

MOOSE HUNTING

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Senate Bill 1013 as enrolled

Sponsor: Sen. Jason E. Allen

House Committee: Tourism, Outdoor Recreation and Natural Resources

Senate Committee: Hunting, Fishing and Outdoor Recreation

Second Analysis (12-22-10)

BRIEF SUMMARY: The bill would authorize the establishment of the first open hunting season for moose and create a seven-member moose hunting advisory council within the Department of Natural Resources and Environment (DNRE).

FISCAL IMPACT:

Senate Bill 1013 would authorize the Natural Resources Commission (NRC) to issue orders establishing a moose hunting season in Michigan. The bill requires that the fee for a moose hunting license would be \$100 and allows the Department to charge an application fee of up to \$4. Hunting license fees are required to be deposited into the Game and Fish Protection Fund. Depending upon the size of the hunting program established by the NRC, the Department may incur additional costs associated with the license program and application process. It is expected that the \$4 application fee would offset any additional costs to the Department.

While it is unknown how many applications the Department would receive for the moose hunting program, it is anticipated that there would be considerable interest in the hunt. Both the black bear hunt and the elk hunt in Michigan require a \$4 application fee. In 2009, 57,285 hunters applied for the black bear hunt, and 38,826 hunters applied for the elk hunt.

The bill would establish the Moose Hunting Advisory Council within DNRE. The new Council's seven members would serve without compensation, but may be reimbursed for their travel and relevant expenses. These provisions may increase costs to the DNRE by an indeterminate amount, depending upon the amount of refundable expenses of council members; however, the costs would only be incurred for the first year because the bill would abolish the council after one year.

THE APPARENT PROBLEM:

Moose, once common in the Upper Peninsula and the Northern Lower Peninsula and featured on the state coat of arms, had nearly disappeared from Michigan by 1900, due to a combination of habitat changes, human exploitation, brainworm, and wolves.

Around this same time, however, a few moose somehow made their way to Isle Royale, where they multiplied, and, by 1930, about 3,000 moose were on that island. From 1934

to 1937, about 70 moose were moved from Isle Royale to the U.P., in an effort to re-establish a moose population in the Upper Peninsula. By the 1940s, this first effort at reestablishing moose in the U.P. was considered a failure.

Four decades later, in the 1980s, the state again attempted to re-establish moose in the U.P., this time bringing in about 61 moose from Ontario to western Marquette County between 1985 and 1987. At this time, the state set a general goal of having a self-sustaining population of free-ranging moose, and a specific goal of having 1,000 moose in the U.P. by the year 2000. Although that specific goal was not achieved, and may not be achievable, the U.P. currently has a stable or slightly growing population of about 500 to 600 moose (not including the moose on Isle Royale, about 500 currently) with most of these animals, about 400 of them, living in the western U.P.

DNRE officials say that Michigan's moose population is now large enough to justify allowing a very limited number of male moose to be hunted and killed each year (with up to about 12-15 licenses issued) without harming the survival of moose in Michigan. The moose is already listed as a game animal in Michigan, but moose hunting is not currently allowed. The moose is also listed as a species of special concern in Michigan.

It has been suggested that the NRC should be encouraged to establish the first open season for moose, and then a newly-created advisory council should recommend to the NRC whether the moose hunt should be expanded.

THE CONTENT OF THE BILL:

NRC orders. The bill specifies that "the Legislature hereby authorizes the establishment of the first open season for moose." The bill also authorizes the NRC to issue orders pertaining to moose for each of the purposes listed in Section 40113a¹, including orders establishing the first open season for moose.

Licenses; kill tags. A resident would be prohibited from hunting moose without a moose hunting license, the fee for which would be \$100. The DNRE could establish a nonrefundable application fee (of up to \$4) for each person who applied for a moose hunting license. The DNRE could issue a kill tag with, or as part of, the license. Section 43526(2)² would apply with respect to a moose hunting license.

