

## REPEAL MACOMB HUNTING BAN

### House Bill 4086 as introduced First Analysis (3-9-99)

**Sponsor: Rep. Sue Rocca**  
**Committee: Conservation and Outdoor  
Recreation**

#### ***THE APPARENT PROBLEM:***

Hunting on Sundays is prohibited by local acts in a few counties in the state. Apparently, it was originally intended that such laws would apply to all lands, public and private, in the counties where they were adopted. However, in those same counties that ban Sunday hunting on private lands, Sunday hunting is permitted on certain state-owned land. According to hunters, this system of restricted hunting in some areas of the state and unrestricted hunting in others has resulted in confusion, especially in situations where a hunter is tracking a wounded animal that crosses from state-owned land onto private property. Some sports organizations have suggested, in recent years, that the acts are outdated, and -- in response to their protests -- several were repealed under the provisions of Public Act 396 of 1994. However, in order to take effect, each county affected by the legislation would have had to submit the question of repealing the ban at a general election before the act expired at the end of 1996, and not all counties held such a vote.

Macomb County is one of those that failed to submit the repeal to a vote. Since it was assumed that many of that county's residents would have supported the provisions of Public Act 396, legislation was again proposed (House Bill 5547 of 1998) that would have repealed Local Act 9 of 1947, the act which prohibited Sunday hunting there. The Macomb County Board of Commissioners adopted a resolution in support of House Bill 5547 (Official Resolution No. 27 of 1998, introduced in March of that year). However, the bill was not taken up by the Senate. Although House Bill 5547 also included the provision that repeal of the act would be subject to the approval of the affected county electorate, this is not a constitutional requirement. It has been suggested, therefore, that the local act should be repealed without voter approval. (See *Background Information* for additional details.)

#### ***THE CONTENT OF THE BILL:***

Currently, Act 9 of the Local Acts of 1947 prohibits hunting game on Sundays in Macomb County. House Bill 4086 would repeal the local act.

#### ***BACKGROUND INFORMATION:***

During the 1920s, 1930s, and 1940s, the legislature passed a number of local acts that prohibit Sunday hunting in various counties, in part as a means of preserving game. The local acts are still in effect in six counties. Public Act 396 of 1994 would have repealed these local acts in Lapeer, Hillsdale, Huron, Lenawee, Macomb, St. Clair, Sanilac, Tuscola, and Washtenaw counties, subject to approval by the voters in each county (see the House Legislative Analysis Section's analysis of House Bill 5068, dated 12-21-94). However, only four of the counties -- Tuscola, Huron, Lapeer, and Sanilac -- submitted the issue to county voters. The voters in Tuscola County rejected a proposed repeal of the Sunday ban; and in the other three counties it was approved.

Legislation that has been introduced over the past several years regarding repeal of these local acts has generally specified that such a repeal be subject to voter approval. However, this is not a constitutional requirement: Article IV, section 29 of the state constitution says that a local act cannot *take effect* unless approved by two-thirds of the members elected to and serving in each house, and by a majority of electors voting on a referendum on the issue in the district affected. The constitution further provides that, in order to *repeal* a local act, legislation that would do so must only be approved by a majority of the members in each house and not by voters in the jurisdiction.

#### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency (HFA) the bill would have no impact on state funds. (3-1-99)

## **ARGUMENTS:**

### **For:**

The bill would repeal Local Act 9 of 1947, which bans Sunday hunting in Macomb County. Public Act 114 of 1992 contained a straightforward repeal of a similar local act, pertaining to Monroe County, thus putting the policy into effect immediately and avoiding the necessity -- and the costs -- of holding an election. Many hunters consider these local acts antiquated and unnecessary. One reason indicated is that a hunter is subject to a misdemeanor charge, with accompanying penalties, for hunting "game animals or game birds" on Sunday. A person found hunting in Macomb County on a Sunday, in violation of Local Act 9 of 1947, could be fined \$100, imprisoned in the county jail for up to 90 days, or both. However, in our changing society, it has become more acceptable in recent years for hunters to hunt on Sundays. For example, the Michigan firearm deer season opened on a Sunday during the 1998 season, although hunters in counties that ban Sunday hunting presumably waited until Monday.

