



**House
Legislative
Analysis
Section**

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LABELING OF HUNTING SCENTS

**House Bill 5015 (Substitute H-2)
First Analysis (2-4-92)**

**Sponsor: Rep. Robert Bender
Committee: Tourism, Fisheries &
Wildlife**

THE APPARENT PROBLEM:

Many deer hunters believe that using certain manufactured hunting scents can help in the pursuit of deer, both by masking the hunter's own scent and by attracting the animal to where the hunter is patiently waiting. The ingredients used in these scents vary depending on how the scent is to be used. For instance, a hunter desiring to lure a male deer to where he or she is sitting may use a scent containing the urine or other glandular fluids of a female deer. These so-called "sex scents" apparently can be especially helpful to bowhunters who hunt during late October and early November when deer are sexually active. Some people, however, are concerned about claims made by some hunting scent manufacturers regarding their products. It is felt by some that makers of these products mislead consumers about the ability of their products to attract deer or other animals; to help prevent this, it has been suggested that makers of hunting scents should have to list the exact ingredients of their products in print that could be easily read. Some are also concerned that such products may pose a health hazard to children and, thus, feel that the containers holding these products should have to include some kind of warning to keep them away from children. Legislation has been proposed that would require the makers of hunting lures, and those who sell them, to address these and other concerns.

THE CONTENT OF THE BILL:

The bill would create the Truth in Labeling of Hunting Scents Act to regulate the labeling of products made to attract certain animals or prevent the detection of human scent by them. The bill would prohibit a person from manufacturing, distributing, selling or offering for sale in the state a hunting scent unless the product and its outside container displayed a label with the following information:

* The product's ingredients listed by their common or usual English names, or the chemical names if no common names existed, in order of descending predominance by weight. The listing would have to include the source of any natural animal products by genus, species and common name of the animal from which the scent was derived;

* A simple and direct statement describing the product's identity, its basic nature or its characterizing ingredients or properties. This statement of identity would have to appear on the "principal display panel" (that part of the label most likely to be displayed and examined under "normal and customary conditions of display and purchase");

* The statement, "Keep out of the reach of children," or a similar statement, or if the product was intended for use by children and was not a banned hazardous substance, adequate directions for children's protection from the hazard.

The statement of identity on the display panel would have to be in lines across the package that were parallel to the base on which it was displayed, and would have to be in "prominent type" and of a size reasonably related to the most prominent printed matter on the display panel. The most prominent printed matter on the principal display panel would have to be at least one-half of the label's largest print. The bill would require the display panel to be large enough to hold all label information clearly without obscuring or vignetting. Any required labeling would have to be prominently and conspicuously placed on the label on a background of contrasting color in not less than 7-point type, and would have to be written so that it could be easily read and understood by an "ordinary individual" under normal conditions of purchase and use.

The bill would also prohibit a person from 1) receiving in commerce scents that violated these requirements, 2) willfully removing or otherwise

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altering or destroying, or causing the removal, alteration or destruction of, such a label or part of a label--if this or a similar action could reasonably mislead a consumer about the product--while the product was in intrastate commerce or held for sale after being shipped, 3) removing or disposing of a detained or embargoed product, by sale or otherwise, or 4) obstructing or hindering the director of the Department of Agriculture from performing the duties specified in the bill. The department would have to promulgate rules to implement the bill's provisions according to the Administrative Procedures Act.

The bill would require the agriculture department director to look into complaints made concerning violations of the bill and, at his or her own initiative, conduct any investigations that he or she felt were needed to determine possible violations and to generally promote proper labeling of hunting scents. If he or she found or had probable cause to believe that a product was mislabeled, the director would have to mark the product with a tag and give notice that it was suspected of being mislabeled and had been detained or embargoed. The director would have to warn all persons not to remove or dispose of the product, by sale or otherwise, without the director's permission. The director could apply to any court of competent jurisdiction for a temporary restraining order or a preliminary or permanent injunction to restrain a person from violating the bill's provisions.

FISCAL IMPLICATIONS:

The Department of Agriculture says the bill would not affect state or local budget expenditures. (1-30-92) The Department of Natural Resources reports that the bill could have a financial impact on those businesses that manufacture or sell these hunting scents, though how much could not be determined. (1-30-92)

ARGUMENTS:

For:

The bill would require the manufacturers of "natural" hunting scents (which use the glandular secretions of animals rather than synthetic substances in their products) to list the ingredients that make up their products to enable consumers to make more informed decisions about their effectiveness. Some of the products now made and sold apparently have little of a particular animal's

natural fluids, or use an inordinate amount of glycol or glycerine as preservatives. The bill's requirements would apply to both in-state and out-of-state manufacturers of hunting scents, while retailers would be prohibited from accepting or selling any merchandise that failed to meet the bill's requirements. Manufacturers also would have to list the ingredients of such products on the container's label in print that could be easily read, and include some kind of statement on the product's container warning that it should be kept away from children if it contained hazardous ingredients.

Against:

The bill is unnecessary and may be criticized on a number of points:

* If manufacturers of hunting scents have been fraudulent in the claims they have made about their products, why haven't more complaints been made to the attorney general's consumer complaints division? According to the AG's office on consumer complaints, only two complaints were filed in 1991 concerning such products. But even if a hunting scent maker listed all the ingredients that go into a product, this would not necessarily help a hunter decide whether the product worked to attract animals. Such products ultimately are judged on whether they do what they say they do, and many hunters apparently believe such scents work as their manufacturers currently claim they do--evidenced by their willingness to buy the same lures year after year.

* If hunting scents are as dangerous to human health and commercially fraudulent as proponents of the bill claim, why should any other kinds of animal lures--such as those used by trappers or those made from synthetic substances--be excluded from the bill's requirements? In fact, hunting scents do not pose much of a threat to humans (or at least haven't been implicated as the source of any poisonings). According to the Grand Rapids Regional Poison Control Center, which covers 65 of the state's 83 counties, fewer than 10 calls were received in 1991 concerning exposures to such scents, and of those persons exposed to the scents none had shown any serious side affects.

* The bill could put manufacturers of such lures that operate in Michigan out of business as they could no longer prevent others from copying their product, and those that were able to remain profitable may simply decide to move out of the state. The bill represents the worst kind of government regulation of business as it would be

nearly impossible for retailers to check every container of hunting scents, or to distinguish between what was a legal scent and what wasn't, to ensure compliance with the bill's requirements. Government regulations may be beneficial when evidence shows they are needed. Thus far, however, little evidence exists to show that consumers are unhappy with, or threatened by, the type of products that would be regulated under the bill.

* Consumers ultimately would have to pay more for hunting scents as manufacturers probably would cover their higher costs under the bill by increasing the price of their products. In fact, if the bill were enacted consumers might no longer be able to buy these products in the state as retailers might stop selling them out of fear they would be breaking the law.

POSITIONS:

Fred Trost's Outdoors Club, which has about 40,000 members, supports the bill. (1-30-92)

The Department of Agriculture supports the concept of the bill. (1-30-92)

The Michigan United Conservation Clubs opposes the bill. (1-29-92)

The Buck Stop Lure Company, Inc., of Stanton opposes the bill. (1-30-92)

Mark Junc's Lures, Inc., of Swartz Creek, opposes the bill. (1-30-92)

The Department of Natural Resources is neutral on the bill. (1-30-92)

The Michigan Trappers Association currently has no position on the bill, but feels the issue of regulating the labeling of hunting scents needs further study. (1-30-92)