

"NO TRESPASSING" PURPLE PAINT MARKS

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Senate Bill 499 as passed by the Senate

Sponsor: Sen. Michelle A. McManus

House Committee: Conservation, Forestry, and Outdoor Recreation

Senate Committee: Natural Resources and Environmental Affairs

First Analysis (6-12-06)

BRIEF SUMMARY: The bill would prohibit a person from engaging in recreational activity or trapping on another person's property, if the property was posted with purple paint marks.

FISCAL IMPACT: There would be no fiscal impact on the state or on local governmental units.

THE APPARENT PROBLEM:

With a few exceptions, the Natural Resources and Environmental Protection Act prohibits a person from entering or remaining upon another person's property to engage in any recreational activity or trapping without the consent of the owner (or the owner's agent). Entry to the property is prohibited if the property is fenced or enclosed, or if signs (meeting size and visibility requirements) are posted in a conspicuous manner.

According to committee testimony, in some cases, signs and fencing are impractical or too costly. Furthermore, landowners' "no trespassing" signs occasionally are taken down by pranksters, or by those intent upon entry.

In recent years, Arkansas, Missouri, and Texas have enacted legislation allowing landowners to mark their property against trespass using purple paint marks on trees. It has been suggested that allowing this option in Michigan could mitigate the problematic aspects of signs and fencing, and help to prevent recreational trespass.

THE CONTENT OF THE BILL:

The bill would amend Part 731 (concerning Recreational Trespass) of the Natural Resources and Environmental Protection Act to prohibit a person from engaging in recreational activity or trapping on another person's property, if the property is posted against entry with purple paint marks.

Under the bill, if identifying purple paint marks are placed on trees or posts around the property, using paint approved for that purpose by the Department of Natural Resources (DNR), the property would be considered posted in a conspicuous manner against entry. Each paint mark would have to be a vertical line at least eight inches long, and the bottom of the mark would have to be between three and five feet above the ground. The paint marks could not be more than 100 feet apart and would have to be placed so that they were readily visible to people approaching the property.

The bill would prohibit a person from placing the purple paint marks on another person's property to prohibit hunting, fishing, trapping, or other recreational activities without the written permission of the owner or a lessee or agent.

(A violation of Part 731 is a misdemeanor punishable by up to 90 days' imprisonment and/or a fine of not less than \$100 or more than \$500. If a person is convicted of a second or subsequent violation within three years of a previous violation, the maximum fine is \$1,000 and the court may order that the person's hunting, fishing, or trapping license be revoked and that the person not seek or possess a license for three years. Also, the court must order a person convicted of violating Part 731 to make restitution for any damage.)

MCL 324.73102 & 324.73105

HOUSE COMMITTEE ACTION:

The House Committee on Conservation, Forestry, and Outdoor Recreation reported out the Senate-passed version of Senate Bill 499 without amendments. Some of the information in this analysis is derived from the Senate Fiscal Agency's analysis dated 5-18-06)

ARGUMENTS:

For:

Due to the state's abundant natural resources, outdoor recreation constitutes a significant component of the state economy. Trespassing, however, is a considerable problem that contributes to the erosion of support for outdoor activities, such as hunting. Currently, property owners may indicate that their land is not open to recreational activities by constructing fences or other physical barriers, or by posting "no trespassing" signs. These methods can be costly, however, and geography sometimes makes them impractical. Additionally, signs frequently must be replaced because they are torn down or damaged.

Timber companies typically discourage entry by marking property boundaries with different colors of paint, which reportedly lasts two to 10 years. Paint markings could be similarly effective for landowners who do not want others entering their property to hunt, fish, or engage in other recreational activities. Presumably, this option would help reduce the number of trespassing violations occurring in Michigan.

Response:

Although the bill would provide property owners with an easy, inexpensive way to mark their land, there are several potential problems that should be taken into consideration. The paint would fade over time, which could lead to complications in law enforcement. Additionally, allowing the use of paint would make it easier for a person to mark someone else's property against entry. Apparently, some hunters engage in this unsportsmanlike practice in order to deny others access to land, and some animal rights activists and others who oppose hunting also post "no trespassing" signs on land that does not belong to them. In addition, if property changed hands and the new owner did not want the paint marks, he or she could have trouble removing them.

Against:

The bill could result in the degradation of the state's landscapes, which in turn could affect tourism. The bill also could result in individuals breaking the law unintentionally, if they were unaware of the purple paint's meaning.

Response:

First, the bill would not require landowners to use purple paint, but simply would allow them to do so. Also, since the paint would be used by private property owners, it would not detract from the appearance of public land. Furthermore, other states that allow the use of paint markings have engaged in comprehensive campaigns to alert the public as to the paint's meaning. They have reported no significant problems related to inadvertent trespass violations, despite the widespread use of the paint by property owners. Evidently, the number of poachers caught in those states has increased since the laws allowing the use of purple paint were enacted. The DNR could engage in similar public awareness efforts in Michigan to ensure that only true violators were penalized.

POSITIONS:

The Department of Natural Resources is neutral on the bill. (6-8-06)

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■ 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.