### **Response:**

This issue becomes complicated in areas where county lines cut across hunting areas. With regard to Macomb County, the neighboring county of St. Clair has a local act that bans Sunday hunting. Therefore, a repeal of the ban on Sunday hunting in Macomb County could result in conflicts on land where hunting areas lie close to the county line. The situation would be similar to that in Tuscola County: the provisions of Public Act 396 of 1994 allowed the voters in Huron, Lapeer, and Sanilac counties to approve a repeal of the local act banning Sunday hunting. However, in Tuscola County the voters rejected a similar proposal. As a result, Tuscola County is surrounded by three other counties where Sunday hunting is permitted.

### **For:**

By repealing the local act, the bill would clarify that hunters are free to pursue their sport legally all weekend -- on private as well as public land. This local act, one of six that are currently on the books in southern Michigan counties (the other counties are Hillsdale, Lenawee, St. Clair, Tuscola, and Washtenaw), apparently was made to apply to all hunting lands in Macomb; over the years, however, enforcement of such laws has decreased as Sunday hunting has come to be generally accepted. Today, few people realize such laws even exist, and those who know of them usually interpret them to apply only to private lands. Repealing the act would simply

strike from the books a law that most local citizens of the area consider to be obsolete.

### **Response:**

It is specious to argue that hunters aren't aware of these laws. Current hunting regulations are outlined in the Hunting and Trapping Guide issued by the Department of Natural Resources' DNR Wildlife Division, which is available to all who purchase hunting licenses at the various authorized retail outlets. Each local act's specific prohibition is listed on page 22 of the 1998-1999 guide, under "Sunday Hunting Closures," as follows: in Hillsdale and Lenawee counties, no hunting is permitted except on state lands; in Macomb and St. Clair counties, no hunting is permitted except on state lands and for waterfowl in offshore border waters of the Great Lakes and Lake St. Clair; and in Tuscola and Washtenaw counties, no hunting is allowed on lands of another person, but state lands are open.

### **Against:**

Some people might object to the state's interference in what is, essentially, a local issue, and prefer, instead, that Macomb County residents have a choice in laws affecting them regarding hunting. Citizens are often outraged when their right to decide local issues is taken away, as was revealed recently during a debate on legislation that would suspend the powers and duties of the elected Detroit Board of Education. By not calling for a local referendum in Macomb County, the bill might similarly be construed as an attempt to bypass the will of landowners and other residents living there and as an attempt to disenfranchise them.

Also, it isn't clear that a "one-size-fits-all" approach in hunting laws would, or could, be accomplished in Macomb County. For one thing, it is generally maintained that citizens in the southern part of Macomb County, which is heavily populated, would likely oppose a repeal of the ban against Sunday hunting, while in the northern part of the county, which is sparsely populated, repeal of the ban might gain support. Also, while it may be true that hunters like Sunday hunting, other citizens hold to the belief that Sunday is "a day of rest," and have defeated the proposal when it has been put before them.

### **Response:**

Reportedly, a substitute bill will be introduced that would grant more local control by allowing the Macomb County Board of Commissioners to adopt a resolution, approving or rejecting the repeal of the ban on Sunday hunting. In the alternative, the substitute would allow the county board to place the issue before the voters.

***POSITIONS:***

The Department of Natural Resources supports the bill.  
(3-8-99)

The Michigan United Conservation Clubs (MUCC)  
supports the bill. (3-8-99)

The Macomb County Board of Commissioners  
supports the bill. (3-5-99)

With regard to similar legislation before the legislature  
last session, the National Rifle Association of America  
(NRA) submitted written testimony in support.

Analyst: R. Young

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