

Legislative Analysis



HUNTER ORANGE

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House Bill 4897 (Substitute H-2)

Sponsor: Rep. Joel Sheltrown

Committee: Tourism, Outdoor Recreation and Natural Resources

First Analysis (5-26-09)

BRIEF SUMMARY: The bill would amend the Natural Resources and Environmental Protection Act (1) to add exceptions to "hunter orange" requirements for falconry and certain types of crossbow and predator hunting and (2) require a person hunting deer with a firearm from a manufactured ground blind on public land to display at least 144 square inches of "hunter orange" on the blind's exterior surface.

FISCAL IMPACT: The bill would have no impact on the state or on local governmental units.

THE APPARENT PROBLEM:

Most people acknowledge that hunter safety has improved in Michigan since the adoption of hunter orange requirements for many types of hunting. Hunter orange garments or caps make hunters more visible to others, reducing the possibility that they will be accidentally shot.

Many deer hunters hunt from manufactured pop-up ground blinds or blinds that have been created from natural materials, such as leaves and brush. The blind's purpose is to conceal the hunter and the hunter's movements from deer, who although thought to be color blind, are very good at detecting movement. The potential problem, however, is that if the blind is doing its job of concealing the hunter, the concealed hunter is more at risk of being shot by someone else in the woods who is not aware of the hunter's presence. This is a particular risk on public lands that are open to everyone. Wisconsin recently adopted a hunter orange requirement (144 square inches visible in all directions) for ground blinds used on lands controlled by its Department of Natural Resources during firearm deer seasons. It has been suggested that Michigan adopt a similar requirement for ground blinds used on public lands.

In addition, it has been suggested that persons hunting deer with crossbows during bow season should not have to wear hunter orange because persons hunting deer with other kinds of bows do not have to wear it. Likewise, it has been suggested that persons hunting bear with crossbows should not have to wear hunter orange because persons hunting bear with other kinds of bows do not have to wear hunter orange.

It has also been suggested that some predators have better eyesight than was previously thought, particularly for luminescence, and that the luminescent quality of hunter orange garments and caps may make hunters very visible to predators such as bobcat, coyote, and fox, making successful hunting more difficult. It has been proposed that while

stationary and in the actual act of hunting a bobcat, coyote, or fox, a hunter would not have to wear hunter orange, but while walking in the woods to and from the hunter's stationary location, the hunter would still be subject to applicable hunter orange requirements.

Finally, it has also been suggested that persons engaging in the sport of falconry be exempt from hunter orange requirements.

THE CONTENT OF THE BILL:

In general, Section 40116 of the Natural Resources and Environmental Protection Act (MCL 324.40116) requires hunters taking game between August 15 and April 30 during established daylight shooting hours to wear a cap, hat, vest, jacket, or rain gear of the highly visible color commonly referred to as "hunter orange" (including blaze orange, flame orange, and fluorescent blaze orange). The hunter orange must be on the hunter's outermost garment and be visible from all sides.

Exceptions. Currently, archery deer and bear hunters and people hunting turkey or migratory birds other than woodcock are exempt from the hunter orange requirements. The bill would expand the exceptions to include all of the following, with new exceptions listed in *italics*:

- Persons hunting deer with a bow *or a crossbow* during archery deer season.
- Persons hunting bear with a bow *or a crossbow*.
- Persons hunting turkey or migratory birds other than woodcock.
- *Persons engaged in the sport of falconry.*
- *Persons who are stationary and in the act of hunting bobcat, coyote, or fox.*

Blinds. Under the bill, a person could not hunt deer from a ground blind on public land with a firearm unless 144 square inches of hunter orange were visible on the exterior surface of the blind from all sides. A "ground blind" would mean "a manufactured ground enclosure used to conceal the occupant for the purposes of taking game," but would not include a blind built entirely of dead vegetation found on the property.

Noncompliance not contributory negligence. As in current law, a hunter's failure to wear or display hunter orange on a ground blind when required would not be considered contributory negligence in a civil court case arising from the hunter's injury or death.

ARGUMENTS:

For:

Having hunter orange displayed from manufactured ground blinds used for firearms deer hunting *on public land* could improve hunter safety in Michigan while not placing difficult or expensive requirements on hunters. Many manufactured pop-up blinds come with hunter orange attachments and, in any event, homemade or store-bought attachments meeting the bill's requirements could be easily fashioned or obtained.

Even though crossbows have a somewhat greater range than bows, both have a shorter range than a hunting rifle and thus the risk of an accidental shooting is reduced during an archery season as compared to a firearm season, making it less critical that persons using bows and cross bows wear hunter orange. Persons using crossbows during firearms deer seasons would still need to wear hunter orange.

Predators such as bobcat, coyote, and fox are said to have better eyesight than previously thought, particularly for luminescence, so the luminescent quality of hunter orange caps and garments makes hunters stand out to them. Requiring hunters to wear hunter orange while in movement but allowing them to remove their hunter orange when stationary and in the act of hunting bobcat, coyote, and fox strikes a balance between hunter safety and hunter success.

Against:

What is the rationale for excluding falconers from hunter orange requirements? If there is any overlap between falconry seasons and firearm game seasons, as is apparently the case, why should falconers not have to wear hunter orange during firearms seasons for their own safety and to protect others from accidentally shooting them?

Also, what is the rationale for treating manufactured and homemade ground blinds differently? Isn't the safety issue the same with both?

POSITIONS:

The Department of Natural Resources supports the bill as reported. (5-19-09)

The Michigan United Conservation Clubs supports the bill as reported. (5-26-09)

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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.