



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

PERMIT SENIORS TO HUNT DEER WITH CROSSBOW

House Bill 4875 as introduced
First Analysis (7-17-03)

Sponsor: Rep. Randy Richardville
Committee: Conservation and Outdoor
Recreation

THE APPARENT PROBLEM:

Under the Wildlife Conservation Orders of the Natural Resources Commission, the Department of Natural Resources (DNR) may issue a special permit to a person who is physically disabled allowing that individual to take game with a crossbow during the open season for that game if that person is licensed to take that game (and complies with other appropriate laws and regulations). Further, the commission order prohibits a person from taking game with a crossbow, except during the November 15 to November 30 firearm deer season, unless that person has a special permit to do so due to a disability.

In order to obtain the special crossbow permit, an individual must present certification from a physician indicating that the individual has at least 80 percent disability, in combination or individual impairment, of a hand, elbow, or shoulder, based on testing conducted by a physical therapist. However, according to committee testimony, obtaining certification from a physician is often difficult, as the application of the disability requirement seems to vary among physicians. While many physicians are quite willing to attest that an individual is disabled to the point that he or she qualifies for the permit, there have been numerous instances where a physician has simply refused to provide the required certification, notwithstanding the individual's disability. As a result, there appears to no clear standard that must be achieved as a condition of receiving the special crossbow permit. Some believe that a better alternative to the disability requirement would be to simply permit all senior citizens to use a crossbow during the regular archery deer season.

THE CONTENT OF THE BILL:

The bill would amend the Natural Resources and Environmental Protection Act to permit a senior citizen to take deer with a crossbow during the bow and arrow deer season, provided that he or she has a bow and arrow deer hunting license. (The term

“senior citizen” refers to a resident 65 years of age or older.)

[Note: The provisions of the bill would be in addition to any conservation order of the NRC relating to the issuance of the special crossbow permit. If the bill is enacted, an individual could obtain a special crossbow permit if (1) he or she is a senior citizen (pursuant to the bill) or (2) if he or she is disabled (pursuant to the NRC order). It does not appear that the bill would supercede any existing NRC order relating to the issuance of the special crossbow permit.]

MCL 324.40115

BACKGROUND INFORMATION:

The extent to which an individual is disabled is based on a number of standards and criteria, including the following: muscle weakness; impaired range of motion; peripheral nerve involvement; amputations; unilateral hand weakness; any spinal cord injury above the C-8 vertebra; and coordination assessment.

The conservation order further states that an individual shall not seek diagnosis on more than two occasions within a six month period. The individual may, however, seek another opinion (1) within 30 days from the same or a different physical therapist, or (2) after 180 days from the same or a different physical therapist.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on state or local government. (HFA fiscal analysis dated 7-17-03)

House Bill 4875 (9-15-03)

ARGUMENTS:**For:**

According to committee testimony, there have been several instances where an individual was unable to obtain the special crossbow permit despite the existence of a significant physical disability. The chief problem with this (aside from any fairness issue) is that it effectively denies these individuals of their opportunity to hunt. If a disabled individual is unable to obtain the special crossbow permit, there are relatively few alternatives that he or she can utilize in order to increase that opportunity. Adding an eligibility requirement that is based on age eliminates any arbitrariness in the process and increases the hunting opportunities of all senior citizens.

In addition, Wisconsin enacted a similar law in 2001 (see Act 18/Assembly Bill 153 of 2001). In an October 2001 press release, the bill's sponsor, Representative Mark Pettis stated, "[t]his new legislation will make it easier for senior hunters to hunt with a crossbow. It makes it more convenient for them to hunt since a regular bow can be difficult to maneuver due to arthritis or lessened flexibility." Further, "[m]any archery hunters have had to quit hunting because they have lost the strength or mobility to pull back a bow. In order to qualify now, the hunter must qualify medically and that bar is very high, often times, recent surgery or degenerative diseases are not always enough to pass the current DNR restrictions." Finally, "[m]any seniors quit hunting because they are too proud to admit to a doctor they have lost some ability or they can't afford the medical tests needed to qualify to use a crossbow." These statements seem quite fitting for this bill as well.

Against:

There are several arguments against the bill. First, since the passage of proposal G in the November 1996 election, the Natural Resources Commission has had the exclusive authority to regulate the taking of game in the state. This bill, then, runs counter to current law (MCL 324.40113a) by having the legislature trump the authority granted to the Natural Resources Commission, as permitting otherwise able-bodied senior citizens to hunt with a crossbow will affect the number of deer taken during the archery season (i.e. a wildlife management issue). This is really a matter that should be taken up by the Natural Resources Commission. Indeed, it should be noted that the regulations relating to the issuance of the special crossbow permit are contained in the NRC

orders, not in statute. [Note: The regulations were codified at MCL 324.40115, but were repealed with the enactment of Public Act 347 of 2000, and placed in the NRC's wildlife conservation orders.]

Secondly, the bill presents a significant problem with how it relates to the NRC's order permitting hunters with a disability to hunt with a crossbow. As it stands now, in order to qualify for the special permit, an individual must present certification indicating the extent to which that person is disabled. While the certification is generally designed to ascertain the extent of an individual's disability, it also serves to eliminate severely impaired applicants from qualifying for the special permit. Indeed, the order states that the coordination assessment "will eliminate severely impaired applicants from qualifying for a permit." This bill, then, would permit individuals who are impaired to the point where they are ineligible for the special crossbow permit to obtain one simply because of their age.

Third, the bill does nothing to address to apparent problem that it seeks to remedy. If disabled people (of all ages) have experienced problems in obtaining the special permit, the disability threshold could be lowered, more stringent language could be added so that a person could obtain the permit based on the certification from a physical therapist and not a physician, or more explicit language that details what constitutes a disability could be added (although it should be noted that all three alternatives would require the NRC order to be amended as there is no statutory language upon which those changes could be based). In addition, the bill does not help disabled individuals who are not yet 65 years of age, as they would still be subject to the same "arbitrary" regulations that are the root of the problem.

POSITIONS:

The Department of Natural Resources opposes the bill. (6-27-03)

The following organizations indicated opposition to the bill to the House Committee on Conservation and Outdoor Recreation on 7-2-03: the Michigan United Conservation Clubs, the Belle River Conservation Club, the Capital Area Sportsmen Club, the Professional Bow Hunters Society, the Lapeer

County Sportsmen's Club, the Leslie Blackhawk Bow Hunters, the Tuscola County Archers, the Humane Society of the United States.

Analyst: M. Wolf

■ 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.