

HUNTER ORANGE FENCES

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House Bill 5777

Sponsor: Rep. Michael Lahti

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 2-12-10

A REVISED SUMMARY OF HOUSE BILL 5777 AS INTRODUCED 2-2-10

The bill would establish a new act to prohibit any individual or entity from using a rope, chain, wire, or similar device as a barrier across a point of entry in order to prevent access to land unless: (1) the rope, chain, wire or similar device was enclosed in material of the color hunter orange; and (2) was placed no higher than 30 inches above the ground at any point. "Point of entry" means "a road or path suitable for use by a motorized vehicle, including a motorcycle, all terrain vehicle, or snowmobile." (The bill applies to any individual, partnership, corporation, association, governmental entity, or other legal entity.)

Commercial farm exception. The hunter orange and height requirements would not apply to a fence, gate, or other barrier serving as a partition within a farm or separating farm property from any other land. "Farm property" means "land on a farm used in the production of one or more farm products and any contiguous land under common ownership." "Farm" and "farm product" mean those terms as defined in Section 2 of the Michigan Right to Farm Act (MCL 286.472).¹ The full definitions of those terms are set forth below. We note that the definition of "farm" in that act includes the requirement that the property be used in the commercial production of farm products.

Hunter orange. "Hunter orange" means "the color described in Section 40116 of the Natural Resources and Environmental Protection Act." (MCL 324.40116) That description of hunter orange includes blaze orange, flame orange, fluorescent orange, and camouflage that is at least half hunter orange.

Fine. A violation would be classified as a state civil infraction with a civil fine of not more than \$250.

¹ Section 2 of the Right to Farm Act (MCL 286.472) defines a "farm" as "the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products." "Farm products" means "those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture."

FISCAL IMPACT:

DNRE Impact

House Bill 5777 would increase financial costs to the Department of Natural Resources and Environment. Because the bill includes a governmental entity within its definition of a person, the State of Michigan would fall under that definition and be required to come into compliance with the bill's new requirements concerning points of entry into land areas.

The State of Michigan is itself a landowner and owns or manages over 4.5 million acres of land in Michigan. According to the DNRE, bringing the State into compliance with the bill's requirements that any barrier across a point of entry be enclosed in hunter orange colored material and no higher than 30 inches above the ground would generate very significant costs to the Department. At this time, it is unknown how many points of access currently exist on land that the State owns or manages.

The Department would also incur additional costs from enforcement responsibilities of the bill's provisions.

Fine Revenue

Under current law, each non-traffic-related civil infraction may be assessed the following: civil fines that go to county treasurers to benefit local libraries, a \$10 Justice System Fund (JSF) assessment, and court costs. A violation under this bill would be assessed a fine of up to \$250. This revenue would be allocated to local libraries. Each infraction would also be assessed a \$10 Justice System Assessment to be deposited into the state JSF. The JSF supports various justice-related endeavors in the judicial branch, the Department of State Police, and the Department of Corrections. In addition, the assessed court costs would generate additional revenue for the governmental unit that funds the local court.

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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.