

Legislative Analysis



ALLOW WILDLIFE AND BIRD FEEDING

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House Bill 4088 (H-1) as reported from committee
Sponsor: Rep. Ken Borton
Committee: Natural Resources and Outdoor Recreation
Complete to 5-19-21

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

BRIEF SUMMARY: House Bill 4088 would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act (NREPA) to allow an individual to feed wildlife and birds if certain conditions are met.

FISCAL IMPACT: House Bill 4088 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 the bill sponsor 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 concerning deer and elk feeding in Michigan. The bill would remove this provision and all other references pertaining to deer and elk feeding throughout the section.

The bill would allow an individual to engage in *wildlife and bird feeding* only if both of the following conditions are met:

- The feed is located not more than 300 feet from a residence.
- The total quantity of feed placed, scattered, or distributed within 300 feet of that residence is not more than two gallons.

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.

The bill would also revise a subsection that now defines, and lists what is not considered, deer and elk feeding by removing a provision and replacing “deer and elk” with “wildlife and bird.”

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.

Under the bill, the following activities would not be considered wildlife and bird feeding:

- Baiting to take game as provided by an order of the NRC under section 40113a.³
- The scattering of feed solely as the result of normal logging or agricultural practices.
- 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.

MCL 324.40111a

ARGUMENTS:

For:

Recreational bird feeding has been enjoyed across the state for many years. Because cervid (deer-related) diseases are still relatively new to Michigan, there is uncertainty whether baiting bans work to slow the spread of chronic wasting disease (CWD). CWD is a serious concern. However, bird feeders do not purposefully target or attract deer and elk, and Michiganders should not be subject to fines related to baiting for feeding birds in their yards.

Against:

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 diseases such as tuberculosis and CWD. The focus on incidental feeding from bird feeders is seen by some as potentially creating a loophole around the baiting ban, and the current legislation should include language to require that bird feeders be displayed outdoors in such a way as to exclude deer and elk from accessing them or being drawn to them.

POSITIONS:

A representative of the Michigan United Conservation Clubs testified with no position on the bill. (4-29-21)

A representative of the Department of Natural Resources testified in opposition to the bill. (4-29-21)

The Michigan Farm Bureau indicated opposition to the bill. (4-29-21)

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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.

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

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