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BILL ANALYSIS

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House Bill 5021 (Substitute H-1 as passed by the House)
Sponsor: Representative Howard Walker
House Committee: Conservation and Outdoor Management
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 6-15-04

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to permit the Governor to enter the State into a "Wildlife Violator Compact" with any other state legally joining the Compact. As described in detail below, the Compact does the following:

- **Requires participating states to treat residents and nonresidents alike in regard to issuing citations for violations of wildlife laws.**
- **Provides for participating states to recognize the suspension of violators' license privileges by other participating states.**
- **Allows violators' home states to recognize convictions that occur in other participating states.**
- **Establishes a Board of Compact Administrators, consisting of one representative from each participating state.**
- **Requires the Board to adopt procedures and forms, which must be contained in a Compact manual.**
- **Establishes procedures for states to enter into and withdraw from the Compact.**

Under the bill, the Compact would have to be in substantially the following form.

Article I: Findings, Declaration of Policy, & Purpose

Article I states that the Compact has two purposes: 1) to provide a means through which participating states may join in a

reciprocal program to effectuate the Compact's policies in a uniform and orderly manner, and 2) to provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of a violator's right to due process and the sovereign status of a participating state.

Article I states a number of findings, including the following:

- The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, regulations, ordinances, and administrative rules relating to the management of such resources.
- Every person should be required to comply with wildlife preservation, protection, management, and restoration laws of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
- The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.
- In most instances, a person who is cited for a wildlife violation in a state other than his or her home state is required to post collateral or a bond to secure appearance for a trial at a later date, or is taken into custody until the collateral or bond is posted, or is taken directly to court for an immediate appearance.
- The purpose of these enforcement practices for out-of-state violators is to ensure compliance with the terms of a

- wildlife citation by the cited person who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard his or her duty under the terms of the citation.
- In most instances, a person receiving a wildlife citation in his or her home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his or her way after agreeing or being instructed to comply with the terms of the citation.
- The enforcement practices for out-of-state violators consume an undue amount of law enforcement time.

Article I also indicates that it is the policy of the participating states to:

- Promote compliance with the state statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.
- Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state, and treat the suspension as if it had occurred in their respective states.
- Allow a violator, except as otherwise provided in the Compact, to accept a wildlife citation and, without delay, proceed on his or her way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to the Compact.
- Report to the appropriate participating state any conviction recorded against any person whose home state was not the issuing state.
- Allow the home state to recognize and treat convictions recorded against its residents that occurred in a participating state as if they had occurred in the home state.
- Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.
- Maximize effective use of law enforcement personnel and information.
- Assist court systems in the efficient disposition of wildlife violations.

Article II: Definitions

Article II defines "wildlife" as all species of animals including, though not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Article II states that species included in the definition of "wildlife" vary from state to state, and determination of whether a species is "wildlife" for the purposes of the Compact is to be based on local law.

"Wildlife law" is defined as any state statute, state law, state regulation, state ordinance, or state administrative rule developed and enacted for the management of wildlife resources and their uses.

"Wildlife violation" is defined as any cited violation of a state statute, state law, state regulation, state ordinance, or state administrative rule developed and enacted for the management of wildlife resources and their uses.

Article II also defines "citation", "collateral", "compliance", "conviction", "court", "home state", "issuing state", "license", "licensing authority", "participating state", "personal recognizance", "state", "suspension", and "terms of the citation".

Article III: Procedures for Issuing State

Under Article III, a wildlife officer of the issuing state must issue a citation to a nonresident violator in the same manner as he or she would if the violator were a resident of the issuing state. The officer must not require the violator to post collateral to secure appearance if the officer receives the recognizance of the person that he or she will comply with the terms of the citation. Personal recognizance is acceptable if not prohibited by local law or the Compact manual and if the violator provides adequate proof of identification to the officer.

Upon a person's conviction or failure to comply with the terms of a wildlife citation, the appropriate official must report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The

report must be made in accordance with procedures specified by the issuing state, and must contain information as specified in the Compact manual as minimum requirements for effective processing by the home state.

Upon receiving the report of conviction or noncompliance, the licensing authority of the issuing state must transmit to the licensing authority of the violator's home state the information in the form and with the content as prescribed in the Compact manual.

