

A SUMMARY OF HOUSE BILL 5710 AS INTRODUCED 5-2-00

The bill would amend the Natural Resources and Environmental Protection Act to modify the penalty provisions in the part of the act concerning the unlawful possession or taking of game. It would delete minimum penalties for certain violations -- those where the statute allows discretion in sentencing by specifying a penalty of imprisonment, or a fine, or both (while leaving minimum penalties for violations for which the statute requires both imprisonment and a fine). Further, in several subsections, the bill would amend language that refers to a violation of the statute or "a department order . . . or an interim order of the department" [of Natural Resources], so that instead the act would refer to a violation of the statute "or an order or interim order issued under" the statute. The effect of this change would be to expand the applicability of the provisions so that the penalties would also apply to violations of orders issued by the Natural Resources Commission, which, under Public Act 377 of 1996 (and approved by the people as Proposal 'G' in the November, 1996 general election), has exclusive authority to regulate the taking of game in the state.

- Currently, a violation of the statute or order or interim order regarding the possession or taking of any game *except* deer, bear, wild turkey, moose, or elk is a misdemeanor, punishable by imprisonment for up to 90 days, a fine of from \$100 to \$1,000, or both, and the costs of prosecution. The bill would delete the minimum fine amount, so that a fine could be any amount up to \$1,000. (A violation of the statute or a departmental order or interim order regarding the possession or taking of deer, bear, or wild turkey is a misdemeanor, punishable by imprisonment of from 5 days up to 90 days, and a fine of at least \$200 up to \$1,000, and the costs of prosecution. A violation of statute or an order regarding the possession or taking of moose is also a misdemeanor, punishable by imprisonment for 90 days to one year, and a fine of from \$1,000 to \$5,000, and the costs of prosecution. The bill would not change these penalties.)

- A violation of the statute or an order regarding the possession or taking of elk is a misdemeanor, punishable by imprisonment for 30 to 180 days, a fine of from \$500 to \$2,000, or both, and the costs of prosecution. The bill would delete both the minimum term of imprisonment and the minimum fine, so that punishment would be up to 180 days imprisonment, a fine of up to \$2,000, or both, and the costs of prosecution.

- A violation of a provision that prohibits "shining" (use of a spotlight, headlight, or other artificial light while taking game) is a misdemeanor, punishable by imprisonment for 5 to 90 days, a fine of from \$100 to \$500, or both, and the costs of prosecution. The bill would delete the minimum term of imprisonment and the minimum fine. Further, the bill would delete the minimum

fine for a violation of a provision that prohibits using an artificial light to locate game during certain months and hours of the day. However, in a provision that requires a motorist to immediately stop his or her vehicle on request of a peace officer when the vehicle is used to cast artificial light in a clear attempt to locate game, the penalties for violations would remain unchanged (those penalties include both a minimum term of imprisonment and a minimum fine).

- The bill would also delete the minimum fine of \$100 in a provision that specifies penalties for taking or possession of an animal that has been designated by the department to be a protected animal. Under the bill, a violation would be a misdemeanor punishable by up to 90 days imprisonment, a fine of up to \$1,000, or both, and the costs of prosecution.

- Finally, the statute specifies that any other violation of this part of the act (and an order or interim order issued under it) is a misdemeanor, punishable by imprisonment for up to 90 days, a fine of from \$50 to \$500, or both, and the costs of prosecution. The bill would delete the minimum fine from this provision.

MCL 324.40117 and 324.40118

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.