

Legislative Analysis



PROHIBIT CERTAIN RECORDING OF INDIVIDUALS WHO ARE HUNTING OR FISHING

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4340 (H-1) as referred to second committee

Sponsor: Rep. John Reilly

1st Committee: Natural Resources and Outdoor Recreation

2nd Committee: Ways and Means

Complete to 8-14-19

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

BRIEF SUMMARY: House Bill 4340 would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act (NREPA) to prohibit the recording of an individual who is lawfully taking an animal or fish with the intent to harass that individual.

FISCAL IMPACT: House Bill 4340 would not affect costs or revenues for the Department of Natural Resources, but would have an indeterminate fiscal impact on the state and on local units of government depending on the number of convictions that result from its provisions. (See **Fiscal Information**, below, for further discussion.)

THE APPARENT PROBLEM:

According to committee testimony, a new kind of harassment is imminent in Michigan: protesters taking pictures and videos of hunters and posting them online. This can result in an onslaught of what could be described as cyberbullying—all for participating in the lawful act of hunting or fishing.

Other states have recently attempted to tackle this new kind of harassment. Notably, Wisconsin has prohibited photographing, videotaping, audiotaping, or monitoring or recording through other electronic means the activities of a person who is engaged in lawful hunting, fishing, or trapping, with the intent to impede or obstruct that person.¹ Legislation similar to Wisconsin's law has been proposed, to prohibit the recording of an individual who is engaged in the process of lawfully taking an animal or fish with the intent to harass that individual.

THE CONTENT OF THE BILL:

Currently under NREPA, an individual is prohibited from obstructing or interfering in the lawful taking of animals or fish by another individual. NREPA lists a variety of acts that, if intentionally or knowingly engaged in, constitute obstruction or interference in violation of this prohibition.

¹ See <https://www.animallaw.info/statute/wi-hunting-29083-interference-hunting-fishing-or-trapping>

The bill would add that it is a violation of the prohibition to intentionally or knowingly photograph, videotape, audiotape, or otherwise record an individual who is engaged in the process of lawfully taking an animal or fish with the intent to harass that individual.

MCL 324.40112

FISCAL INFORMATION:

House Bill 4340 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. The costs of local incarceration in a county jail and local misdemeanor probation supervision, and how the 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. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

The bill would not affect costs or revenues for the Department of Natural Resources.

ARGUMENTS:

For:

Supporters of the bill argue that, without this prohibition, activists and protesters could use a recording of an individual who is engaged in the process of lawfully taking an animal or fish to publicly shame or harass the individual online. This kind of activity could lead to fewer individuals enjoying their right to hunt and fish in Michigan.

Against:

Opponents of the bill argue that the current law prohibits interfering with the actual, lawful activity of hunting or fishing and that this bill would extend too far beyond the spirit of the law. Especially with regard to hunting, persons following hunters around are already interfering with a lawful taking, whether they are recording or not, and whether they post the recordings online or not. Banning recordings is not needed to achieve the desired result of protecting those hunting and fishing from harassment.

Additionally, critics argue that the bill could create conflicts among persons using public lands for different reasons. Hunters and fishers on public property could easily mistake innocuous or inadvertent video- or picture-taking as harassment. As a result, more confrontations on public lands could occur and innocent bystanders could be wrongly investigated by authorities simply for taking harmless recordings of nature.

POSITIONS:

Representatives of the following organizations testified in support of the bill (5-21-19):

- Michigan United Conservation Clubs
- Michigan Hunting Dog Federation
- Michigan Trappers and Predator Callers Association

The following organizations indicated support for the bill:

- Michigan Bear Hunters Association (5-21-19)
- Tri-County Sportsmen's League (5-21-19)
- Michigan State Fox Hunter Association (5-21-19)
- U.P. Bear Houndsmen Association (5-21-19)
- Michigan Trappers and Predator Callers Association (6-4-19)

The Department of Natural Resources indicated no position on the bill. (6-4-19)

The American Civil Liberties Union indicated opposition to the bill. (5-21-19)

Legislative Analyst: Emily S. Smith
Fiscal Analysts: Robin Risko
Austin Scott

■ 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.