¹ In Section 40113a of NREPA, MCL 324.40113a, the Legislature declared that (1) wildlife populations and their habitat are of paramount importance to Michigan, (2) the sound scientific management of wildlife, including bear hunting, is declared to be in the public interest, and (3) the sound scientific management of bear populations is necessary to minimize human/bear encounters and to keep bears from threatening or harming humans, livestock, and pets. Section 40113a also specifies that the NRC has the exclusive authority to regulate the taking of game in Michigan and that the NRC must regulate the taking of game, to the greatest extent possible, using principles of sound scientific management. The section also specifies that NRC orders regarding taking of game must be made after a public meeting, opportunity for public input, and at least 30 days after the members of specified legislative committees were provided a copy of the proposed order.

² Under Section 43526(2), MCL 324.43526(2), the department may issue a kill tag with, or as part of, a deer license. The kill tag bears the license number, and may include space for other pertinent information required by the DNRE. If issued, the kill tag is part of the license.

Advisory Council. The bill would create the Moose Hunting Advisory Council within the DNRE with the following seven members:

- The DNRE director or designee.
- One member appointed by the director to represent an organization that promotes conservation in Michigan.
- Two members appointed by the director to represent organizations that promote hunting or fishing in Michigan.
- One member appointed by the director from a list of three names provided by the Speaker of the House of Representatives.
- One member appointed by the director from a list of three names provided by the Senate Majority Leader.
- One member selected by the Michigan Intertribal Council.

Within 60 days after the bill took effect, council members would have to be appointed, and the director would have to call the first meeting. At that meeting, the council would elect a chairperson and other officers it considered necessary or appropriate. After the first meeting, the council would have to meet at least quarterly, or more frequently at the call of the chairperson or if requested by a majority of the members. A majority of the members would constitute a quorum for the transaction of business at a meeting; a majority of the members present and serving would be required for official action.

The council would be subject to the Open Meetings Act and Freedom of Information Act.

Members would serve without compensation but could be reimbursed for their actual and necessary expenses incurred in the performance of official duties.

Report. Within 12 months after the bill took effect, the council would have to submit to the DNRE, the NRC, and the Legislature a report with recommendations on whether the moose hunting season established under the bill should be expanded.³ The report would have to take into account the effect of an expanded moose hunting season on the moose population and the potential economic benefits of such a season. If the council recommended an expanded moose hunting season, the report would need to include a recommended season length and number of moose to be taken.

Eliminate council after one year. The section of the bill creating the advisory council would be repealed 12 months after the bill took effect.

HOUSE COMMITTEE ACTION:

The House committee revised Section 40110a of the bill at the request of the DNRE. As introduced, the bill required the NRC to issue one or more orders establishing a moose

³ As introduced, the bill required the NRC to begin moose hunting with a season that allowed at least one moose to be taken, and then required the council to evaluate whether the season should be expanded. As amended in the House committee, the bill no longer requires the NRC to initiate a moose hunting season, but the council is still charged with evaluating whether the moose season, which may or may not be initiated, should be expanded.

hunting season within a year, allowing at least one moose to be harvested. As amended, the bill authorizes, but does not require, the NRC to establish the first open season for moose.

BACKGROUND INFORMATION:

Tribal hunting rights. In 2007, the federal government, State of Michigan and five tribes⁴ entered in a consent agreement settling a longstanding lawsuit concerning hunting and fishing rights under the 1836 Treaty of Washington. Among other things, pages 60-61 of that consent agreement provide that "no harvest of moose shall be permitted by the State or the Tribes unless the State and the Tribes agree that such harvest is appropriate and agree on an allocation of such harvest."

(http://www.michigan.gov/dnr/0,1607,7-153-10364_47864-176765--,00.html)

In addition to the required negotiations with the tribes that are party to the consent agreement, the DNRE says that the state will also need to negotiate with other tribes that have members in Michigan and Wisconsin regarding moose hunting as it relates to rights retained by those tribes under the 1842 Treaty of La Pointe.

