



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 52 (as enacted)

PUBLIC ACT 55 of 2023

Sponsor: Senator John Cherry

Senate Committee: Natural Resources and Agriculture

House Committee: Natural Resources, Environment, Tourism and Outdoor Recreation

Date Completed: 3-28-24

RATIONALE

The Natural Resources and Environmental Protection Act (NREPA) authorizes the Natural Resources Commission to regulate the taking of game like deer in the State. In June 2022, the Commission amended Wildlife Conservation Order 3.103 (see **BACKGROUND**) to require a person who harvests a deer to report the harvest within 72 hours of retrieval and to retain the associated harvest confirmation number. The penalty for this violation was a misdemeanor, the default penalty under Part 401 (Wildlife Conservation) of NREPA. Some people felt that the misdemeanor penalty was too punitive because the regulation's purpose is to gather biological data on deer populations in Michigan, which are generally not in danger. Accordingly, it was suggested that the penalty be reduced to a civil infraction.

CONTENT

The bill amended Part 401 of NREPA to specify that an individual who violates Part 401 or an order issued under Part 401 regarding the reporting of a deer harvest or retention of a deer harvest confirmation number is responsible for a State civil infraction instead of a misdemeanor.

The bill took effect on July 12, 2023.

Generally, Part 401 specifies that an individual who violates Part 401 or an order or interim order issued under Part 401 regarding the possession or taking of deer, bear, wild turkey, or wolf is guilty of a misdemeanor and may be imprisoned for up to 90 days, must be fined at least \$200 but not more than \$1,000, and must be ordered to pay the costs of prosecution.

Under the bill, an individual who violates Part 401 or an order or interim order issued under Part 401 regarding the reporting of a deer harvest or retention of a deer harvest confirmation number is responsible for a State civil infraction and may be ordered by pay a civil fine of up to \$150.

MCL 324.40118

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill was a reintroduction of House Bill 6354 from the 2021-2022 Legislative Session. House Bill 6354 passed the House and the Senate and was ordered enrolled but was vetoed.

BACKGROUND

The Commission is a seven-member body appointed by the Governor that has exclusive authority to regulate the taking of game and sportfish. Chapter 3 of the Wildlife Conservation

Order concerns species-specific regulations, such as those for deer. Wildlife Conservation Order 3.103 concerns the issuance of deer kill tags, deer reporting, and the validation of deer kill tags. The Department of Natural Resources (DNR) enforces Wildlife Conservation Orders.

Wildlife Conservation Order Amendment No. 4 of 2022 amended Wildlife Conservation Order 3.103 to require deer hunters to report their harvest. The Amendment specified that the changes had to do with information on hunter-harvested deer, hunter behaviors, and hunter opinions.¹ This information had historically been gathered using a post-season harvest survey that was sent out to a random sample of hunters. This survey allowed the DNR to estimate hunter harvest, hunter participation, harvest composition, and the prevalence of deer-borne diseases;² however, response rates to the survey had declined, so a new method was needed to gather the sought-after data. The Commission approved mandatory reporting of a deer harvest as the solution to gather accurate data to regulate deer hunting in the State.³ Hunters who need to report a deer harvest can do so through the Michigan DNR Hunt Fish Mobile App.⁴

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

According to testimony before the Senate Committee on Natural Resources and Agriculture, the DNR's Law Enforcement Division uses an educational approach, as opposed to a punitive approach, when enforcing any new regulation in its first year, including the regulation to report deer harvests within 72 hours of retrieval. With this educational approach, about 75% to 85% of Michigan hunters achieved compliance with the harvest reporting regulation. Reportedly, compliance rates will likely improve further with the popularization of the Michigan DNR Hunt Fish Mobile App that allows hunters to report deer harvests within minutes of successful retrieval. Some people considered the 75% to 85% compliance rate successful during a year in which the DNR did not enforce the regulation. Therefore, a more punitive misdemeanor penalty was not necessary to enforce compliance, and the penalty should be a civil infraction.

Supporting Argument

Changing the penalty for a failure to report a deer harvest within 72 hours of retrieval from a misdemeanor to a civil infraction is more efficient for law enforcement. Currently, if a situation arises where an officer needs to enforce compliance, the officer must write a report and contact a prosecutor because the violation is a criminal penalty. For a civil infraction, these enforcement requirements are not necessary because the violation is a civil penalty. In addition, reportedly, a violation of the regulation to report a deer harvest within 72 hours of retrieval is unlikely to be an uncooperative hunter's only violation, making the misdemeanor penalty redundant in situations where criminal behavior is demonstrated. Changing the penalty to a civil infraction will lead to more efficient and enforcement of harvest reporting.

Opposing Argument

According to testimony before the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation, the hunting community in Michigan is made up of an aging and shrinking population. An incentive is necessary to persuade more individuals to hunt and keep the State's tradition alive. Therefore, the State should encourage hunting by providing incentives to report deer harvests, not providing punitive measures when people fail to report.

¹ DNR, "MEMORANDUM TO THE NATURAL RESOURCES COMMISSION: Deer Harvest Reporting Wildlife Conservation Order Amendment No. 4 of 2022", June 2022.

² *Id.*

³ *Id.*

⁴ DNR, "Deer harvest reporting", 2024.

The step down from a misdemeanor to a civil infraction is not good enough. Instead, a monetary incentive for reporting deer harvests within 72 hours of retrieval would be better because it would attract new hunters to the hunting community.

Response: Any monetary incentive that the State distributes for reporting a deer harvest would take money away from the funds the State uses to manage natural resources and do environmental conservation, reducing the DNR's ability to improve Michigan's habitat.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill may result in savings for the State and local units of government. The bill imposed a civil fine (and eliminated a misdemeanor penalty) for failing to report a deer harvest or retain a deer harvest confirmation number and eliminated imprisonment for this violation. The State or local jails may save the cost for misdemeanor probation supervision, which currently averages approximately \$3,400 per probationer per year. The cost of housing a prisoner in a local jail is paid based on a per diem, which can range from \$40 to \$65 day.

Any associated increase in fine revenue will increase funding to public libraries. Additionally, \$10 of the civil fine is deposited into the State Justice System Fund. The Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and will depend on the actual number of violations.

Fiscal Analyst: Joe Carrasco, Jr.

ANALYSIS\S2324\s52ea

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.