Article IV: Procedure for Home State

Under Article IV, once the home state's licensing authority is notified of a conviction or failure to comply with a citation in the issuing state, the authority must notify the violator, initiate suspension proceedings, and suspend the violator's license privileges in the home state until it receives satisfactory evidence from the issuing state that the violator has complied with the terms of the citation. Due process safeguards must be accorded. In addition, the home state's licensing authority must enter the conviction in its records and treat the conviction as though it had occurred in the home state.

Article V: Reciprocal Recognition of Suspension

Article V requires all participating states to recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and would have been the basis for a mandatory suspension of license privileges in their state. Each participating state must communicate suspension information to other participating states in the form and with the content as contained in the Compact manual.

Article VI: Applicability of Other Laws

Except as expressly required by the Compact, Article VI states that nothing in the Compact may be construed to affect the right of any participating state to apply any of its license privilege laws to any person or circumstance, or to invalidate or prevent any agreement between a participating state and a nonparticipating state concerning wildlife law enforcement.

Article VII: Compact Administrator Procedures

Article VII establishes a Board of Compact Administrators for the purpose of administering the Compact's provisions and to serve as a governing body for the resolution of all matters relating to the Compact operations. The Board must be composed of one representative, or Compact administrator, from each of the participating states. The Compact administrator must be appointed by the head of each state's licensing authority and serve and be subject to removal under the laws of the state he or she represents. A compact administrator may provide for an alternate to carry out his or her duties, if the Board has been given written notification of the alternate's identity.

Each member of the Board is entitled to one vote. Any action of the Board must take place at a meeting with a majority of participating states present. No action of the Board will be binding unless it is taken at a meeting at which a majority of the total number of the Board's votes are cast in favor of the action. The Board must adopt bylaws not inconsistent with the Compact provisions or with the laws of a participating state for conducting its business. Annually, the Board must elect from its membership a chair and a vice-chair. The Board must develop necessary procedures and uniform forms and documents necessary for administering the Compact. All procedures and forms must be contained in a Compact manual.

Article VII permits the Board to accept any grant or donation from a state, the Federal government, or a governmental agency for any of its purposes and functions, and contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, corporation, or nonprofit entity.

Article VIII: Entry Into Compact & Withdrawal

To enter into the Compact, a state must submit to the chair of the Board of Compact Administrators a resolution of ratification executed by the authorized officials of the state. The resolution must include a citation of the authority under which the state is empowered to become a participating state,

an agreement to comply with the terms and provisions of the Compact, and an agreement that recognizes that entry into the Compact is with all participating states and with all additional states legally becoming a party to the Compact. The applying state must specify the effective date of its entry into the Compact, although entry must be at least 60 days after notice has been given that the Board has received the resolution.

Article VIII provides that any participating state may withdraw from participation in the Compact by giving official written notice to each participating state's Compact administrator. The withdrawal will become effective 90 days after the withdrawal notice is given. Withdrawal by a state will not affect the validity of the Compact for the remaining states.

Article IX: Amendments to the Compact

Under Article IX, amendments to the Compact must be presented by resolution to the chair of the Board of Compact Administrators, and must be initiated by one or more participating states. An amendment must be endorsed by all participating states, and will become effective 30 days after the last endorsement by a participating state. A participating state will be considered to have endorsed a proposed amendment if it fails to respond to the Board chair within 120 days after receiving the proposed amendment.

Article X: Construction & Severability

Article X provides that the Compact must be liberally construed so as to effectuate its stated purposes. The Compact's provisions are severable, and if any provision or portion is declared to be contrary to the constitution of any participating state or of the United States, or the applicability to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of the Compact will not be affected. If the Compact is held contrary to the constitution of any participating state, the Compact will remain in full force and effect in the remaining states.

Proposed MCL 324.1615

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State. The State could receive more fine and restitution revenue as a result of additional convictions of out-of-state violators, but there could be increased costs for staff time, resources, and information technology due to collaboration with other states in tracking violators. Criminal fine revenue benefits public libraries.

Fiscal Analyst: Jessica Runnels

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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.