

HOUSE BILL NO. 5540

February 25, 2020, Introduced by Reps. LaFave, Steven Johnson, Maddock, Markkanen, Vaupel, Berman, Hoitenga, Robinson, Reilly, Bellino, Paquette, Rendon, Green, Liberati and Wozniak and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 1602 (MCL 324.1602), as added by 1995 PA 60, and by adding section 1507.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **Sec. 1507. Notwithstanding any other provision of this act, an**
2 **employee of the department shall not enter into or upon private**
3 **property unless 1 of the following applies:**
4 **(a) The owner or lessee of the property authorizes the entry.**



1 (b) The employee is a peace officer or park and recreation
 2 officer acting under the authority of section 1606, and 1 or more
 3 of the following apply:

4 (i) The employee has a warrant issued by a court of competent
 5 jurisdiction authorizing the entry.

6 (ii) The employee reasonably believes that, if the employee
 7 delays to seek a warrant, evidence of a crime will be destroyed or
 8 concealed or an individual will be endangered.

9 (iii) The employee is in hot pursuit of a criminal suspect.

10 Sec. 1602. (1) The department ~~or~~ an officer appointed by the
 11 department ~~may file~~ **do any of the following:**

12 (a) **File** a complaint and commence proceedings against ~~any a~~
 13 person for a violation of ~~any of the laws or statutes~~ **a statute or**
 14 **other law** described in section 1601, without the sanction of the
 15 prosecuting attorney of the county in which the proceedings are
 16 commenced. ~~In such a case, the officer is not obliged to furnish~~
 17 **and without furnishing** security for costs.

18 ~~The department, or an officer appointed by the department, may~~
 19 appear

20 (b) **Appear** for the people in ~~any a~~ court of competent
 21 jurisdiction in ~~any cases~~ **a case** for violation of ~~any of the~~
 22 ~~statutes or laws~~ **a law** described in section 1601. ~~may prosecute~~

23 (c) **Prosecute** the ~~eases~~ **case** in the same manner and with the
 24 same authority as the prosecuting attorney of ~~any the~~ county in
 25 which the proceedings are commenced. ~~and may sign~~

26 (d) **Sign** vouchers for the payment of jurors' or witnesses'
 27 fees in ~~these cases~~ **the case** in the same manner and with the same
 28 authority as ~~a prosecuting attorneys~~ **attorney** in ~~a criminal cases.~~
 29 ~~Whenever case.~~



1 (2) **Subject to section 1507, if** an officer appointed by the
 2 department has probable cause to believe that ~~any of the statutes~~
 3 ~~or laws mentioned~~ **a particular person has violated or is violating**
 4 **a law described** in section 1601, ~~have been or are being violated by~~
 5 ~~any particular person,~~ the officer ~~has the power to search, may,~~
 6 without warrant, ~~any do any of the following:~~

7 **(a) Search or enter into or upon public or private property to**
 8 **search a** boat, conveyance, vehicle, automobile, fish box, fish
 9 basket, game bag, game coat, or ~~any other~~ receptacle or place,
 10 except ~~dwellings~~ **a dwelling** or dwelling houses, ~~house~~ or within the
 11 curtilage of ~~any~~ **a dwelling house**, in which nets, hunting or
 12 fishing apparatuses or appliances, wild birds, wild animals, or
 13 fish may be possessed, kept, or carried by the person. ~~and an~~
 14 ~~officer appointed by the department may enter~~

15 **(b) Enter** into or upon ~~any private~~ **property** or public property
 16 ~~for that purpose or for the purpose of patrolling, investigating,~~
 17 ~~or examining~~ **to patrol, investigate, or examine** when he or she has
 18 probable cause ~~for believing that any of the statutes or laws~~
 19 ~~described in section 1601 have been or are being violated to~~
 20 **believe that the violation occurred or is occurring** on that
 21 property.

22 (3) The term "private property" as used in this part does not
 23 include ~~dwellings or dwelling houses~~ **a dwelling or dwelling house**
 24 or ~~that which is~~ **anything** within the curtilage of ~~any~~ **a dwelling**
 25 house.

26 (4) An officer appointed by the department shall ~~at any and~~
 27 ~~all times~~ seize and take possession of ~~any and all~~ nets, hunting or
 28 fishing apparatuses or appliances, or other property ~~, or~~ wild
 29 birds, wild animals, or fish, or ~~any~~ **a part or parts thereof, which**



1 **that** have been caught, taken, killed, shipped, or had in possession
 2 or under control ~~at a time, in a manner, or for a purpose,~~
 3 ~~contrary to any of the statutes or laws~~ **a law** described in section
 4 1601. ~~and the~~ **The** seizure may be made without a warrant. A common
 5 carrier is not responsible for damages or otherwise to ~~any~~ **an**
 6 owner, shipper, or consignee ~~by reason of any such~~ **because of the**
 7 seizure. When a complaint is made ~~on~~ **under** oath to ~~any~~ **a** magistrate
 8 authorized to issue warrants in criminal cases that ~~any~~ wild birds,
 9 wild animals, or fish, ~~any~~ **or a** part or parts of ~~wild birds, wild~~
 10 ~~animals, or fish,~~ **thereof**, or ~~any~~ nets, hunting or fishing
 11 apparatuses or appliances, or other property have been or are being
 12 killed, taken, caught, had in possession or under control, or
 13 shipped, contrary to ~~the statutes or laws~~ **a law** described in
 14 section 1601, and that the complainant believes **that** the property
 15 ~~to be~~ **is** stored, kept, or concealed in any particular ~~house~~ or
 16 place, the magistrate, if he or she is satisfied that there is
 17 probable cause for the belief, shall issue a warrant to search for
 18 the property. The warrant shall be directed to the department, ~~or~~
 19 an officer appointed by the department, or ~~to~~ any other peace
 20 officer. ~~All~~ **The** wild birds, wild animals, fish, nets, boats,
 21 fishing or hunting appliances or apparatuses, ~~or automobiles~~ or
 22 other property of any kind seized by an officer shall be turned
 23 over to the department to be held by the department subject to the
 24 order of the court as provided in this part.

25 (5) ~~(2)~~ For the purposes of this part, "probable cause **for the**
 26 **belief**" or "probable cause to believe" is present ~~on the part of a~~
 27 ~~peace officer~~ if there are facts that would induce ~~any~~ **a** fair-
 28 minded person of average intelligence and judgment to believe that
 29 a law ~~or statute~~ **described in section 1601** had been violated or was



1 being violated. ~~contrary to any of the statutes or laws described~~
2 ~~in section 1601.~~

