

SENATE BILL NO. 1320

September 23, 1998, Introduced by Senator JAYE and referred to the Committee on Government Operations.

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, and by adding section 1503.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1503. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,
2 A CONSERVATION OFFICER OR OTHER EMPLOYEE OR AGENT OF THE DEPART-
3 MENT OF NATURAL RESOURCES OR AN EMPLOYEE OR AGENT OF THE DEPART-
4 MENT OF ENVIRONMENTAL QUALITY, WHILE ACTING IN AN OFFICIAL CAPAC-
5 ITY, SHALL NOT SEEK ENTRY TO OR ENTER PRIVATE REAL PROPERTY WITH-
6 OUT A WARRANT.

7 Sec. 1602. (1) The department, or an officer appointed by
8 the department, may file a complaint and commence proceedings
9 against any person for a violation of any of the laws or statutes
10 described in section 1601, without the sanction of the

1 prosecuting attorney of the county in which the proceedings are
2 commenced. In such a case, the officer is not obliged to furnish
3 security for costs. The department, or an officer appointed by
4 the department, may appear for the people in any court of compe-
5 tent jurisdiction in any cases for violation of any of the stat-
6 utes or laws described in section 1601, may prosecute the cases
7 in the same manner and with the same authority as the prosecuting
8 attorney of any county in which the proceedings are commenced,
9 and may sign vouchers for the payment of jurors' or witnesses'
10 fees in those cases in the same manner and with the same author-
11 ity as prosecuting attorneys in criminal cases. ~~Whenever~~

12 (2) SUBJECT TO SECTION 1503, IF an officer appointed by the
13 department has probable cause to believe that any of the statutes
14 or laws mentioned in section 1601 have been or are being violated
15 by any particular person, the officer has the power to search,
16 without warrant, any boat, conveyance, vehicle, automobile, fish
17 box, fish basket, game bag, game coat, or any other receptacle or
18 place ~~, except dwellings or dwelling houses, or within the cur-~~
19 ~~tilage of any dwelling house,~~ in which nets, hunting or fishing
20 apparatuses or appliances, wild birds, wild animals, or fish may
21 be possessed, kept, or carried by the person, and an officer
22 appointed by the department may enter into or upon any ~~private~~
23 ~~or~~ public property for that purpose or for the purpose of
24 patrolling, investigating, or examining when he or she has proba-
25 ble cause for believing that any of the statutes or laws
26 described in section 1601 have been or are being violated on that
27 property. ~~The term "private property" as used in this part does~~

~~1 not include dwellings or dwelling houses or that which is within
2 the curtilage of any dwelling house.~~

3 (3) An officer appointed by the department shall at any and
4 all times seize and take possession of any and all nets, hunting
5 or fishing apparatuses or appliances, or other property, wild
6 birds, wild animals, or fish, or any part or parts thereof, which
7 have been caught, taken, killed, shipped, or had in possession or
8 under control, at a time, in a manner, or for a purpose, contrary
9 to any of the statutes or laws described in section 1601, and the
10 seizure may be made without a warrant. A common carrier is not
11 responsible for damages or otherwise to any owner, shipper, or
12 consignee by reason of any such seizure. When a complaint is
13 made on oath to any magistrate authorized to issue warrants in
14 criminal cases that any wild birds, wild animals, or fish, any
15 part or parts of wild birds, wild animals, or fish, or any nets,
16 hunting or fishing apparatuses or appliances, or other property
17 have been or are being killed, taken, caught, had in possession
18 or under control, or shipped, contrary to the statutes or laws
19 described in section 1601, and that the complainant believes the
20 property to be stored, kept, or concealed in any particular house
21 or place, the magistrate, if he or she is satisfied that there is
22 probable cause for the belief, shall issue a warrant to search
23 for the property. The warrant shall be directed to the depart-
24 ment, or an officer appointed by the department, or to any other
25 peace officer. All wild birds, wild animals, fish, nets, boats,
26 fishing or hunting appliances or apparatuses, or automobiles or
27 other property of any kind seized by an officer shall be turned

1 over to the department to be held by the department subject to
2 the order of the court as provided in this part.

3 (4) ~~-(2)-~~ For the purposes of this part, "probable cause" or
4 "probable cause to believe" is present on the part of a peace
5 officer if there are facts that would induce any fair-minded
6 person of average intelligence and judgment to believe that a law
7 or statute DESCRIBED IN SECTION 1601 had been violated or was
8 being violated. ~~contrary to any of the statutes or laws~~
9 ~~described in section 1601.~~