

Legislative Analysis



POSSESSION OF LAWFULLY TAKEN GAME

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House Bill 4094 (reported from committee as Substitute H-1)

Sponsor: Rep. Joel Johnson

Committee: Tourism

(Enrolled as PA 111 of 2013)

First Analysis (2-26-13)

BRIEF SUMMARY: The bill would prohibit an individual from being prosecuted, punished, or penalized by the state for lawfully taking game in another state, engaging in a hunt in another state, or for possessing lawfully taken game.

FISCAL IMPACT: The bill would have no fiscal impact on the State of Michigan or local units of government.

THE APPARENT PROBLEM:

According to the Mountain Lion Foundation, the sport hunting of mountain lions has been illegal in California since 1972 when then-Governor Ronald Reagan signed legislation prohibiting the activity. The prohibition lasted until 1986 when the statutory provision expired and the California Fish and Game Commission proceeded to approve sport hunting once again. Legal battles ensued that eventually led to the passage of Proposition 117 of 1990, which established the mountain lion as a specially protected mammal and prohibited the hunting, possessing, transporting, importing, or selling of the animal.

In 2012, Daniel Richards, then president of the California Fish and Game Commission, killed a mountain lion while big game hunting in Idaho where the mountain lion is a legal game species. Despite shooting the mountain legally in Idaho, Richards faced a great deal of criticism in California from those who believed he showed bad judgment and willfully ignored the will of the voters who had approved Proposition 117. The criticism eventually led to Richards being replaced as the president of the state commission, and he was not reappointed as a member when his term expired in January of 2013.

The bill is intended to prevent a similar type of situation from occurring in Michigan by prohibiting the state from prosecuting, punishing, or penalizing an individual for lawfully taking game in another state. According to testimony, this type of situation is not currently a problem in Michigan but the bill is intended as a precautionary measure.

THE CONTENT OF THE BILL:

The bill would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act (NREPA) to provide that an individual could not be prosecuted, punished, or penalized for (1) lawfully taking game in another state, (2) lawfully engaging in a hunt in another state, or (3) for possessing game that was lawfully

taken in another state or in Michigan provided it is possessed in compliance with NREPA and orders issued under NREPA.

Proposed MCL 324.40109a

ARGUMENTS:

For:

As discussed above, a California Fish and Game Commission member faced severe backlash from his participation in a hunt that was legal in Idaho but that would have been illegal in California. In light of that situation, the bill is intended to provide clarity for the legal rights of hunters who lawfully take game or hunt in another state. Provided that the game is lawfully taken and is lawfully possessed within Michigan, those individuals could not be prosecuted, punished, or penalized by the state. According to testimony, the bill is intended as a precautionary measure to help avoid a situation similar to that which occurred in California and other related circumstances.

Response:

Concern has been expressed whether this is an issue in Michigan and whether legislation is needed to address it. According to testimony, a similar situation has not happened in the state and the bill is intended as a precautionary measure to clarify the rights of individuals that legally take game within or outside of Michigan. It should be noted that, while the bill will make clear the state's policy regarding engaging in hunts outside of Michigan, it may not be able to prevent what occurred in California from happening in Michigan. While the bill would prohibit the state from prosecuting, "punishing," or "penalizing" an individual for legally taking game in another state and possessing it here, it might not affect public reaction or prevent other official responses. In California, a state fish and game commissioner faced public criticism for his hunt but did not appear to suffer from any legal (criminal or civil) action brought by the state. He lost his position as commission president as a result of a unanimous vote of commission members and was subsequently not reappointed by the governor when his term expired. It is not clear the bill could prevent that, although of course it could prevent other forms of retaliation.

POSITIONS:

The Michigan United Conservation Clubs supports the bill. (2-14-13)

The Michigan Department of Natural Resources is neutral on the bill. (2-14-13)

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