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## REPEAL OF WASHTENAW COUNTY SUNDAY HUNTING BAN

House Bill 4011 as introduced  
First Analysis (4-3-03)

Sponsor: Rep. Gene DeRossett  
Committee: Conservation and Outdoor  
Recreation

### ***THE APPARENT PROBLEM:***

Throughout the 1920's and 1930's (and even as late as 1947), the legislature passed a number of local acts to prohibit Sunday hunting in various counties. Ostensibly, this was done, in part, in order to reduce the noise that resulted from the firearms and dogs used by the hunters for the taking of game. It is believed that these laws would apply to all lands (public and private) in the applicable counties, though courts have held that state-owned land is not subject to these local hunting bans. Accordingly, this dual system has become problematic, especially in those instances where a hunter is tracking a wounded animal and unwittingly crosses from state-owned land onto private property.

Since 1992, the legislature has repealed local acts banning Sunday hunting in seven counties, either through a direct repeal of the local act (Monroe, Livingston, and Shiawassee counties) or through a repeal contingent upon approval of a referendum by voters in the affected county (Sanilac, Lapeer, and Huron counties). Public Act 396 of 1994 (enrolled House Bill 5068) repealed nine local acts banning Sunday hunting contingent upon approval by the voters in each affected county within two years of the act's effective date. Those counties subject to P.A. 396 included Lapeer, Hillsdale, Huron, Lenawee, Macomb, St. Clair, Sanilac, Tuscola, and Washtenaw. Under referendums held pursuant to P.A. 396, the voters of Tuscola, Lenawee, St. Clair, Hillsdale, and Washtenaw counties rejected the repeal of the Sunday hunting ban, while no referendum was held in Macomb County.

While recent legislation repealing the Sunday hunting bans has been contingent upon the approval of voters, no such requirement is constitutionally necessary. During the previous legislative session, Public Act 128 of 2001 (enrolled House Bill 4018) directly repealed the Sunday hunting ban in Macomb County without subjecting the bill to voter approval. During the November 1996 election, the voters of

Washtenaw County rejected the repeal of the county's Sunday hunting ban. According to the Washtenaw County Clerk, there were 49,606 votes (45.15 percent) supporting the repeal, and 57,883 votes (53.85 percent) opposing the ban. It has been suggested that the ban in Washtenaw County be repealed without voter approval.

### ***THE CONTENT OF THE BILL:***

The bill would repeal Local Act 9 of 1927, which prohibits hunting on the lands of another person on Sunday in Washtenaw County.

[Note: Article 4, Section 29 of the state constitution states: *No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.*]

### ***BACKGROUND INFORMATION:***

Despite recent efforts to repeal various Sunday hunting bans, they are still in effect in the following counties, in addition to Washtenaw County:

- Tuscola (Local Act 2 of 1927)
- Lenawee (Local Act 1 of 1931)
- Hillsdale (Local Act 1 of 1935)
- St. Clair (Local Act 9 of 1939)

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**FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill has no fiscal implications for the state or for local governments. (4-3-03)

**ARGUMENTS:****For:**

Washtenaw County's Sunday hunting ban - and similar bans in other counties, for that matter - should be repealed for several reasons. First, lifting the ban would clarify that hunters in Washtenaw County (and other counties) are free to hunt on public and private land in the county throughout the weekend. According to committee testimony, the hunting ban is not actively enforced, and is only enforced upon the complaint of an individual. This alone suggests that that the ban is not necessary. Second, the fact that state-owned land is not subject to the hunting ban often creates problems as hunters may inadvertently cross into private property (and be in violation of the law) when tracking an animal. In addition, this public-private dichotomy diminishes the apparent effectiveness of the ban, simply because it is not uniformly enforced (assuming it is enforced at all) throughout the county. Further, the bill would repeal one of the last remaining Sunday hunting bans on the books, and bring about a greater uniformity of hunting laws throughout the state.

In addition, there are several benefits of repealing the ban. First, the bill would add another 30 days of hunting in the year, which greatly impacts the local economy. As it stands now, the ban essentially cuts in half the number of hunting days for many hunters in the state. Secondly, the additional hunting days help keep animal populations in check, which serves to protect farms from crop damage.

Finally, the most compelling argument for repealing the county's hunting ban is the concern for the property rights of private individuals. The act states that no person shall hunt on the lands of another individual. The act does not provide for an exception for those instances when the landowner grants permission to another person to hunt, nor does it provide an exception for individuals related to the landowner. Under the ban, only the actual landowner may hunt on his or her land. If a landowner wants to hunt with his son, daughter, or friends, he or she cannot, because of the hunting ban. Further, the state has control over its land within the county. Why should private property be any different? It should remain the province of local property owners - rather

than an outdated, draconian state law - to determine whether hunting can take place on their land.

**Response:**

If there is a truly compelling state interest, such as the concern for private property rights or the need to manage animal population, then all of the remaining Sunday hunting bans should be repealed, and not just the ban in Washtenaw County.

**Against:**

It is interesting to note that the legislature has previously enacted legislation that would repeal the Sunday hunting ban in Washtenaw County. However, in the election held pursuant to Public Act 396 of 1994, the voters of Washtenaw County rejected the repeal of the ban 54 percent to 46 percent. Considering that result, it is quite clear that the voters of Washtenaw County have expressed their disapproval for any repeal of the hunting ban. Repealing the hunting ban outright, without any direct input from the voters, may be seen by some as circumventing local control, and further evidence of the legislature's continuing interference in the affairs of local communities. To that end, any attempt to repeal the county's hunting ban should also include another voter referendum. If proponents believe that this is something that has engendered significant approval of county residents, then subjecting the repeal to a referendum will merely confirm that support.

**Response:**

The state constitution does not require the legislature to submit legislation repealing a local act to the voters of the county affected by the local act.

**POSITIONS:**

The Department of Natural Resources supports the bill. (4-2-03)

The Michigan Coalition for Responsible Gun Owners supports the bill. (4-2-03)

Michigan United Conservation Clubs supports the bill. (4-2-03)

Analyst: M. Wolf

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