

SENATE BILL NO. 1053

April 15, 1998, Introduced by Senator JAYE and referred to the
Committee on Hunting, Fishing and Forestry.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 1602 (MCL 324.1602), as added by 1995 PA 60.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1602. (1) The department, or an officer appointed by
2 the department, may file a complaint and commence proceedings
3 against any person for a violation of any of the laws or statutes
4 described in section 1601, without the sanction of the prosecut-
5 ing attorney of the county in which the proceedings are
6 commenced. In such a case, the officer is not obliged to furnish
7 security for costs. The department, or an officer appointed by
8 the department, may appear for the people in any court of compe-
9 tent jurisdiction in any cases for violation of any of the
10 statutes or laws described in section 1601, may prosecute the
11 cases in the same manner and with the same authority as the

1 prosecuting attorney of any county in which the proceedings are
2 commenced, and may sign vouchers for the payment of jurors' or
3 witnesses' fees in those cases in the same manner and with the
4 same authority as prosecuting attorneys in criminal cases.

5 Whenever an officer appointed by the department has probable
6 cause to believe that any of the statutes or laws ~~mentioned~~
7 DESCRIBED in section 1601 have been or are being violated by any
8 particular person, the officer has the power to search, without A
9 warrant, any boat, conveyance, vehicle, automobile, fish box,
10 fish basket, game bag, game coat, or any other ~~receptacle~~
11 CONTAINER or place, except ~~dwellings~~ A DWELLING or dwelling
12 ~~houses~~ HOUSE, or within the curtilage of any dwelling house, in
13 which nets, hunting or fishing apparatuses or appliances, wild
14 birds, wild animals, or fish may be possessed, kept, or carried
15 by the person, and an officer appointed by the department may
16 enter into or upon any private or public property for that pur-
17 pose or for the purpose of patrolling, investigating, or examin-
18 ing when he or she has probable cause for believing that any of
19 the statutes or laws described in section 1601 have been or are
20 being violated on that property. The term "private property" as
21 used in this part does not include ~~dwellings~~ A DWELLING or A
22 dwelling ~~houses~~ HOUSE or that which is within the curtilage of
23 any dwelling house.

24 (2) An officer appointed by the department shall at any ~~and~~
25 ~~all times~~ TIME seize and take possession of ~~any and~~ all nets,
26 hunting or fishing apparatuses or appliances, or other property,
27 wild birds, wild animals, or fish, or any part or parts thereof,

1 which have been caught, taken, killed, shipped, or had in
2 possession or under control, at a time, in a manner, or for a
3 purpose, contrary to any of the statutes or laws described in
4 section 1601, and the seizure may be made without a warrant. A
5 common carrier is not responsible for damages or otherwise to any
6 owner, shipper, or consignee by reason of any such seizure.

7 (3) When a complaint is made on oath to any magistrate
8 authorized to issue warrants in criminal cases that any wild
9 birds, wild animals, or fish, any part or parts of wild birds,
10 wild animals, or fish, or any nets, hunting or fishing appa-
11 ratuses or appliances, or other property have been or are being
12 killed, taken, caught, had in possession or under control, or
13 shipped, contrary to the statutes or laws described in
14 section 1601, and that the complainant believes the property to
15 be stored, kept, or concealed in any particular house or place,
16 the magistrate, if he or she is satisfied that there is probable
17 cause for the belief, shall issue a warrant to search for the
18 property. The warrant shall be directed to the department, or an
19 officer appointed by the department, or to any other peace
20 officer. All wild birds, wild animals, fish, nets, boats, fish-
21 ing or hunting appliances or apparatuses, or automobiles or other
22 property of any kind seized by an officer shall be turned over to
23 the department to be held by the department subject to the order
24 of the court as provided in this part.

25 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A CON-
26 SERVATION OFFICER OR OTHER INVESTIGATING EMPLOYEE OF THE
27 DEPARTMENT OF NATURAL RESOURCES, WHILE ENGAGED IN ENFORCING THE

1 FISH AND GAME LAWS OF THIS STATE, SHALL NOT ASK AN INDIVIDUAL FOR
2 PERMISSION TO SEARCH ANY CONTAINER OF ANY KIND OR A VEHICLE OWNED
3 OR LAWFULLY POSSESSED BY THAT INDIVIDUAL.

4 (5) ~~-(2)-~~ For the purposes of this part, "probable cause" or
5 "probable cause to believe" is present on the part of a peace
6 officer if there are facts that would induce any fair-minded
7 person of average intelligence and judgment to believe that a law
8 or statute had been violated or was being violated contrary to
9 any of the statutes or laws described in section 1601.