



Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bills 4560 and 4562 (as passed by the House)
House Bill 4567 (Substitute H-1 as passed by the House)
House Bill 4613 (as passed by the House)
Sponsor: Representative Tim Moore (H.B. 4560)
Representative Gary Newell (H.B. 4562)
Representative David Booher (H.B. 4567)
Representative Bill Caul (H.B. 4613)
House Committee: Agriculture
Senate Committee: Agriculture, Forestry and Tourism

Date Completed: 6-1-05

CONTENT

House Bills 4560, 4562, and 4567 (H-1) would amend Public Act 72 of 1945 (which concerns plant diseases and insects), the Insect Pest and Plant Disease Act, and the Code of Criminal Procedure, respectively, to establish State civil infraction, administrative, and criminal penalties related to the violation of quarantines and other violations involving plant infestations and diseases. House Bill 4613 would amend Chapter 88 (State Civil Infractions) of the Revised Judicature Act to include Michigan Department of Agriculture (MDA) agents in the definition of "law enforcement officer".

House Bills 4567 (H-1) and 4613 are tie-barred to House Bills 4560 and 4562.

House Bill 4560

A violation of Public Act 72 of 1945 is a misdemeanor punishable by a fine of not less than \$25 or more than \$100 and/or imprisonment for up to 90 days. This bill would retain this penalty, except for the violations described below.

Under the bill, a person who violated a rule promulgated or order issued under the Act that required the destruction of plants would be responsible for a State civil infraction and would have to be fined up to \$1,000, plus expenses incurred by the MDA in destroying the plants.

A person who violated a quarantine rule promulgated or quarantine order issued under the Act would be responsible for a State civil infraction and would have to be fined not less than \$1,000 or more than \$10,000. If a person voluntarily reported the violation to the MDA before it was otherwise known to the Department or the person had reason to believe the violation was about to become known to the Department, the maximum fine would be \$500.

A person who knowingly violated a quarantine rule promulgated or quarantine order issued under the Act would be guilty of a misdemeanor and could be imprisoned for up to one year and would have to be fined not less than \$1,000 or more than \$10,000.

A person who intentionally violated a quarantine rule promulgated or quarantine order issued under the Act, for the purpose of causing damage to plants, natural resources, or

agricultural, silvicultural, or horticultural products or resources, would be guilty of a felony punishable by imprisonment for up to five years and/or a maximum fine of 250,000.

A person who violated a quarantine rule promulgated or quarantine order issued under the Act would be liable for any damage to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including costs incurred to investigate, monitor, prevent, or minimize the damage.

The Act provides that the fine and imprisonment are at the discretion of the court and the amount collected in fines must be paid to the Agriculture Commissioner, who must turn the fines over to the State Treasury. The fines must be used to help to defray the expenses of the enforcement of the Act, in addition to the regular annual appropriation for the MDA. The bill would delete these provisions.

House Bill 4562

The bill would amend the Insect Pest and Plant Disease Act to provide that a person, other than a person who was required to be licensed under the Act, who violated Section 20 (which allows the MDA Director to declare an insect or plant disease a nuisance and implement an eradication program) or an order issued under Section 20 would be responsible for a State civil infraction and would have to be fined up to \$1,000 plus expenses incurred by the MDA in abating the nuisance. If the person were required to be licensed under the Act, the Director would have to impose an administrative fine of up to \$1,000 plus expenses incurred by the MDA in abating the nuisance.

The following would apply to a person who violated Section 23 or a rule promulgated or regulation issued under Section 23, or who violated Section 18(b) or a permit issued under Section 18(b) with respect to an insect pest or plant disease that was the basis of a quarantine imposed by the Director or the United States Department of Agriculture (USDA):

- A person, other than a person who was required to be licensed under the Act, would be responsible for a State civil infraction and would have to be fined not less than \$1,000 or more than \$10,000.
- If a person were required to be licensed under the Act, the Director would have to impose an administrative fine of not less than \$1,000 or more than \$10,000.

In either case, if the person voluntarily reported the violation to the MDA before it was otherwise known to the Department or the person had reason to believe the violation was about to become known to the Department, the maximum fine would be \$500.

(Section 23 allows the Director to impose a quarantine prohibiting or restricting the transportation into or through the State from such other state, territory, or district, of any class of nursery stock, plant, fruit, seed, or any other article capable of carrying a dangerous plant disease or insect infestation. Section 18(b) provides that no person is permitted to barter, offer for sale, or move, transport, deliver, ship, or offer for shipment, into or within this State any living insects in any stage of their development, or living fungi, bacteria, nematodes, viruses or other living plant parasitic organisms without first obtaining a permit from the Director.)

A person who knowingly violated Section 23 or an order issued or rule promulgated under it, or knowingly violated Section 18(b) or a permit issued under it with respect to an insect pest or plant disease that was the basis of a quarantine imposed by the Director or the USDA, would be guilty of a misdemeanor and could be imprisoned for up to one year and would have to be fined not less than \$1,000 or more than \$10,000.

A person who intentionally committed a violation for the purpose of causing damage to plants, plant products, natural resources, or agricultural, silvicultural, or horticultural

products or resources, would be guilty of a felony punishable by imprisonment for up to five years and/or a maximum fine of 250,000.

A person who violated Section 23 or a rule promulgated or order issued under it, or Section 18(b) or a permit issued under it, would be liable for any damage to plants, plant products, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including costs incurred to investigate, monitor, prevent, or minimize the damage.

The bill provides that the violations described above would not be subject to Section 24 or 26, which provide for penalties for any person, firm, partnership, association, or corporation that violates a quarantine, or rule, request or order of the Director.

House Bill 4567 (H-1)

The bill would amend the sentencing guidelines contained the Code of Criminal Procedure to specify that the following offenses would be Class E felonies against the public order punishable by a maximum prison sentence of five years:

- Intentional violation of a quarantine rule or order issued under Public Act 72 of 1945 (as proposed by House Bill 4560).
- Intentional violation of a quarantine or a permit relating to an insect pest or plant disease for which a quarantine had been issued (as proposed by House Bill 4562).

House Bill 4613

Chapter 88 of the Revised Judicature Act pertains to State civil infractions and authorizes law enforcement officers to issue citations for violations of State law that are State civil infractions. The bill would amend the definition of "law enforcement officer" in Chapter 88 to include an officer, employee, or agent of the Michigan Department of Agriculture enforcing, pursuant to authority granted by the MDA Director, a statute administered, a rule promulgated, or an order issued by the Department or the Director.

MCL 286.259 et al. (H.B. 4560)
Proposed MCL 286.228 & 286.229 (H.B. 4562)
MCL 777.12m (H.B. 4567)
MCL 600.8801 (H.B. 4613)

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. To the extent that they would create new civil infractions, misdemeanors, and felonies, the bills would increase criminal justice costs. Local units would incur the costs of misdemeanor probation and incarceration in a local facility, which both vary by county. The State would incur the costs of felony probation at an average annual cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. Public libraries would benefit from additional civil infraction and penal fines.

To the extent that the bills would allow the Department of Agriculture to collect reimbursement from violators for costs incurred in investigating, monitoring, preventing, and minimizing the damage of certain violations, it could increase departmental revenue.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.