



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**REPEAL OF SUNDAY HUNTING BAN
IN HILLSDALE COUNTY**

**House Bill 6348 (Substitute H-1)
First Analysis (12-3-02)**

**Sponsor: Rep. Steve Vear
Committee: Conservation and Outdoor
Recreation**

THE APPARENT PROBLEM:

In some Michigan counties, hunting on Sundays is prohibited by local acts. 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 land, 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. Since 1992, the legislature has repealed local acts banning Sunday hunting in seven counties, sometimes by repealing the local act applicable to the county, and sometimes by repealing the local act contingent on approval of a referendum by voters in the county.

The movement to repeal the acts was partially successful under Public Act 396 of 1994, which made the repeal of nine local acts banning Sunday hunting contingent upon approval by the voters in each affected county within two years of the public act's effective date. 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. By the December 29, 1996, deadline, three counties – Sanilac, Lapeer, and Huron, had approved the repeal by referendum, and five counties – Tuscola, Washtenaw, Lenawee, St. Clair, and Hillsdale, had rejected the repeal. Macomb County did not hold a referendum on the repeal.

Legislation that has been introduced over the past several years regarding repeal of these local acts has generally specified that such 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. In light of this, Public Act 128 of 2001 was passed to repeal Macomb County's ban without voter approval. Since Hillsdale County is also one of those that rejected the repeal (the referendum on repeal failed 3,082 to 3,916 on August 6, 1996), it has been suggested that its local act should also be repealed without voter approval.

THE CONTENT OF THE BILL:

The bill would repeal a local act: Local Act 1 of 1935, which prohibits hunting on Sunday in Hillsdale County.

[Note: Article IV, Section 29 of the 1963 Michigan constitution states, in part, that the legislature shall pass no local or special act where a general ("public") act can be made applicable. This section of the 1963 constitution also provides that a local or special act cannot take effect "until approved by two-thirds of the members elected and serving in each house and by a majority of the electors voting thereon in the district affected." However, the repeal of a local act requires only a majority vote by legislators in both houses, and does not require submission to the electors of the local district in question.]

BACKGROUND INFORMATION:

Local Acts Banning Sunday Hunting. The legislature passed a number of local acts to prohibit Sunday hunting in various counties. For the most part, this occurred during the 1920s and 1930s, but also as late as 1947. Reportedly, many, if not most, of these local acts originally were passed to prohibit hunting game with firearms or dogs to forestall the noise from

House Bill 6348 (12-3-02)

guns and dogs in these counties from hunters traveling to these counties from the more populous southeast area of the state. Legislation in the 1991-92 legislative session and again in the 1993-94 legislative session resulted in the repeal of Sunday hunting bans in seven counties.

The twelve counties that had local acts banning Sunday hunting and the public acts repealing (or allowing for the repeal of) these local acts are as follows:

- Tuscola: (Local Act 2 of 1927), referendum under Public Act 396 of 1994 defeated.*
- Livingston: Local Act 6 of 1927 repealed by Public Act 241 of 1992.
- Lapeer: Local Act 7 of 1927 repealed by referendum under Public Act 396 of 1994.
- Washtenaw: (Local Act 9 of 1927), referendum under Public Act 396 of 1994 defeated.*
- Sanilac: Local Act 4 of 1929 repealed by referendum under Public Act 396 of 1994.
- Lenawee: (Local Act 1 of 1931), referendum under Public Act 396 of 1994 defeated.*
- Monroe: Local Act 3 of 1931 repealed by Public Act 114 of 1992.
- Hillsdale: (Local Act 1 of 1935), referendum under Public Act 396 of 1994 defeated.*
- Shiawassee: Local Act 1 of 1937 repealed by Public Act 242 of 1992.
- Huron: Local Act 3 of 1937 repealed by referendum under Public Act 396 of 1994.
- St. Clair: (Local Act 4 of 1939), referendum under Public Act 396 of 1994 defeated.*
- Macomb: (Local Act 9 of 1947), no referendum held under Public Act 396 of 1994. Repealed by Public Act 128 of 2001.

*Indicates a current Sunday hunting ban in these counties.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency (HFA) the bill would have no fiscal impact. (11-13-02)

ARGUMENTS:

For:

By repealing the local act, the bill would clarify that hunters in Hillsdale County are free to pursue their sport legally all weekend -- on private as well as public land -- and bring Michigan citizens closer to having uniform hunting laws across the state. This local act is one of five that are currently on the books in southern Michigan counties (the other counties are Lenawee, Tuscola, St. Clair, and Washtenaw). Over the years, 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. Further, by containing such a straightforward repeal, the bill would put the policy into effect immediately and thus avoid the necessity – and the costs – of holding an election.

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 14 of the 2002 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 object to the state's interference in what is, essentially, a local issue, and would prefer, instead, that Hillsdale 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. A referendum on repeal of the ban on Sunday hunting failed in Hillsdale County in 1996. Therefore, 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 Hillsdale County. 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.

POSITIONS:

The Department of Natural Resources supports the bill. (11-14-02)

The Michigan United Conservation Clubs (MUCC) supports the bill. (11-14-02)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.