities to enjoy hunting due to weapons restrictions. The best weapon available to disabled persons with use of 1 arm or less is a crossbow with a crank, yet according to the bill sponsor, that can still be too difficult to handle and use. House Bill 5180 would provide an alternate hunting device for persons with certain kinds of disabilities to help ensure all persons can enjoy hunting in Michigan's great outdoors.

THE CONTENT OF THE BILL:

Pneumatic Guns

Currently under Part 401 (Wildlife Conservation) of NREPA, *pneumatic gun* means any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air—except for a paintball gun that expels plastic balls filled with paint for the purpose of marking the point of impact. [This is in contrast to the Firearms and Ammunition Act, which does include paintball guns (MCL 123.1101) and is the definition used in the Michigan Penal Code (MCL 750.222).]

House Bill 5180 would change the definition of pneumatic gun in NREPA to include an implement, designed as a gun, that expels *bolts or arrows* by spring, gas, or air, in addition

to those that expel BBs or pellets. The NREPA definition would still exclude paintball guns.

The bill would allow the Natural Resources Commission to issue orders allowing an individual to take game with a pneumatic gun during any open season in which a firearm may be used for taking that game. (A pneumatic gun is currently defined as a firearm for purposes of NREPA; the bill does not change this designation.)

The bill would also allow the Department of Natural Resources (DNR) to issue a permit to an ***individual with a disability or physical limitation*** to take game with a pneumatic gun during an open season in which a bow may be used for taking game if that individual submits a certification from a physician, physical therapist, occupational therapist, or other medical professional stating that after examination he or she has determined that due to a physical disability or limitation, the individual is unable to hold, aim, and shoot a bow or crossbow. The DNR would have to develop a certification form and make it available to the public.

Under the bill, ***individual with a disability or physical limitation*** would mean an individual who is determined by a physician, physician assistant, or optometrist to have 1 or more of the following:

- Blindness (this condition may be determined by an optometrist or a physician assistant as well as by a physician).
- The inability to walk more than 200 feet without having to stop and rest.
- Both the inability to use 1 or both legs or feet and the inability to walk without the assistance of another person or the use of a wheelchair, walker, crutch, brace, prosthetic, or other device.
- A lung disease from which the person's forced expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
- A cardiovascular condition that causes the person to measure between 3 and 4 on the New York heart classification scale, or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American Heart Association and approved by the Department of Health and Human Services.
- An arthritic, neurological, or orthopedic condition that severely limits the person's ability to walk.
- The persistent reliance upon an oxygen source other than ordinary air.

Other Amendments

NREPA currently allows the DNR to issue, to an individual who is unable to walk because the individual is a paraplegic, an amputee, or permanently disabled, a permit that authorizes the individual to take game from or upon a standing vehicle, if the game is in season and the individual holds a license for it and complies with all other laws and rules for taking it. HB 5180 would allow the DNR to issue such a permit to such an individual, and would further change the qualifying threshold from the inability to walk (at all) to the inability to

walk through a dense wooded area or to walk 200 feet in field conditions due to a permanent or temporary disability or a medical condition.

NREPA also currently allows the Department of Natural Resources (DNR) to issue, to a disabled individual who has full use of only one arm and is unable to hold, aim, and shoot a bow, a permit that authorizes the individual to take game using a modified bow that may be held, aimed, and shot with one arm, if the game is in season and the individual holds a license for it and complies with all other laws and rules for taking it. HB 5180 would change the eligibility threshold to “an individual... who has full use of only one arm *or less*.” The bill also would remove a provision that now authorizes the Natural Resources Commission to issue an order regarding bows that are modified as described above (i.e., to be held, aimed, and shot with one arm).

The bill would take effect 90 days after its date of enactment.

MCL 324.40102 et al.

ARGUMENTS:

For:

Supporters of the bill argue that allowing persons with certain disabilities to hunt with a pneumatic gun would serve as a useful tool to encourage more hunting opportunities and offer independence. A pneumatic gun can be easier to function, offering a person with 1 arm or less the ability to use the gun on their own. This is unlike a crossbow, which, even though it is easier than a compound or recurve bow, needs to be cranked and loaded with at least 1 arm and 1 foot.

Supporters of the bill also highlight that the permissive components in the bill give the DNR discretion to allow disabled individuals to hunt with a pneumatic bow. This permissive aspect lets the DNR take into consideration possible needs of the individual hunter as well as any past hunting fractions when approving or denying a hunting permit.

Against:

Critics of the bill argue that there is no need to allow the use of a pneumatic gun for hunting, even for disabled individuals. If a disabled person can function a pneumatic gun, then they can function a shotgun with small slugs as those weapons operate similarly. Additionally, if a disabled person is unable to use a current allowable weapon, then that person would have great difficulty field dressing a deer. As such, that individual would still need assistance when hunting and would not have true independence in Michigan’s outdoors.

Opponents of the bill also argue that allowing persons with disabilities to use pneumatic guns could lead to allowing all hunters to use pneumatic guns. This exact scenario occurred with crossbows, where use was only allowed for disabled persons, but then expanded to all persons. Critics were concerned that expanding further use of pneumatic guns would detrimentally affect deer populations because a pneumatic gun is very easy to use and would make hunting deer easier.

Additionally, opponents of the bill highlight that pneumatic guns are not part of the Pittman-Robinson Act. As a result, sales from these weapons do not contribute to the 11% excise tax. This tax is collected by the federal government, who then disperses it to states based on land mass and hunting numbers. Michigan is usually in the top 5 states to receive funds through the Pittman-Robinson Act. However, critics worry that more pneumatic guns would be sold and other guns, which fall under the Act, would have fewer sales. A fall in sales of the other guns would result in a loss of wildlife funding for Michigan.

Finally, critics of the bill would like to see added provisions to specify “use of arm.” This would be to ensure that hunters with broken arms or wrists would not fall under the category to get a doctor’s note to be able to use a pneumatic gun.

POSITIONS:

Representatives from the following entities support the bill:

- Crosman Corporation (1-17-18 and 2-21-18)
- Michigan Freedom Fund (2-21-18)

Representatives from the following entities oppose the bill:

- Upper Peninsula Whitetails of Marquette (1-17-18 and 2-21-18)
- Michigan Bow Hunters Association (1-17-18 and 2-21-18)
- Michigan Trappers and Predator Callers Association (1-17-18 and 2-21-18)
- Safari Club International (2-21-18)

Representatives from the following entities are neutral on the bill:

- Michigan United Conservation Clubs (2-21-18)
- Michigan Operation Freedom Outdoors (2-21-18)
- Quality Deer Management Association (3-16-18)

A representative from the Department of Natural Resources testified with no position on the bill. (2-21-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.