

POSTING PROPERTY WITH PURPLE PAINT

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House Bill 4894

Sponsor: Rep. Ted Hammon

House Committee: Tourism, Outdoor Recreation, and Natural Resources

Complete to 6-25-07

A SUMMARY OF HOUSE BILL 4894 AS INTRODUCED 6-12-07

House Bill 4894 is part of a two-bill package that would amend Part 731 (Recreational Trespass) of the Natural Resources and Environmental Protection Act to allow the use of purple paint marks as an authorized method (along with fences, enclosures, and posted signs), to indicate that private property is closed to hunting, fishing, or other recreational activities.

Under Michigan law, it is currently a misdemeanor for a person to trespass on someone else's property to engage in activities such as hunting, fishing, or trapping without the consent of the owner (or the owner's lessee or agent) if (1) the property is farmland or a connected wooded area (even if not fenced or posted); or (2) the property is fenced, enclosed, or posted in a conspicuous manner against entry in accordance with rules about letter height and sign placement. Limited exceptions exist for persons fishing on navigable public streams who may enter private property to avoid a hazard in the stream and unarmed hunters who may enter property on foot without permission as needed to retrieve a hunting dog (unless previously prohibited from doing so by the owner).

Senate Bill 574 would authorize the use of purple paint marks on trees or posts around the border of a property as another method (along with fences and signs) of posting property as closed to hunting and other recreational pursuits.

House Bill 4894 would ban marking someone else's property with purple paint without their permission.

The bills are tie-barred, meaning that unless both are enacted, neither will take effect. More details about the bills are provided below.

House Bill 4894

Section 73105 currently makes it unlawful for a person to post a sign or enclose someone else's property to prohibit hunting, fishing, or other recreational activities without the written permission of the owner, the owner's lessee, or agent. The bill would make it also unlawful to place purple paint marks on someone else's property without permission.

MCL 324.73102

Senate Bill 574

Senate Bill 574 would authorize the use of purple paint marks to post property as closed to entry, with the following requirements:

- The purple paint marks must be placed on trees or posts around the property using paint approved by the Department of Natural Resources.
- Each paint mark must be a vertical line of at least eight inches, with the bottom of the mark between three feet and five feet above the ground.
- The paint marks must be spaced no more than 100 feet apart and "readily visible" to persons approaching the property.

MCL 324.73102

BACKGROUND INFORMATION:

Previous bill. Similar legislation (Senate Bill 499) introduced in the 2005-2006 legislative session passed the Senate in May 2006 but died in the House.

Penalties. Under Section 73110, any violation of Part 731 is a misdemeanor punishable by up to 90 days' imprisonment, a fine of not less than \$100 or more than \$500, or both. A person convicted of a second or subsequent violation within three years of a previous violation is subject to up to 90 days' imprisonment, a maximum fine of \$1000, or both. In addition, the court may revoke a repeat offender's hunting, fishing, or trapping license, and bar the person from getting new ones for three years. In addition, any protected animal, fur-bearing game animal, game or fish taken while a person is committing any violation of Part 731 may be seized and forfeited. A person convicted of violating Part 731 must be ordered to make restitution for any damage arising out of the violation and may be ordered to pay the costs of prosecution.

Other states. At least four other states (Arkansas, Missouri, Kansas, and Texas) appear to allow property to be posted for "no trespassing" through the use of purple paint marks. Many other states allow paint marks of a different color to be used for posting against trespass.

Additional Information

DNR website information about trespass:

http://www.michigan.gov/dnr/0,1607,7-153-10366_37141_37704-31412--,00.html

Summary of state laws allowing posting with paint marks (purple or otherwise):

http://aglaw.missouri.edu/trespass_hunters.htm

Summaries and analyses of Senate Bill 499 from 2005-2006 legislative session:

<http://www.legislature.mi.gov/documents/2005-2006/billanalysis/House/pdf/2005-HLA-0499-3.pdf>

FISCAL IMPACT:

This bill would not have a fiscal impact on the state or on local governmental units.

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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.