

HUNTING MOURNING DOVES

House Bill 5029 (Substitute H-1) First Analysis (11-4-03)

Sponsor: Rep. Sue Tabor
**Committee: Conservation and Outdoor
Recreation**

THE APPARENT PROBLEM:

Reportedly, 39 states allow the hunting of mourning doves. In 1985, the Natural Resources Commission voted to establish a mourning dove hunting season in Michigan, but as the result of a lawsuit filed by the Michigan Humane Society challenging the commission's authority, the state appeals court ruled that only the legislature can declare an open season under the Game Law of 1929. The Game Law was replaced in 1988 with the Wildlife Conservation Act (which now is part of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994), which specified that only the legislature can authorize the establishment of the first open season for an animal declared as game, and mourning doves have not been included on the list of game animals.

Legislation has been introduced to allow mourning doves to be hunted as game animals.

THE CONTENT OF THE BILL:

The bill would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to include the mourning dove in the act's list of game animals. In addition, the bill states that the legislature explicitly authorizes the establishment of the first open season for mourning doves and permits the Natural Resources Commission to issue orders pertaining to mourning doves for the purposes of Section 40113a of the act.

Section 40113a contains specific legislative findings and declarations related to the taking of game, which were added to the act following the passage of Proposal G at the November 1996 general election. In particular the section states that the legislature finds that, as related to the hunting of mourning doves, (1) wildlife populations of the state and their habitat are of paramount importance to the state's citizens and (2) the sound scientific management of wildlife populations of the state is in the public interest. The section further provides that the NRC

has the exclusive authority to regulate the taking of game in this state and, in doing so, it shall utilize the principles of sound scientific management.

MCL 324.40103

BACKGROUND INFORMATION:

Previous Legislation. During the 1999-2000 legislative session, Rep. Tabor introduced HB 6147, which would have introduced a mourning dove season. That bill passed the House 56-45 in November 2000 and was defeated in the Senate 19-15 in December 2000. Closely related to this issue, last session, Rep. Cameron Brown introduced HB 5478, which would have allowed the NRC to designate a species as game. That bill was reported out of the House Committee on Conservation and Outdoor Recreation in December 2001. The bill remained on the House floor for the balance of the 2001-2002 legislative session.

Litigation. In 1985, the Natural Resources Commission (NRC) voted to establish a mourning dove hunting season, and the Department of Natural Resources (DNR) followed that action by promulgating hunting regulations for a 22-day open hunting season for mourning doves in the fall of 1985. The Michigan Humane Society filed suit against the NRC and the DNR challenging their authority to establish a mourning dove season. In *Michigan Humane Society v. Natural Resources Commission*, the Michigan Court of Appeals held that, though the NRC had the power to establish the time, manner, and bag limits of a hunt, the power to declare an open season rested with the legislature as provided under the Game Law of 1929. The court stated, in part, that "this matter is too important to rest on the assumption that the NRC has implied authority to establish a mourning dove season simply because no laws expressly forbid such a season." One year later, the Wildlife Conservation Act repealed the Game Law of 1929, and replaced and

modified the provision that had stated that only the legislature could designate a species as game and authorize the establishment for the first open season for a newly designated game animal. Mourning doves were not included in the list of species considered game under the Wildlife Conservation Act (which was later incorporated into the Natural Resources and Environmental Protection Act). Reportedly, the court also issued a permanent injunction against the DNR and the NRC with regard to promoting the hunting of mourning doves.

Other states. Following a two-year court battle over the authority of the Wisconsin Natural Resources Board to allow a mourning dove hunt, Wisconsin offered its first mourning dove season in September. Ironically, in 1971, the Wisconsin legislature designated the mourning dove as the state's official bird of peace (and, at the same time, took the bird off the list of game species). A recent article in the *Milwaukee Journal Sentinel* noted that Wisconsin DNR officials estimate 20,000 to 30,000 people will participate in the mourning dove hunt. The *Minneapolis Star-Tribune* reported in late August that Wisconsin's mourning dove season would run from September 1 through October 30, with shooting hours being one-half hour before sunrise until sunset. The daily bag limit is 15, and the possession limit is 30. Non-resident small game licenses (which include the ability to hunt the mourning dove) cost \$75 and non-resident five-day small game licenses are \$43.

