

GAME BIRD HUNTING PRESERVES

House Bill 4412 as enrolled
Public Act 23 of 2001
Second Analysis (7-1-01)

Sponsor: Rep. Larry DeVuyst
Committee: Conservation and Outdoor
Recreation

THE APPARENT PROBLEM:

Currently, Part 417 of the Natural Resources and Environmental Protection Act (NREPA) addresses the regulation of private shooting preserves. However, according to the Department of Natural Resources (DNR), the Michigan Association of Game Bird Breeders and Hunting Preserves has suggested that the scope of Part 417 be broadened to more accurately represent the association's activities. (Specifically, these preserves are "put and take" operations that bring in the game birds that are to be shot.) The association also suggests that the current one-year license period for game bird hunting preserves be extended to three years, with a corresponding tripling in license fees. The association points out that administrative costs would be reduced, both for game bird hunting preserves and for the DNR, if licenses could be renewed every three years rather than annually. At the same time, the DNR has requested that legislation be introduced deleting the department's authority to promulgate rules concerning game bird hunting (see BACKGROUND for further information). Consequently, legislation has been proposed that would incorporate the Game Bird Hunting Preserve Association's request, and delete the DNR's authority to issue rules on game bird hunting.

THE CONTENT OF THE BILL:

Currently, Part 417 (MCL 324.41701 et al.) of the Natural Resources and Environmental Protection Act (NREPA) regulates shooting preserves. House Bill 4412 would amend the act to refer instead to "game bird hunting preserves;" extend -- from one to three years -- the length of time a license is valid, and increase current licensing fees to reflect the change; delete the Department of Natural Resources' (DNR) authority to promulgate rules on game bird hunting; and rescind shooting preserve rules in the administrative code (299.641). The bill would also delete current references to the shooting of animals in these preserves.

In addition, House Bill 4412 would amend other parts of NREPA to comport with the above-described

amendments. Specifically, it would amend the penalty section of Part 427 (MCL 324.42714) which addresses breeders and dealers; and the hunting license fee section of Part 435 (MCL 324.43530), which controls the hunting of small game on preserves.

License Fees. Currently, the act specifies that licenses are valid from July 1 through June 30. Under the bill, they would be valid from the date of issuance until June 30th of the third license year. The act also specifies that the license fee for operating a preserve is \$35 for a preserve of 320 acres or less, and \$60 for a preserve in excess of 320 acres. The bill would increase these fees to \$105 and \$180, respectively, to correspond with the change to three-year licenses. The bill would also specify that each game bird hunting preserve would have to be owned or leased by the licensee.

DNR Orders. Currently, the act specifies that the DNR may promulgate rules and issue orders governing the administration of Part 417. House Bill 4412 would delete the provision allowing the department to promulgate rules. Further, DNR orders would be subject to current provisions in the act concerning the management of animals by the department. The bill would also rescind shooting preserve rules in the administrative code (299.641).

Stamp Marks on Carcasses. Currently, the act specifies that a stamp mark, band, tag, or seal must be affixed to the carcass or wrapper of each bird shot before it is either consumed or removed from the property, and that such markers may not be removed until the carcass is prepared for consumption. House Bill 4412 would specify, instead, that the stamp mark, band, tag, or seal should be affixed to the carcass or to the container holding the carcass, and that these provisions would apply except as otherwise provided under an order issued by the DNR. In addition, the bill would add that the stamp mark, band, tag, or seal could not be removed

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from the container until each carcass in the container was prepared for consumption.

BACKGROUND INFORMATION:

Public Act 11 of 1989 allowed the Natural Resources Commission (NRC) to issue orders to permit the shooting of game birds rather than have this accomplished by the Department of Natural Resources (DNR) under the administrative rules process. In addition, under Public Act 8 of 1989, the NRC was authorized to issue orders governing the administration of shooting preserves. The orders were to be issued according to the provisions in the Wildlife Conservation Act governing the issuance of commission orders. Accordingly, the NRC issued the Shooting Preserve Commission Order, although not until 1993. However, provisions to delete the DNR's authority to promulgate rules, as specified under the commission's Shooting Preserve Commission Order, were not rescinded.

FISCAL IMPLICATIONS:

The bill would extend the license period for game bird hunting preserves from one to three years, and accordingly triple the license fees. This would result in a shift in revenue from the second and third years to the year in which the license is purchased. However, the House Fiscal Agency (HFA) estimates that the bill would have no fiscal impact on the state when looked at over a three-year period. (6-27-01)

ARGUMENTS:

For:

The bill would provide an efficient method of fulfilling the Department of Natural Resources (DNR) request that the current language of Part 417 of the Natural Resources and Environmental Protection Act (NREPA) be changed to allow the department to issue orders, rather than promulgate rules, concerning shooting preserves, and, at the same time, respond to the concerns of game bird hunting preserve association members - that their hunting activities be more accurately defined under the act, and that license periods be extended from one to three years - by changing the scope of Part 417 of the act, from the regulation of "private shooting preserves," to "game bird hunting preserves," and by deleting references to the shooting of animals in preserves. The amendments regarding game bird hunting preserve licenses would also provide administrative efficiencies for both the

DNR and for preserves, since license fees would only have to be paid every three years.

Against:

The bill would delete a provision that specifies that shooting preserves with operations involving animals not native to Michigan should be adequately fenced to keeping them in complete captivity. Reportedly, in the past, some shooting reserves purchased wild animals, such as tigers, that zoos no longer found suitable because of their age. According to the report, hunters were then flown in from other counties, and allowed to hunt them. The prohibition specified in the act discouraged this practice, but some fear that it would resume if the provision were removed.

Response:

The provisions of Part 417 of the act apply only to game birds in game bird hunting preserves. Tigers, and other animals, are regulated elsewhere in the act. Moreover, according to the DNR, the provision in the act concerning the fencing of wild animals is archaic and needs to be deleted.

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