Species of special concern. The moose is not listed as an endangered or threatened species under federal or state law but is considered a "species of special concern" in Michigan. Part 355 (Biological Diversity Conservation) of NREPA, MCL 324.35501-324.35506, adopted in the 1990s, required the state to adopt a strategy to preserve biological diversity, including identifying species of special concern. The list of species of special concern is maintained by the Michigan Natural Features Inventory, and was updated most recently in the fall of 2009.

The website of the Michigan Natural Features Inventory describes "species of special concern" as follows:

While not afforded legal protection under the Act, many of these species are of concern because of declining or relict populations in the state. Should these species continue to decline, they would be recommended for Threatened or Endangered status. Protection of Special Concern species now, before they reach dangerously low population levels, would prevent the need to list them in the future by maintaining adequate numbers of self-sustaining populations within Michigan. Some other potentially rare species are listed as Special Concern pending more precise information on their status in the state; when such information becomes available, they could be moved to threatened or endangered status or deleted from the list.

(<http://web4.msue.msu.edu/mnfi/data/specialanimals.cfm>)

⁴ The tribes that are party to this consent agreement are the Sault Ste. Marie Tribe of Chippewa Indians, the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little Traverse Bay Band of Odawa Indians, and the Little River Band of Ottawa Indians.

Under state law, the DNRE has the authority to treat a species that is not endangered or threatened as if it were so designated. It also has the authority to allow the limited taking of a threatened species if the department has determined that the abundance of the species in the state justifies a controlled harvest not in violation of federal law. MCL 324.36505(6)(b).

Penalty for poaching. A person who violates a provision of Part 401 (Wildlife Conservation) or an order or interim order issued under Part 401 regarding the possession or taking of moose is guilty of a misdemeanor punishable by imprisonment for not less than 90 days or more than one year and a fine of not less than \$1,000 or more than \$5,000, and the costs of prosecution. MCL 324.40118(5).

Economic impact of wildlife watching versus hunting or hunting and fishing combined. Supporters and opponents of the bill have both pointed to information about the economic impact of wildlife watching as well as hunting and fishing in Michigan provided in the U.S. Fish and Wildlife Service's 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. This national survey is conducted every five years by the Fish & Wildlife Service with the assistance of the U.S. Census Bureau, and an individual report is prepared for each state. The survey collects information through interviews with U.S. residents about their fishing, hunting, and wildlife watching activities (such as observing, photographing, and feeding fish or wildlife). Information is collected about how many people participated in these activities and much they spent on their activities in Michigan in 2006. The 2006 report for Michigan can be found online at:

<http://www.census.gov/prod/2008pubs/fhw06-mi.pdf>.

ARGUMENTS:

For:

Michigan's moose population is large enough to allow a limited hunt. Even though the Upper Peninsula moose population has grown more slowly than was expected when moose were reintroduced in the 1980s, the population is stable and growing modestly. According to the DNRE, a limited harvest of bulls—no more than about 12 to 15—under a lottery system similar to the one for elk and bear hunting, would have little or no impact on the herd. States with far fewer moose than Michigan, such as Colorado, have successfully initiated moose hunting.

The hunt will raise revenue and yield scientific information that could be used to better manage the moose population. Moreover, a Michigan moose hunting season would likely attract a lot of interest among big game hunters. A DNRE representative characterized the proposed hunt as "a unique opportunity" to hunt "an iconic animal." Interested people would have to submit a non-refundable application fee of about \$4 to apply for a moose permit and, and those who won the lottery would pay \$100 for a license. The DNRE has also said that it will inspect the moose taken by hunters. This new revenue and the scientific information from inspections of harvested moose could

help the DNRE to better monitor and manage moose, helping the animal's chances for long-term survival.

Allowing moose hunting will provide opportunities to big game hunters and boost Michigan's tourism sector. Many big game hunters are eager for a new opportunity to hunt this iconic animal. Allowing them to do so could spur tourism in the Upper Peninsula. If the predicted effects of climate change come to pass and this population starts to decline, a moose hunt may not be justifiable in the future. Moose hunting should be allowed now while it is still feasible.