During the 2003 legislative session in Minnesota, several bills were introduced to establish a mourning dove hunting season, which have not been hunted in Minnesota since 1947 (See House Files 529, 530, and 789, and Senate Files 697, 698, and 887). Minnesota joins Michigan and Iowa as the only other Midwest states not to permit a mourning dove season. The Iowa legislature approved legislation in the 2001-2002 session, but it was vetoed by Governor Tom Vilsack. The other states that do not allow for a mourning dove hunt are all of the New England states, New York, and New Jersey.

Ohio passed legislation in 1994 that established a mourning dove season for the first time in roughly 80 years. In 1998, there was a statewide ballot proposal to repeal the law. The ballot measure was defeated 60 percent to 40 percent.

FISCAL IMPLICATIONS:

Individuals wishing to hunt mourning doves would purchase a license issued by the Department of Natural Resources. The amount of revenue realized

through the increased sale of licenses would depend on the number of new, unlicensed hunters wishing to participate in the hunting season for mourning doves. As such, the bill would result in an indeterminate increase in revenue to the Game and Fish Protection Fund. The bill would have no fiscal impact on local governmental units. (House Fiscal Agency analysis dated 10-29-03)

ARGUMENTS:

For:

Proponents of the bill note that mourning doves provide a great hunting opportunity as well as an excellent recruitment tool for sport hunting. Mourning doves are especially fun to hunt because of their fast, erratic flight patterns make them an extremely challenging shot. To that point, a biologist with the Wisconsin DNR was quoted in a recent article in the *Milwaukee Journal Sentinel* stating, "[d]oves can fly 20 to 30 mph. Add some wind to that, and their erratic flight patterns, and it gets to be a challenge. For the most part, they're really zipping by when you're hunting." In addition, because mourning doves can be hunted from a stationary position - unlike hunting other game animals, which may involve walking over rough terrain, climbing into tree stands, or standing in cold water - they make successful pursuit more feasible for a number of categories of hunters who may have difficulty in successfully hunting other game animals. This increases hunting opportunities for elderly hunters and (young) novice hunters, which is particularly important in getting young people involved in the sport. Also, hunting mourning doves does not require the endless hours of stealth and silence often required for hunting other game, particularly deer. This makes mourning dove hunting a much more family-friendly activity than other types of hunting, as children can play and move about in the wilderness without scaring the birds away.

Also, proponents of the bill note that 39 other states - including Ohio, Indiana, Illinois, and Wisconsin - allow the hunting of mourning doves. Proponents also note that Michigan loses out economically by not allowing mourning dove hunting. With all three border states and nearby Illinois allowing for a hunting season, Michiganders must leave the state in order to hunt mourning doves; obviously no out-of-state hunters enter the state to hunt mourning doves. This annual exodus of residents to other states has a huge impact, both in Michigan (negative) and the destination state (positive). Virtually every proponent of the bill who testified before the House

Committee on Conservation and Outdoor Recreation noted that when they travel to another state to hunt mourning doves, they spend hundreds of dollars on lodging, gasoline, food, and hunting supplies. This is money that is not being spent in Michigan, and the state loses out on a great deal of economic activity and tax revenue. By allowing mourning dove hunting, the state will not only retain its residents, but will also attract hunters from other states. In economic terms, the state only stands to gain from this.

Proponents also testified that there is no scientific reason not to hunt mourning doves. The birds are said to be abundant and to , procreate very quickly and often, and are a prey to practically every other predator in nature - hawks, falcons, owls, foxes, and (in most other places) humans, among a host of others. Allowing for a limited hunt of mourning doves will not, in great degree, affect the biological and ecological balance. It should be further noted that hunting allows for a check on population of the animal. Overpopulation of an animal - deer in particular - can affect the state's natural resources in a manner equally adverse as underpopulation. Further, a limited hunt will not lead to the eventual extinction of the bird. (Most occurrences of that regarding other species have either quite some time ago or in another culture.) It is simply not in the best interest of hunters of any game animal to continue to hunt the animal to near extinction (either entirely or in that particular area).

