

Legislative Analysis



GAME BREEDER LICENSES: ISSUANCE AND REVOCATION

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Senate Bill 1615 without House amendment

Sponsor: Sen. Raymond E. Basham

House Committee: Tourism, Outdoor Recreation and Natural Resources

Senate Committee: Natural Resources and Environmental Affairs

First Analysis (12-10-08)

BRIEF SUMMARY: The bill would require the Department of Natural Resources (DNR) to notify local governmental units when it receives an application for a game breeder's license for premises located in a residentially-zoned area of a city, village, or township. In addition the bill would allow the DNR to revoke a license already issued, after an opportunity for a hearing, if the licensee operates in residentially-zoned area of a city or village, the licensed use is nonconforming, and the licensee commits a crime or civil infraction relating to pheasants.

FISCAL IMPACT: There may be an indeterminate revenue loss to the Game and Fish Protection Fund, depending on the number of breeders/dealers unable to renew or secure a license to breed and/or sell game. There would be no fiscal impact on local governmental units.

THE APPARENT PROBLEM:

An elderly woman in Taylor, Michigan, Margaret Molnar, whom supporters call Taylor's "bird lady," was reportedly issued a game breeder license many years ago by the Department of Natural Resources under which she raises game birds (pheasants and quail) as well as roosters and hens in a small lot in a residentially-zoned area of the city of Taylor. She was apparently issued her DNR game breeder permit before the city adopted an ordinance prohibiting her operations. City officials have reportedly tried for years to shut down or curtail her operations because of complaints of a serious rat problem in the vicinity.

According to an October 15, 2008 story in the *Detroit News*, she received two state citations this fall and was assessed city civil fines in the amount of \$480 for harborage, nuisance, and unsanitary animal conditions in July after residents complained that the bird cages were harboring rats. In that report, her attorney claimed that rat problems are widespread in Taylor and are not caused by her flock. According to a subsequent *Detroit News* story dated November 24, 2008, an agreement reached in November drops the fines and allows her to keep her birds so long as the population is reduced to 16 birds within 30 days, she provides proof of monthly exterminator visits, and allows city inspections. In addition, the settlement reportedly provides that upon her death, all of the birds will be permanently removed from the property.

Legislation has been introduced to try to prevent this type of situation from developing in the future by requiring the DNR to notify local governmental units when persons apply for game breeder permits for premises in areas of cities, townships, or villages, with residential zoning. The legislation would also make it easier for the DNR to revoke a license already issued if the premises are located in areas zoned residential, the licensed use is a nonconforming use, and the licensee has committed a crime or civil infraction relating to pheasants on the premises.

THE CONTENT OF THE BILL:

The bill would make the following changes to Part 427 (Breeders and Dealers) of the Natural Resources and Environmental Protection Act dealing with licenses issued by the Department of Natural Resources (DNR) for the captive breeding and sales of game. Licenses would remain good for three years and nontransferable, as is currently the case.

- Require the Department of Natural Resources (DNR) to deny an application for a *new* license if the applicant does not own or rent the premises to be used for the licensed activity.
- Beginning on the bill's effective date, require the DNR to notify the applicable city, township, or village in writing and forward a copy of a license application when the premises are not zoned for agricultural use.
- Require the DNR to deny a license application if the relevant local unit of government notifies the DNR within 30 days that the use proposed in the license application would violate a local ordinance that (1) bans captive game animals and (2) does not violate the Michigan Right to Farm Act.
- Allow the DNR to suspend or revoke a license, after providing an opportunity for an administrative hearing, if: (1) the premises are located in an area of a city or village (but not township) that is zoned residential; (2) the licensed use is nonconforming, and (3) the licensee has committed a crime or a civil infraction relating to the captivity of **pheasants** on the premises. (Current grounds—a violation of Part 427 or failure to provide reports and records within reasonable time limits—would be retained, as would a provision that allows a game breeder's license to be suspended or not renewed if the licensee is convicted of a violation of the state game laws.)

MCL 324.42702 & 324.42713

HOUSE COMMITTEE ACTION: The House Tourism committee reported the Senate-passed version of the bill (Substitute S-3) without amendment.

BACKGROUND INFORMATION:

In Part 427, "game" has the same definition as in Part 401. In Part 401, MCL 324.40103, "game" means any of the following except for privately owned cervidae species in registered facilities: badger, bear, beaver, bobcat, brant, coot, coyote, crow, deer, duck, elk, fisher, Florida gallinule, fox, geese, hare, Hungarian partridge, marten, mink, moose, muskrat, opossum, otter, pheasant, quail, rabbit, raccoon, ruffed grouse, sharptailed

grouse, skunk, snipe, sora rail, squirrel, weasel, wild turkey, woodchuck, woodcock, and Virginia rail.

ARGUMENTS:

For:

The bill would help prevent the type of problem described earlier from arising in the future in residentially-zoned areas by requiring the DNR to notify local governmental units when it receives an application from someone applying for a game breeder license in a residential zone. It would also make it easier for the DNR to revoke the licenses of problematic breeding operations already located in residential areas of cities or villages.

Against:

Why doesn't the bill confer the same authority on the DNR to revoke the licenses in all residential areas, including townships, and as to violations of other game laws, not just those relating to pheasants?

Response:

The bill's license revocation provision was carefully crafted to address a specific problem involving a pheasant operation in a city and might not have the same support if applied outside of cities and villages or to persons who violate laws other than those relating to pheasants.

POSITIONS:

The Department of Natural Resources indicated support of the bill. (12-10-08)

The City of Taylor indicated support of the bill. (12-10-08)

The Michigan Townships Association indicated support of the bill. (12-10-08)

The Michigan Farm Bureau indicated neutrality on the bill. (12-10-08)

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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.