



Senate Fiscal Agency  
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## BILL ANALYSIS

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Senate Bill 1615 (Substitute S-3 as passed by the Senate)  
Sponsor: Senator Raymond E. Basham  
Committee: Natural Resources and Environmental Affairs

(as enacted)

Date Completed: 12-12-08

### **RATIONALE**

A situation in the City of Taylor involving a commercial pheasant operation has raised concerns about the permitting of game breeding facilities. Evidently, there is sometimes conflict between local ordinances prohibiting such facilities and the State law authorizing the Department of Natural Resources (DNR) to issue permits for them. Additionally, the DNR may revoke a permit only under specific circumstances; thus, though a facility may cause a nuisance and the owner can be ticketed for local ordinance violations, the criteria necessary to shut it down might not be met. It has been suggested that the DNR should be required to notify a local unit when an application for a game breeding facility is submitted and deny the application if a local ordinance prohibiting the captivity of game animals exists. Additionally, it has been suggested that the circumstances under which the DNR may revoke a license should be expanded.

Under Part 427, the Department of Natural Resources may issue licenses to authorize the possession of game for propagation and the dealing in and selling of game. A license may not be granted to an applicant who is not the owner or lessee of the premises to be used for the purposes designated in the license application.

Beginning on the bill's effective date, unless the premises to be used for the designated purposes were zoned agricultural, the DNR would have to give written notice to the city or township and, if applicable, village where the premises were located that an application had been filed. The notice would have to include a copy of the application. The DNR would have to deny the application if the local unit notified the Department within 30 days after the notice was sent that the use designated in the application would violate a local ordinance that prohibited the captivity of game animals and did not violate the Michigan Right to Farm Act.

### **CONTENT**

**The bill would amend Part 427 (Breeders and Dealers) of the Natural Resources and Environmental Protection Act to do the following:**

- **Require the DNR to notify a local unit of government that a license application had been filed if the premises subject to the application were not zoned agricultural.**
- **Require the DNR to deny the application if it would violate a local ordinance.**
- **Expand the conditions under which the DNR may suspend or revoke a license.**

Currently, any license may be suspended or revoked after a hearing conducted pursuant to the Administrative Procedures Act (APA), upon reasonable notice, when the license holder fails to comply with Part 427, or fails to provide accurate reports and records within reasonable time limits as designated by the DNR. Under the bill, after providing an opportunity for a hearing under the APA, the DNR could suspend or revoke a license if any of the following applied:

- The licensee violated Part 427.
- The licensee failed to provide accurate reports and records within reasonable

time limits as designated by the Department.

- The premises used for the purposes identified in the license were located in a city or village and were zoned residential, the licensed use was a nonconforming use in that zone, and the licensee had been convicted of a crime or held responsible for a civil infraction directly related to the captivity of pheasants on the premises.

The bill would retain a provision allowing the DNR to revoke a license or deny its renewal if a licensee is convicted of a violation of the State's game laws. In that case, the game held under the license may be disposed of only in a manner approved by the Department.

MCL 324.42702 & 324.4713

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

In the Taylor situation mentioned above, evidently the owner of a pheasant breeding facility has not been caring for the birds properly, and the presence of a large quantity of bird food has attracted numerous rodents, which have created a nuisance for residents of the adjacent neighborhood. Reportedly, this facility has been problematic for many years and the owner has been cited for repeated violations of the local ordinance, but the facility cannot be shut down because the DNR issued a permit for it, and the owner has not committed an offense for which Part 427 authorizes revocation.

The bill would address the situation in Taylor, as well as prevent future conflicts. Regarding any type of operation under Part 427, the bill would require the DNR to notify the applicable unit of government of a license application and, if the local unit had an ordinance prohibiting the captivity of game animals, deny the license before problems arose. Additionally, the bill would eliminate ambiguity as to the DNR's authority to revoke a permit for a pheasant facility that became a nuisance. Because of the threat to public health and quality of life, it is critical that there be coordination

between State and local regulation and that the Department have more leeway to close a troublesome facility.

### **Opposing Argument**

It would be ill-advised to establish a policy that would affect all game breeders in the State in order to address an individual nuisance problem. Responsible facility owners should not be penalized because of one person.

**Response:** There is inconsistency between State law and local ordinances that should be resolved. Furthermore, the proposed revocation provisions refer specifically to a licensee who violated Part 427, or who committed a violation related directly to pheasant captivity. Under this narrow language, responsible game breeders would not be affected.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

The bill would cost the State an indeterminate amount of restricted revenue. Since the criteria for approving an application for a license would be more limited, fewer licenses would be issued and less revenue would be collected from license fees. License fees from breeders and dealers are deposited into the Game and Fish Protection account and used for fish and wildlife purposes, including habitat projects, land acquisition, research, grants, and other propagation or control projects. It is unknown how many fewer licenses might be issued.

Fiscal Analyst: Jessica Runnels

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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.