Moreover, in written testimony on similar legislation from two sessions ago, the Chief of the Wildlife Division of the Ohio Department of Natural Resources noted that, "[d]ove hunting has not impacted dove numbers in Ohio. Based on data from the U.S. Fish and Wildlife Service, dove numbers in Ohio since the first season in 1995 have remained stable." Further, "[s]urveys initiated by our research staff revealed that dove hunting in Ohio was enjoyed by 40,000 licensed hunters the first season (1995) and countless others who could hunt on their own property without a license. Despite a failed attempt by a few vocal anti-hunting groups to repeal Ohio's dove hunting law, the popularity of this outdoor pursuit has grown significantly. Within 3 years, the number of licensed Ohio dove hunters has reached 50,000 to 60,000. I expect this number will continue to grow as more and more Ohioans are introduced to this new hunting opportunity. There is no biological reason not to hunt America's most popular game bird."

Against:

Some people believe that killing animals for a recreational purpose (that is, one that is not directly, or at least significantly, related to survival or to the proper stewardship of the state's precious natural resources) is, at the very least, unnecessary. Reportedly, the majority of state citizens oppose the hunting of mourning doves (the number of letters to the editor and newspaper editorials seems to confirm this) and, on that ground alone, so should the legislature. Opponents also question the practicality of hunting these birds as a source of food. These birds - bones and feathers included - typically weigh less than a half a pound. Whatever meat that can be extracted hardly makes the mourning dove a worthy game bird. Also, some protest to the hunting of a songbird, and question the quality and integrity of the hunt.

Opponents say that the mourning dove has been continuously protected in Michigan since 1905 and should continue to be protected. They are a much-loved backyard bird and should not be subject to target practice, say Humane Society representatives. They also argue that: dove hunting results in mistaken identity kills of American kestrels and Sharp-skinned hawks; there will be an unacceptably high 20 percent wounding rate where mourning doves are hunted; a September season would result in orphaned young; since mourning doves perch on power lines, some people might hit these lines while shooting at the birds; and dove hunting will contribute to the discharge of lead shot in the environment to the detriment of other wildlife, particularly waterfowl.

Response:

The mourning doves that sit on a bird feeder in a person's backyard are not the same doves that fly around in the wilderness and would be subject to the hunting allowed here. Wild birds tend to be stronger fliers, more wary of humans, and have enhanced survival skills. Equating two birds from distinct environments is not entirely accurate.

POSITIONS:

The Department of Natural Resources is neutral on the bill. (10-29-03)

The Michigan United Conservation Clubs indicated that it supports the bill. (10-29-03)

The National Rifle Association indicated that it supports the bill. (10-28-03)

The Michigan Coalition of Responsible Gun Owners indicated that it supports the bill. (10-29-03)

Michigan Resource Stewards (an organization composed mainly of natural resources and environmental stewards formerly associated with the DNR and Department of Environmental Quality) indicated that it supports the bill. (10-17-03)

The Bluewater Chapter of the Michigan Duck Hunters Association indicated that it supports the bill. (10-29-03)

The Andy Ammann Chapter of the Ruffed Grouse Society indicated that it supports the bill. (10-29-03)
The Board of Trustees of the Michigan Conservation Foundation indicated that it supports the bill. (8-27-03)

The Michigan Hunting Dog Federation indicated that it supports the bill. (10-29-03)

The Michigan Association of Purebred Dogs indicated that it supports the bill. (10-29-03)

Ted Nugent United Sportsmen of America indicated that it supports the bill. (10-29-03)

The American Kennel Club (AKC) indicated that it supports the bill. (10-14-03)

The Michigan Chapter of the National Wild Turkey Federation indicated that it supports the bill. (10-29-03)

The Humane Society of the United States indicated that it opposes the bill (10-29-03)

The Michigan Humane Society indicated that it opposes the bill. (10-29-03)

The Songbird Protection Coalition indicated that it opposes the bill. (10-29-03)

Analyst: M. Wolf

■ 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.