Against:

Why introduce moose hunting when moose are already facing severe challenges to their survival? Michigan's current U.P. herd is very small, consisting of only about 500 to 600 animals, meaning that the state is only about halfway to its goal of having 1,000 moose in the U.P.—a goal it had expected to reach ten years ago. In the face of the failure to achieve the desired herd size, some people find it puzzling that the DNRE would support even a limited moose-hunting season. Opponents of the bill say it would be irresponsible to begin moose hunting with the long-term survival of the species in doubt.

Moose, unable to sweat, are very sensitive to temperature changes, and Michigan's Upper Peninsula is at the southern edge of their range.

The State of Minnesota has a much larger, but declining, moose population. Most dramatically, the moose population in northwest Minnesota has declined over the past two decades from at least 4,000 moose to fewer than 100, due to poor nutrition and parasites related to increased summer and winter temperatures. Minnesota is considering steps that are almost opposite of what the bill proposes for Michigan: a recent report recommends that Minnesota name the moose as a species of special concern and that it limit or stop moose hunting in the future if the moose population continues to decline. A comprehensive report to the Minnesota Department of Natural Resources is available online at:

http://www.nrri.umn.edu/moose/information/mnmac/MAC_FINAL_ver_1.01.pdf.

The moose deaths inflicted by hunters for sport or recreation will be in addition to deaths from poor nutrition, parasites, and wolves and any other causes. Is it wise to create a new source of moose mortality?

Is the advisory council necessary, and is its mission and composition appropriate?

Given that the Natural Resources Commission (NRC) is vested with exclusive authority to regulate the taking of game in Michigan, and given that the NRC is supposed to base its decisions on sound science, why is the advisory council to be created by the bill necessary? And even if creating the advisory council is a good idea, why are no scientists required to be on it to provide the information on which NRC decisions must be based? Why does the bill require the advisory board to only consider "expanding" moose

hunting? What if scientific information pointed toward limiting or discontinuing moose hunting?

The economy will benefit more from promoting moose for wildlife viewing rather than hunting. According to a 2006 report by the U.S. Fish and Wildlife Service, wildlife watchers outnumber hunters by nearly four to one in Michigan, and their expenditures are higher than those of hunters. Michigan should continue to boost its economy by promoting moose watching rather than moose hunting.

Response:

The combined economic impact of hunting and fishing in Michigan is greater than the impact of wildlife viewing. In addition, hunters and anglers support the DNRE with their license purchases and excise taxes on other purchases under the Pittman-Robertson act and other federal laws.

Rebuttal:

Of the three categories covered by the federal survey—fishing, hunting, and wildlife-watching—fishing has the most participants and greatest economic impact, wildlife watching is second, and hunting is a distant third. If the economic impact of hunting alone (without adding in the impact of fishing) is compared to wildlife viewing, wildlife viewing comes out ahead. There are many more people who view wildlife in Michigan than there are hunters, according to the U.S. Fish and Wildlife survey data.

POSITIONS:

The Department of Natural Resources and Environment testified in support of the bill as reported from committee. (3-23-10)

The Michigan United Conservation Clubs testified in support of the bill (3-16-10 & 3-23-10) and provided written testimony regarding the economic impact of hunting and fishing. (3-23-10)

The Humane Society of the United States testified in opposition to the bill. (3-16-10)

Professor Rolf Peterson of Michigan Technological University has expressed concern about how the impact of moose hunting would be evaluated and has said that trends in other states and Canadian provinces indicate that moose will be increasingly challenged by climate change in the near future. He questions the wisdom of introducing new sources of moose mortality in the face of this challenge. (4-20-10) After the bill was passed by both chambers, Professor Peterson sent a letter to the Governor, co-signed by 16 other biologists from Michigan universities, urging a veto of the bill. (12-20-10)

Several individuals sent e-mails in opposition to the bill that are posted on the committee testimony website. (Various dates)

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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.