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BILL ANALYSIS

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Senate Bill 499 (Substitute S-1 as reported)  
Sponsor: Senator Michelle A. McManus  
Committee: Natural Resources and Environmental Affairs

Date Completed: 5-18-06

### **RATIONALE**

The Natural Resources and Environmental Protection Act prohibits a person from entering or remaining upon another person's property, other than farm property or a wooded area connected to farm property, to engage in any recreational activity or trapping upon the property without the consent of the owner or his or her lessee or agent, if the property is fenced or enclosed and is maintained in such a manner as to exclude intruders, or if signs meeting size and visibility requirements are posted in a conspicuous manner against entry. Evidently, in some cases, signs and fencing are impractical or too costly. Occasionally, landowners' "no trespassing" signs are taken down by other people. In recent years, several other states, such as Arkansas, Missouri, and Texas have enacted legislation allowing landowners to mark their property against trespass using purple paint marks. 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 in the State.

### **CONTENT**

**The bill would amend Part 731 (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 were posted against entry with purple paint marks.**

Under the bill, if identifying purple paint marks were 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 also 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 his or her 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 arising out of the violation.)

MCL 324.73102 & 324.73105

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Due to the State's abundant natural resources, outdoor recreation constitutes a significant component of the economy. Trespassing, however, is a considerable problem that contributes to the erosion of support for activities such as hunting in Michigan. Currently, property owners may indicate that their land is not open to recreational activities by constructing fences or other physical barriers, or posting "no trespassing" signs. These methods may 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.

### **Opposing Argument**

The bill could result in the degradation of the State's landscapes, the preservation of which is critical to promoting tourism. The bill also could lead people who were unaware of the purple paint's meaning, particularly those from other states, as well as colorblind individuals, to break the law unintentionally.

**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, the 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.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would have no impact on the State and an indeterminate fiscal impact on local governments. There are no data to indicate whether using purple paint marks to designate a no trespassing area would change the number of offenders who are convicted of a misdemeanor for violating Part 731. Local units incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Penal fine revenue benefits public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.