

Legislative Analysis



KILLING SWINE RUNNING AT LARGE

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House Bill 5822

Sponsor: Rep. Mike Huckleberry

House Bill 5823

Sponsor: Rep. Sharon Tyler

House Bill 5824

Sponsor: Rep. Barb Byrum

Committee: Agriculture

Complete to 2-23-10

A SUMMARY OF HOUSE BILLS 5822-5824 AS INTRODUCED 2-17-10

Public Act 328 of 1976 makes it a misdemeanor for people to allow or enable certain animals (cattle, horses, sheep, swine, mules, burros, and goats) to run at large, and makes animal owners responsible for losses or damages the animals cause while running loose. This act also prescribes the duties of law enforcement officers to capture and hold animals found running at large and return them to their owners, if known, or sell them at public auction, if the owner is unknown (after advance notice is placed in a newspaper).

House Bill 5822 would amend this act to authorize a local animal control officer, a law enforcement officer, or anyone with a valid hunting license for any type of game to kill swine running at large on any public or private property.

House Bill 5823 would amend Public Act 66 of 1959, which prohibits the owners of cattle, horse, sheep, or swine from allowing them to run at large or graze on land owned or controlled by the Department of Natural Resources and Environment (then known as the Department of Conservation). Under this act, the department must impound and care for seized animals until they can be returned to their owners or sold at auction. The bill would amend this act to specify that it does not limit the authority to kill swine that would be provided by House Bill 5822.

House Bill 5824 would amend Public Act 248 of 1879, a law concerning animals running at large in cities and villages with a population of 7,000 or more (except for the city of Ludington). Under this act, cattle, horses, mules, sheep, swine, and goats are not allowed to run at large in public in cities or villages with a population of at least 7,000, and those cities or villages must have at least one suitable and convenient pound where seized animals can be kept before they can be disposed of lawfully. House Bill 5824 would amend this act to specify that it does not limit the swine-killing authority that would be provided by House Bill 5822.

Tie-bars. House Bills 5823-5824 are tie-barred to House Bill 5822 and Senate Bill 1136 meaning that unless either House Bill 5822 or Senate Bill 1136 is enacted, House Bill 5823 and 5824 cannot take effect. House Bill 5822 and Senate Bill 1136 are identical as introduced.

FISCAL IMPACT:

House Bills 5822-5824 would have no significant fiscal impact on the Department of Natural Resources and Environment or local units of government.

DETAILED SUMMARY

House Bill 5822

This bill would amend Public Act 328 of 1976, which makes it unlawful for certain animals (cattle, horses, sheep, swine, mules, burros, and goats) to run at large in Michigan. This act makes it misdemeanor for an animal's owner to permit or enable it to run at large or for a person who is not the animal's owner to willfully and knowingly enable it to run at large. (An animal "running at large," as defined in this act, is one "not under the control of the owner and not on the owner's premises." "Owner" means "a person who has a right of property in an animal, a person who keeps or harbors an animal or has it in his care, or a person who permits an animal to remain on or about the premises occupied by him.")

In addition, a person who suffers property damage caused by an animal running at large is entitled to compensation from the animal's owner. Law enforcement officers who find animals running at large may seize them, and individuals who find them on their own property may seize them and contact a law enforcement agency to take custody of them. After seizing an animal, law enforcement officers must return it to its owner, if known (unless the owner refuses to pay compensation for damages caused by the animal). If the animal's owner is unknown, an advertisement must be placed in a newspaper notifying the general public that if the animal is not claimed within 15 days, it may be sold at a public auction. The act also prescribes the disposition of the proceeds from the auction sale, and grants the owner a right of redemption for three months after a sale.

House Bill 5822 would amend Public Act 328 of 1976 to allow a local animal control officer appointed under the Dog Law of 1919 (MCL 287.261 to 287.290), a law enforcement officer, or anyone with a valid hunting license for any type of game issued under Part 435 of NREPA¹ to kill swine running at large on public or private property.

[Note: House Bill 5822 and Senate Bill 1136 are identical as introduced.]

MCL 433.14a & 433.20

¹ Part 435 of NREPA imports the definition of "game" from Part 401 of NREPA. Under Part 401, "game" means any of the following species (except for privately owned cervidae on a registered cervidae livestock facility): 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, or Virginia rail.

House Bill 5823

The bill would amend Public Act 66 of 1959, which prohibits cattle, horses, sheep, or swine from being allowed to run at large or graze upon lands owned or controlled by the Department of Conservation without a written permit from the department. Under this act, the department must impound and care for seized animals until they can be returned to their owners or sold at auction. The bill would change references to the Department of Conservation to the Department of Natural Resources, and specify that this act does not limit the authority to kill swine running at large under Public Act 328 of 1976 (as it would be amended by HB 5822).

[Note: In Section 1 of the bill, "Department of Natural Resources" should probably be changed to the "Department of Natural Resources and Environment" and additional references to the "director of conservation" found throughout the act should probably also be changed to "director of the department."]

MCL 322.581

House Bill 5824

The bill would amend Public Act 248 of 1879, a statute concerning certain animals running at large in cities and villages with a population of 7,000 or more (except for the city of Ludington, which is specifically excluded). Under this act, cattle, horses, mules, sheep, swine, and goats are not allowed to run at large in public in cities or villages with a population of at least 7,000, and these cities or villages must have at least one suitable and convenient pound. In addition, the act requires certain public officials to seize and keep any of these animals found running at large until they can be disposed of lawfully. It also allows any inhabitant to seize and take an animal running at large to the pound, or to keep it if there is no pound within two miles of where the animal was found or no poundmaster to accept the animal.

The bill would make law enforcement officers and animal control officers (rather than commissioners of highways, poundmasters, marshals, deputy marshals, policemen, and constables) responsible for seizing and keeping any of these animals running at large. (Inhabitants could also continue to seize animals running at large, including swine, to take them to the pound, or to keep them if there is no pound within two miles or no poundmaster.) The bill would also specify that this act does not limit authority provided under Public Act 328 of 1976 (as it would be amended by HB 5822) to kill swine running at large.

MCL 433.51 & 533.513

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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.