



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

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4599 (Substitute S-1 as reported)
Sponsor: Representative Randy Richardville
House Committee: Conservation and Outdoor Recreation
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 10-14-03

RATIONALE

Hunters in several Michigan counties would like to see the repeal of local acts that prohibit them from hunting on Sunday. Hillsdale, Lenawee, St. Clair, Tuscola, and Washtenaw are the only counties that continue to have Sunday hunting bans. The prohibitions on hunting in these counties do not extend to State-owned land within them, because courts have ruled, and former Attorney General Frank Kelly opined, that it is the role of the State to regulate game on its lands. (Please see **BACKGROUND** for details.)

In 1994, Public Act 396 repealed nine local acts prohibiting Sunday hunting in certain counties, contingent on approval of a referendum by voters in the affected county. The Counties of Lapeer, Huron, and Sanilac approved the repeal of the local acts, but voters in the five counties listed above rejected the repeals, and no referendum was held in Macomb County.

Unlike public acts, local acts apply to a specific region or part of the State. The Michigan Constitution requires that a local act pass by a two-thirds vote of the Legislature; however, only a majority vote is required to repeal a local act. Although the 1994 legislation repealing local acts banning Sunday hunting was contingent on voter approval, no such requirement is constitutionally necessary. Public Act 128 of 2001 directly repealed the Sunday hunting ban in Macomb County without subjecting the bill to voter approval. Some people would like the local acts that prohibit Sunday hunting in Hillsdale, Lenawee, St. Clair, and Tuscola Counties directly repealed, as well.

CONTENT

The bill would repeal the following local acts that prohibit or restrict hunting on Sunday:

- Local Act 2 of 1927, which prohibits hunting on the lands of another person on Sunday in Tuscola County.
- Local Act 1 of 1931, which prohibits hunting with firearms or dogs on Sunday in Lenawee County.
- Local Act 1 of 1935, which prohibits hunting with firearms or dogs on Sunday in Hillsdale County.
- Local Act 4 of 1939, which prohibits hunting with firearms or dogs on Sunday in St. Clair County. The Act does not apply to hunting waterfowl on Lake St. Clair or the St. Clair River.

A violation of any of the local acts is a misdemeanor subject to one of the following penalties:

- A fine of at least \$10 but not more than \$25, up to 30 days' imprisonment, or both (Local Act 2 of 1927).
- A maximum fine of \$25, up to 30 days' imprisonment, or both (Local Act 1 of 1931 and Local Act 4 of 1939).
- A maximum fine of \$100 and/or imprisonment for up to 90 days (Local Act 1 of 1935).

BACKGROUND

An Attorney General opinion and several court cases have held that it is the authority of the State to regulate hunting and trapping. In an opinion letter to former Senator Harry Gast in 1989, former Attorney General Frank Kelley wrote that State authority over hunting and

trapping has long been recognized in Michigan, and that "a prohibition of trapping on any state lands would directly conflict with the authority of the Commission of Natural Resources to regulate the use of state parks and other state lands under its jurisdiction." In support, Attorney General Kelley cited *People v Zimberg*, (321 Mich 655 (1948)), which held that the wild game and fish belong to the State and are subject to its power to regulate and control. Attorney General Kelley further referred to Article 4, Section 52 of the State Constitution, which states, "The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction."

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

Eliminating the prohibition on Sunday hunting in four more Michigan counties would restore property rights to landowners. In Tuscola County, a person may not hunt "on any lands or premises of another" on Sunday, which means that only the landowner--not his children or friends, or those with the landowner's permission--may hunt on that day. The remaining local acts do not permit even the actual landholder to hunt on Sunday on his or her own property. If the State allows Sunday hunting on its land within these counties, surely private property owners should be able to hunt on their own property on the same day.

Repeal of these local acts would add continuity to the State law. A Sunday hunting ban on only some of the land within a county can be problematic and confusing to hunters. In some cases, State-owned land flows contiguously into privately owned land, and hunters may inadvertently cross onto private property (in violation of the law) when tracking an animal.

Finally, the bill would add an additional day each weekend to hunt in these four counties.

During Michigan's small game hunting season, September 15 through March 31, the Sunday closure eliminates 28 days of hunting opportunity. Restoring these 28 days would benefit local economies when hunters buy gas, meals, and supplies in these counties. Further, hunting on the additional days would help keep animal populations in check, thus helping to prevent crop damage.

Opposing Argument

The bill would usurp local control. The voters in the affected counties already have rejected a repeal of these local acts in referendums held pursuant to Public Act 396 of 1994. Any attempt to repeal a county's hunting ban should include another voter referendum.

Response: First, the bill would provide the ultimate level of local control by allowing individual property owners to choose whether to hunt on Sunday on their own property. Next, the referendums held under Public Act 396 did not necessarily address the wishes of Michigan hunters who own property outside of the county in which they reside. Undoubtedly, these hunters would have voted, were it possible, to repeal the local act so that they could enjoy a full weekend of hunting on their own property.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill would have no fiscal impact on State government. The bill would have a minimal impact on local units of government since the prohibitions on Sunday hunting are not well enforced. There would be a slight reduction in fine revenue, which is distributed to local libraries, and in the costs of imprisonment and probation, depending on the sentences violators currently receive.

Fiscal Analyst: Jessica Runnels

H0304\4599a

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.