

LENAWEE COUNTY: SUNDAY HUNTING OF PREDATORS

House Bill 4300 (Substitute H-4) First Analysis (6-12-01)

Sponsor: Rep. Doug Spade
**Committee: Conservation and Outdoor
Recreation**

THE APPARENT PROBLEM:

For several years, there has been a growing problem with coyotes in Lenawee County attacking and killing livestock. Though coyotes can be hunted from July 15 to April 15, Local Act 1 of 1931 prohibits hunting any game with firearms or dogs on Sunday in the County of Lenawee. (Sunday hunting on state-owned lands is permitted.) According to the Department of Natural Resources (DNR), hunting predatory animals such as coyotes can require certain equipment and knowledge on the part of a hunter in order to achieve a reduction in livestock losses. Not all people who raise livestock possess the necessary hunting skills, and so many arrange for experienced hunters to help them control the populations of predatory animals on their properties. Many believe, however, that the Sunday hunting ban significantly reduces the effectiveness of protecting livestock from predatory animals because many hunters are only available to hunt on weekends.

In recognition of the problems faced by farmers and livestock producers, the Lenawee County Board of Commissioners adopted a resolution on March 10, 1999 that urged the legislature to adopt specific waivers allowing for the hunting of predatory animals in counties where a uniform ban on Sunday hunting exists. Legislation has been proposed to amend Local Act 1 to exempt livestock producers in Lenawee County from the Sunday hunting ban so that they could hunt certain predators on their own lands.

THE CONTENT OF THE BILL:

Local Act 1 of 1931, Section 1, prohibits hunting on Sunday in Lenawee County. House Bill 4300 would amend the act to allow livestock producers to hunt certain predators on Sundays. [Note. Under the Animal Industry Act (MCL 287.705), "livestock" is defined to mean those species of animals used for human food and fiber or those species of animals used for service to humans. "Livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, captive cervidae, ratites,

swine, equine, poultry, aquaculture, and rabbits. The definition excludes dogs and cats. Under House Bill 4300, "livestock" would have the same meaning.]

The bill would specify that the provisions of Section 1 of the act did not apply to a person, or his or her designee, who was engaged in the production of livestock on a parcel of land in the county, under the following conditions:

- The person or designee had a written Sunday hunting exemption issued by the Department of Natural Resources.
- The person was hunting coyote, fox, or raccoon on the parcel, or a contiguous parcel, that was owned or leased by the person or by an immediate family member, which would be defined under the bill to mean a person's spouse, father, mother, father-in-law, mother-in-law, child, stepchild, sibling, or half sibling.

Sunday Hunting Exemption. Under the bill, a person engaged in livestock production in Lenawee County could submit a written request for an exemption to hunt coyote, fox, or raccoon on Sunday. The request would have to state the type of livestock being raised, the legal description of the property on which the livestock was being raised, and that the information provided in the request was true. The DNR, upon receipt of the request, would have to issue a written Sunday hunting exemption for hunting coyote, fox, and raccoon to the person. A written exemption would be valid for one year, but could be renewed.

Enacting section. The bill would specify that it could not take effect unless approved by a majority of the electors of Lenawee County voting on the question. The question of approval of the bill would have to be submitted to local voters at the next regular election that would be held (but not less than 60 days after the effective date of the bill), or at a special election called by the Lenawee County Board of Commissioners. The question would have to be submitted in a form substantially similar to what is

prescribed in the bill. If passed by a majority of qualified voters, the bill would then take effect ten days following the certification of the election results.

BACKGROUND INFORMATION:

Hunting seasons. The hunting season for coyotes is July 15 to April 15, but hunting coyotes is prohibited in the Upper Peninsula during firearm deer season. The hunting season for grey and red fox is October 15 to March 1. The hunting season for raccoon is October 1 to January 31. Each species also has a designated trapping season.

Natural Resource Commission Orders. Public Act 256 of 1988 (MCL 300.258) grants the Natural Resources Commission the authority to issue commission orders to administer laws and regulations relating to hunting. Section 3.605 of the Wildlife Conservation Order allows a property owner or their designee to take raccoon all year on property owned by the person when raccoons are doing or are about to do damage to the person's property. A person taking a raccoon under this provision is considered to be a permittee as defined by Section 5.50 of the order, and the person is authorized to take raccoon year-round by lawful hunting and trapping methods.

Similarly, Section 3.610 of the Wildlife Conservation Order allows coyotes to be taken all year on private property by the property owner or their designee when coyotes are doing or about to do damage to their property.

Definitions. The Natural Resources and Environmental Protection Act (NREPA) defines "taking" to mean "to hunt with any weapon, dog, raptor, or other wild or domestic animal trained for that purpose; kill; chase; follow; harass; harm; pursue; shoot; rob; trap; capture; or collect animals, or to attempt to engage in such an activity." "Open season" is the time during which game animals (which include coyotes, raccoons, and foxes), game birds, fur-bearing animals, and aquatic species may be legally taken or killed. (MCL 324.43506)

"Hunt" and "hunting" are defined as to "pursue, capture, shoot, kill, chase, follow, harass, harm, rob, or trap a wild animal, or to attempt to engage in such an activity." (MCL 324.43506)

Local acts. During the 1920s, 1930s, and 1940s, the legislature passed a number of local acts that prohibit Sunday hunting in various counties, in part as a means of preserving game. Since 1992, the state

legislature has repealed local acts banning Sunday hunting in six counties, sometimes by simply repealing the local act applying to the county (Monroe, Livingston, and Shiawassee counties), and sometimes repealing the local act contingent on approval of a referendum by voters in the county (Sanilac, Lapeer, and Huron counties).

