# Legislative Analysis

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**PROHIBIT USE OF FOIA INFORMATION REGARDING GAME LOCATION TO TAKE GAME**

**House Bill 4735 as introduced**
**Sponsor: Rep. Scott VanSingel**

**House Bill 4736 as introduced**
**Sponsor: Rep. John D. Cherry**

**House Bill 4737 as introduced**
**Sponsor: Rep. Leslie Love**

**Committee: Natural Resources and Outdoor Recreation**
**Complete to 9-3-19**

**SUMMARY:**

Collectively, House Bills 4735, 4736, and 4737 would provide penalties, under certain circumstances, for a person who requests game location records under the Freedom of Information Act and uses that information to take game.

**House Bill 4736** would amend the procedures in the Freedom of Information Act (FOIA) for responding to a request for a public record.

Currently, a public body is required to respond to a request for a public record within five business days after receiving the request by doing one of the following:

- Granting the request.
- Issuing a written notice to the requesting person denying the request.
- Granting the request in part and issuing a written notice to the requesting person denying the request in part.
- Issuing a notice to extend the response time by not more than 10 business days. (An extension may only be issued once per request.)

Under House Bill 4736, if the request were made to the FOIA coordinator for the Department of Natural Resources (DNR) for records relating to the specific location of game obtained by the DNR during any restoration, management, or research project, or through the expenditure of money, then the DNR would have to do one of the following:

- Respond in one of the four ways described above.
- Grant the request on the condition that the requesting person sign a form indicating that the person will not use the information of game location to take game or to assist others in the taking of game.

MCL 15.235

**House Bill 4735** would amend Part 401 (Wildlife Conservation) in the Natural Resources and Environmental Protection Act (NREPA) by imposing current penalties for the taking of certain game on an individual who signs a FOIA agreement described in House Bill 4736 and uses game location information obtained through FOIA to take game,[1] as follows:

- For the taking of game *except* deer, bear, wild turkey, wolf, waterfowl,[2] moose, or elk, the individual would be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of $100 to $1,000, or both, and the costs of prosecution.
- For the taking of deer, bear, wild turkey, or wolf, the individual would be guilty of a misdemeanor and must be punished by imprisonment for 5 to 90 days, a fine of $200 to $1,000, and the costs of prosecution. In addition, the individual would be prohibited from getting or having a hunting license for the rest of the year and the next three calendar years.
- For the taking of elk, the individual would be guilty of a misdemeanor punishable by imprisonment for 30 to 180 days or a fine of $500 to $2,000, or both, and the costs of prosecution. In addition, the individual would be prohibited from getting or having a hunting license for the rest of the year and either for the next 15 calendar years (for a first offense) or for life (for a second offense).
- For the taking of moose, the individual would be guilty of a misdemeanor punishable by imprisonment for 90 days to one year, a fine of $1,000 to $5,000, and the costs of prosecution. In addition, the individual would be prohibited from getting or having a hunting license for the rest of the year and either for the next 15 calendar years (for a first offense) or for life (for a second offense).

MCL 324.40118

House Bills 4735 and 4736 are tie-barred to one another, which means that neither could take effect unless both were enacted.

**House Bill 4737** would amend the Code of Criminal Procedure to account for citation changes that would be necessitated by House Bill 4735. House Bill 4737 is tie-barred to House Bill 4735, which means that it could not take effect unless HB 4735 were enacted.

MCL 777.13e

[1] Note: Although the agreement proposed in HB 4736 would include a person's use of game location information to assist others in the taking of game, the penalties proposed by HB 4735 only address situations in which an individual signs the form under FOIA and takes the game himself or herself.

[2] Note: HB 4735 as introduced does not provide any penalties for the taking of **waterfowl** under the circumstances it addresses. Some NREPA waterfowl violations are provided penalties in subsection (7), as amended by the bill, but there is nothing there concerning the taking of waterfowl in violation of a signed FOIA agreement, as described above, and waterfowl are excepted from the penalty provisions of subsection (2).

**FISCAL IMPACT:**

**House Bill 4735** would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Costs to local court systems could be offset under provisions of the bill that require convicted individuals to cover costs of prosecution. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4735 may reduce hunting license revenue for the DNR if an individual is convicted of illegal taking of game and forced to forfeit his or her right to purchase a hunting license for the durations specified in the bill. The extent of potential revenue loss is uncertain because the number of individuals who could be subject to these penalties is unclear. The sale of hunting a fishing licenses generated a combined $60.5 million in revenue in FY 2017-18. This revenue is deposited to the Game and Fish Protection Fund, which primarily supports wildlife and fisheries programs as well as DNR law enforcement. The bill is unlikely to affect departmental costs or local government costs or revenues.

**House Bill 4736** is unlikely to affect costs or revenues for the Department of Natural Resources. The bill is also unlikely to affect local government costs or revenues.

**House Bill 4737** is a companion bill to HB 4735 and amends sentencing guidelines. The bill would not have a direct fiscal impact on the state or on local units of government.

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