



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 1070, 1071, and 1072 (as introduced 9-8-16)
Sponsor: Senator Dale W. Zorn (S.B. 1070 & 1072)
Senator Mike Green (S.B. 1071)
Committee: Outdoor Recreation and Tourism

Date Completed: 9-20-16

CONTENT

Senate Bills 1070 and 1072 would amend Parts 487 (Sport Fishing) and 435 (Hunting and Fishing Licensing), respectively, of the Natural Resources and Environmental Protection Act (NREPA) to require an individual to obtain a permit from the Department of Natural Resources (DNR) in order to act as a commercial fishing or hunting guide, beginning March 1, 2017. Specifically, the bills would do the following:

- **Prescribe eligibility criteria for a commercial guide permit, including first aid certification, liability insurance, and a lack of NREPA violations and felony convictions.**
- **Prohibit a person from acting as a commercial guide on commercial forestland.**
- **Authorize the DNR to revoke a commercial guide permit for specified reasons.**
- **Require a commercial guide to file regular reports with the DNR.**
- **Prescribe a civil fine for acting as a commercial guide without a permit and require the money to be deposited in the Game and Fish Protection Account.**
- **Prescribe a misdemeanor penalty for providing false information to the DNR.**

Senate Bill 1071 would amend Part 401 (Wildlife Conservation) of NREPA to do the following:

- **Require the DNR to charge an individual applying for a commercial hunting or fishing guide permit an application fee of \$150.**
- **Include regulating the use of commercial guides in taking game, in the Natural Resources Commission's exclusive authority to regulate the taking of game in Michigan.**

The bills are tie-barred to each other. Each bill would take effect 90 days after enactment. Senate Bills 1070 and 1072 are described in further detail below.

Beginning March 1, 2017, Senate Bill 1070 would prohibit a person from acting as a commercial fishing guide on the inland waters of Michigan, and Senate Bill 1072 would prohibit a person from acting as a commercial hunting guide in Michigan, unless he or she possessed both of the following:

- A commercial guide permit issued by the DNR.
- In the case of a fishing guide, a valid fishing license, and in the case of a hunting guide, a valid base license (which authorizes the licensee to hunt for small game, except for animals or birds that require a special license).

Senate Bill 1070 would define "commercial fishing guide" as an individual who, for a fee or other consideration of value of more than \$150, assists another individual in pursuing, capturing, catching, killing, taking, or attempting to take fish.

Senate Bill 1072 would define "commercial hunting guide" as an individual who, for a fee or other consideration of value of more than \$150, assists another individual in hunting game. "Commercial hunting guide" would not include the following:

- The owner or employee of a privately owned cervid ranch while assisting another person in pursuing, capturing, catching, killing, taking, or attempting to take game on that ranch.
- The owner, employee, or member of a game bird hunting preserve licensed under Part 417 (Game Bird Hunting Preserves), or his or her designee, while assisting another person in pursuing, capturing, catching, killing, taking, or attempting to take game birds authorized to be hunted on that preserve.
- An individual, business, agency, or nonprofit organization issued a permit from the DNR to provide damage or nuisance animal control services, while providing those services.
- An employee or member of an organization conducting an event to recruit, retain, or promote hunting for children or people with disabilities, while assisting another individual in hunting game during that event.

To obtain a permit to act as a commercial fishing or hunting guide, an individual would have to submit to the DNR the application fee prescribed by Senate Bill 1071 and an application containing his or her name, date of birth, and address of his or her primary residence. Senate Bill 1070 would require the application for a commercial fishing guide permit to be on a form provided by the Department. Senate Bill 1072 would require the application for a commercial hunting guide permit to be in a format determined by the Department.

The DNR would have to grant a commercial guide permit to an individual if it determined that he or she met all of the following:

- Held a valid certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or a comparable organization approved by the Department.
- Was covered by commercial general liability insurance with limits of at least \$300,000 per claim and \$1.0 million aggregate for the period that the permit was valid.
- Had a valid, lawfully obtained Michigan driver license, official State personal identification card, or sportcard (which the DNR must issue to a license or permit applicant who does not possess a Michigan driver license or other identification).

Additionally, the individual could not have been convicted of any of the following within the past five years:

- A violation of Part 487, 435, of 445 (Charter and Livery Boat Safety), or a violation of an order or interim order issued under any of those parts.
- In the case of a commercial hunting guide, a violation of Part 401 or an order or interim order issued under Part 401.
- Any felony.

Under Senate Bill 1072, an applicant for a hunting guide permit also would have to be eligible to purchase a license for the game species for which he or she was acting as a guide.

The bills would prohibit a person from acting as a commercial fishing or hunting guide on commercial forestland.

A commercial guide permit would be valid for three years after the date it was issued. The DNR could revoke a permit after notice and opportunity for a hearing pursuant to the Administrative Procedures Act for any of the following reasons:

- The Department determined that the individual was not eligible to hold a commercial guide permit.
- The individual provided false information under either of the bills.
- The individual failed to file an annual report (described below) within 90 days after it was due.

Senate Bill 1070 would require a commercial fishing guide to file monthly reports and an annual report to the DNR, in a format determined by the Department. Senate Bill 1072 would require a commercial hunting guide to file an annual report. For both fishing and hunting guides, the reports would have to contain information related to all of the following:

- The counties of the State where the individual acted as a commercial guide.
- The species of fish or game, as applicable, for which the individual acted as a commercial guide.
- The number of clients the guide had during the year.
- The number of fish caught and released and the number of fish harvested, or the number of game animals harvested, as applicable, by the guide's clients.
- Any additional information the DNR required regarding the biological characteristics of the fish caught and released or harvested, or the game animals harvested, as applicable.

With regard to a commercial fishing guide, the report also would have to include the bodies of water where he or she acted as a guide.

Information submitted in a report would be confidential and would not be subject to disclosure under the Freedom of Information Act.

An individual who acted as a commercial fishing or hunting guide without a valid permit would be subject to a civil fine of \$2,000. For a second or subsequent violation, the person would be subject to a civil fine of \$4,000. Under Senate Bill 1072, these penalties also would apply to a person who acted as a commercial hunting guide on commercial forestland. A civil fine would have to be deposited in the Game and Fish Protection Account.

An individual who provided false information to the DNR under either of the bills would be guilty of a misdemeanor punishable by imprisonment for up to 180 days and/or a fine of at least \$1,000 but not more than \$2,500, as well as the costs of prosecution.

Proposed MCL 324.48714a (S.B. 1070)
MCL 324.40113a (S.B. 1071)
Proposed MCL 324.43528c (S.B. 1072)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the Department of Natural Resources (DNR) and no fiscal impact on local units of government. The bills would establish a permit program for commercial hunting and fishing guides, and would introduce some new administrative costs to the DNR related to that effort. It is not clear how many individuals would apply for a permit to operate as a hunting or fishing guide, but each would be subject to a \$150 application fee. Fee revenue would serve to offset some or all of DNR's costs, depending on the number of applicants.

If individuals were punished for acting as a commercial fishing or hunting guide without the proper permit, civil fine revenue would be dedicated to the Game and Fish Protection Fund.

Any increase in misdemeanor arrests and prosecutions could increase resource demands on law enforcement, court systems, and jails. Any additional fine revenue from misdemeanor convictions would be dedicated to public libraries.

Fiscal Analyst: Ryan Bergen
Josh Sefton

S1516\S1070sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.