Public Act 396 of 1994 made the repeal of nine local acts banning Sunday hunting contingent on approval of the repeal by the voters of the counties involved within two years of the public act's effective date. By the December 29, 1996, deadline, three counties (Sanilac, Lapeer, and Huron) approved the repeal by referendum, five counties (Tuscola, Washtenaw, Lenawee, St. Clair, and Hillsdale) rejected the repeal, and Macomb County did not hold a referendum on the repeal.

Article IV, Section 29 of the 1963 Michigan constitution states, in part, that the legislature shall pass no local or special act where a general ("public") act can be made applicable. This section of the 1963 constitution also provides that a local or special act cannot take effect "until approved by two-thirds of the members elected and serving in each house and by a majority of the electors voting thereon in the district affected." However, the repeal of a local act requires only a majority vote by legislators in both houses, and does not require submission to the electors of the local district in question.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state or on local units of government. (6-11-01)

ARGUMENTS:

For:

Coyotes, foxes, and raccoons are predators that wreak economic havoc on the livelihood of livestock producers. Besides the obvious losses through death and injury to animals that the predators cause, milk and egg production can decrease if animals are frightened, and wild predators (especially raccoons) spread rabies and other diseases to domestic flocks and herds. According to the Department of Natural Resources (DNR), hunting is the most effective means of controlling the population of predators such as coyotes.

Not all farmers and ranchers possess the necessary hunting skills to effectively reduce the predator population in their area, and so must rely on more

skilled hunters. Often, however, these hunters are available only on weekends. The Sunday hunting ban in Lenawee County, therefore, cuts in half the time that they can hunt coyote, raccoon, and fox on behalf of the livestock producers of that county. The result is that Lenawee County is facing an increase in the number of predatory animals, and thus an increase in attacks on livestock. Over three years ago, the Lenawee County Board of Commissioners adopted a resolution urging the state legislature to amend the Sunday hunting laws to allow the hunting of predatory animals on Sunday.

House Bill 4300 would aid local farmers in their fight to control ever increasing numbers of predatory animals without infringing on the expressed desire by local voters to keep the overall ban on Sunday hunting. (The voters of Lenawee County have twice affirmed the Sunday ban on hunting.) Under the bill, a livestock producer (or his or her designee) could hunt coyote, fox, or raccoon only on property that he or she owned or leased or that was owned by an immediate family member. According to DNR staff, the wording of the bill appears to apply only to regular hunting seasons as established by the Natural Resources Commission. (*See Background Information.*) A person would have to submit a written request for an exemption, and would have to supply the DNR with specific information. The exemption would have to be approved each year. The bill would enable livestock producers to protect their flocks and herds, and thus their livelihood. Further, the DNR reports in its departmental analysis that the bill will also have a positive impact on the department's wildlife management program.

Response:

Under orders of the Natural Resource Commission, livestock producers can already kill coyotes and raccoons all year long, not just during hunting season, if the predators are posing a danger to their livestock. (*See Background Information.*) Besides, some in the department interpret the commission orders as applying even to farmers living in counties with a Sunday hunting ban, meaning that a livestock producer living in Lenawee County can already kill a coyote or raccoon which is threatening his or her property all year long and even on Sunday. This is because a distinction is made between hunting and protecting one's property from imminent danger. If a farmer sees a coyote or raccoon attacking or posing a threat to his or her livestock, the farmer can legally kill that coyote or raccoon.

Reply:

There appear to be differing opinions about whether the commission orders clearly authorize property owners in counties with Sunday hunting bans to

shoot predators out of season. Though DNR staff appear to distinguish between hunting and killing a predator that is doing or about to do damage to property such as livestock, reportedly, some farmers are being cited by local law enforcement officers for violating the Sunday hunting ban.

In addition, many farmers lease land (the commission orders apply only to land owned by the farmer). Also, coyotes, raccoons, and foxes are primarily nocturnal animals. Many of the attacks occur at night when the farmer is otherwise occupied or sleeping. The commission orders may apply if the farmer happens to observe an attack in progress or sees a coyote heading for the sheep or a raccoon for the hen house, but this does little to prevent the predator population from continuing to increase. In addition, the commission orders do not allow a fox to be taken out of season, even if observed attacking livestock. Though the bill would only permit fox to be hunted on Sunday during fox-hunting season, and on the farmer's property, it would still help in controlling the fox population and decreasing property losses.

Against:

The bill is a good start, but it still does not make sense to ban Sunday hunting in six counties when it is allowed in the other 77. Further, deer and Canada geese often do just as much damage to crops and livestock as coyote, fox, and raccoon. A better approach would be to repeal all the Sunday hunting bans and to liberalize the hunting regulations on white tail deer and Canada geese.

Response:

The bill would respect the position taken by the voters of Lenawee County and retain the ban on Sunday hunting. It would merely allow livestock producers to hunt the most destructive predators on Sundays but only on their own or leased lands. The problem of deer and geese should be addressed at a different time.

POSITIONS:

The Department of Natural Resources supports the bill. (6-8-01)

The Michigan United Conservation Clubs (MUCC) supports the bill. (6-8-01)

Analyst: S. Stutzky

■ 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.