

Legislative Analysis



WILDLIFE AND BIRD FEEDING

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<http://www.house.mi.gov/hfa>

House Bill 4439 (H-3) as referred to second committee

Sponsor: Rep. Triston Cole

1st Committee: Natural Resources and Outdoor Recreation

2nd Committee: Ways and Means

Complete to 4-2-20

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4439 would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act (NREPA) to expressly allow wildlife and bird feeding if certain conditions are met.

FISCAL IMPACT: House Bill 4439 is unlikely to have a significant impact on revenues or costs for the Department of Natural Resources or local governments.

THE APPARENT PROBLEM:

According to committee testimony, the current ban on deer baiting leaves Michiganders who have bird feeders in their yards open to citations from conservation officers.¹ This happened to a Gaylord man in 2010, when authorities were alerted that deer had been eating from a bird feeder, as observed through a webcam.² Some believe that deer baiting bans extend too far if recreational bird feeders in a citizen's yard can be considered baiting deer. Legislation has been proposed to expressly allow wildlife and bird feeding as long as certain conditions are met.

THE CONTENT OF THE BILL:

Section 40111a of NREPA currently requires the Natural Resources Commission (NRC), after consultation with the Commissioner of Agriculture and Rural Development, to issue an order, in the manner provided in section 40113a, concerning deer and elk feeding in Michigan.³

The bill would add that, notwithstanding an order issued above, an individual may engage in **wildlife and bird feeding** if all of the following conditions are met:

- The feed is located within 300 feet (100 yards) of a residence.
- The total quantity of feed placed, scattered, or distributed within 300 feet of that residence is not more than two gallons.
- The feed is contained or held in a manner to exclude deer and elk.

Wildlife and bird feeding would mean depositing, distributing, or tending feed in an area frequented by birds and other wildlife to prevent them from starving or for recreational viewing. It would not include the following:

- Baiting to take game as provided by an order of the NRC.
- The scattering of feed solely as the result of normal logging or agricultural practices.

¹ https://www.michigan.gov/documents/dnr/Bird_feeding_tips_264152_7.pdf.

² See https://www.record-eagle.com/news/local_news/bird-feeders-run-afoul-of-deer-baiting-ban/article_12e6a10a-3f04-5df8-b167-15f01260514b.html.

³ Section 40113a of NREPA: <http://legislature.mi.gov/doc.aspx?mcl-324-40113a>.

- Storing or using feed for agricultural purposes if at least one of the following applies:
 - The area is occupied by livestock actively consuming the feed every day.
 - The feed is covered to deter deer and elk from gaining access to it.
 - The feed is in a storage facility that is consistent with normal agricultural practices.

The bill would also remove from the law a definition of “deer and elk feeding” that currently provides statutory parameters for the NRC order described above.

MCL 324.40111a

ARGUMENTS:

For:

Supporters of the bill argue that recreational bird feeding has been enjoyed across the state for many years. In that time, new devices have come on the market to help keep squirrels and other unwanted wildlife out of bird feeders. Continued use of these devices could help to curb incidental deer feeding, and the bill would require bird feed to be in such a device or another container that would exclude deer and elk access to the food. These safeguards will help the joy of recreational feeding of birds and other wildlife to continue while at the same time observing the ban on deer and elk baiting.

Against:

Critics argue that an allowance for wildlife feeding could make it more difficult for conservation officers to enforce the current deer baiting ban.⁴ The ban on baiting deer is designed to help curb the spread of cervid (deer-related) diseases, such as tuberculosis and chronic wasting disease. The focus on incidental feeding from bird feeders is seen by some as potentially creating a loophole around the baiting ban.

POSITIONS:

The Michigan Sierra Club indicated a neutral position on the bill. (10-22-19)

The following entities indicated opposition to the bill (10-29-19):

- Department of Natural Resources
- Michigan Farm Bureau

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

⁴ <http://legislature.mi.gov/doc.aspx?2010-HB-6234>.