

# Legislative Analysis



## **PNEUMATIC GUN: INCLUDE FIRING BOLTS AND ARROWS**

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**House Bill 4332 (H-1) as referred to second committee**

**Sponsor: Rep. Beau Matthew LaFave**

**1st Committee: Natural Resources and Outdoor Recreation**

**2nd Committee: Judiciary**

**Complete to 2-23-20**

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 4332 would amend the Natural Resources and Environmental Protection Act (NREPA) to expand the definition of pneumatic gun to include devices that shoot bolts or arrows by spring, gas, or air. The bill would also revise other provisions concerning hunters with certain disabilities or physical limitations.

**FISCAL IMPACT:** It is unclear whether the expanded definition of pneumatic gun in NREPA or the expansion of hunting opportunities for persons with disabilities would result in an increase in permit revenue for the Department of Natural Resources (DNR). It is also unclear whether these new provisions, as well as the mandate for the DNR to issue a permit to a person unable to walk through a dense wooded area due to disability, would affect departmental costs. These changes would be unlikely to affect local government revenues or costs.

### ***THE APPARENT PROBLEM:***

Outdoor recreation, including hunting, brings billions of dollars into Michigan's economy every year. However, it can be difficult for persons with certain disabilities to enjoy hunting in Michigan, due at least in part to restrictions on weapons under current law. Specifically, the best weapon available for disabled persons with the use of one arm or less is a crossbow with a crank—yet that, some have noted, can still be too difficult to handle and use. Legislation has been proposed to allow an alternative hunting device for persons with certain kinds of disabilities, and to make other changes to provisions in NREPA that pertain to hunters with certain physical limitations, to help ensure that everyone can fully enjoy Michigan's great outdoors.

### ***THE CONTENT OF THE BILL:***

House Bill 4332 would amend NREPA to expand the definition of pneumatic gun to include devices that shoot bolts or arrows by spring, gas, or air and to revise other provisions concerning hunters with certain disabilities or physical limitations.

#### **Pneumatic Guns**

1990 PA 319 defines a pneumatic gun as any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air, including a paintball gun that expels plastic balls filled with paint to mark the point of impact. This is the definition used in the Michigan Penal Code. This definition is also currently used to define pneumatic guns as firearms for the purposes of Part 401 (Wildlife Conservation) of NREPA—except that paintball guns are specifically excluded from being considered firearms under that part.

House Bill 4332 would define *pneumatic gun* in Part 401 of NREPA to mean an implement, designed as a gun, that will expel a BB, bolt, arrow, or pellet by spring, gas, or air. The bill would still exclude paintball guns from being considered pneumatic guns or firearms.

The bill would allow the Natural Resources Commission to issue orders allowing an individual to take game with a pneumatic gun during any open season in which a firearm may be used for taking that game. (The bill would not change the designation of a pneumatic gun as a firearm.) The bill would also allow the DNR to issue a permit to an *individual with a disability or physical limitation* to take game with a pneumatic gun during an open season in which a bow may be used for taking game if that individual submits a certification from a physician, physical therapist, occupational therapist, or other medical professional stating that after examination he or she has determined that due to a physical disability or limitation, the individual is unable to hold, aim, and shoot a bow or crossbow. The DNR would have to develop a certification form and make it available to the public.

*Individual with a disability or physical limitation* would mean an individual who is determined by a physician, physician assistant, or optometrist to have one or more of the following:

- Blindness (this condition may be determined by an optometrist or a physician assistant as well as by a physician).
- The inability to walk more than 200 feet without having to stop and rest.
- Both the inability to use one or both legs or feet and the inability to walk without the assistance of another person or the use of a wheelchair, walker, crutch, brace, prosthetic, or other device.
- A lung disease from which the person's forced expiratory volume for one second, when measured by spirometry, is less than one liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
- A cardiovascular condition that causes the person to measure between 3 and 4 on the New York heart classification scale, or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American Heart Association and approved by the Department of Health and Human Services.
- An arthritic, neurological, or orthopedic condition that severely limits the person's ability to walk.
- The persistent reliance upon an oxygen source other than ordinary air.

### **Other Amendments**

NREPA currently allows the DNR to issue, to an individual who is unable to walk because the individual is a paraplegic, an amputee, or permanently disabled, a permit that authorizes the individual to take game from or upon a standing vehicle, if the game is in season and the individual holds a license for it and complies with all other laws and rules for taking it.

The bill would allow the DNR to issue such a permit to such an individual, and would further change the qualifying threshold from the inability to walk (at all) to the inability to walk through a dense wooded area or to walk 200 feet in field conditions due to a permanent or temporary disability or a medical condition.

NREPA also currently allows the DNR to issue, to a disabled individual who has full use of only one arm and is unable to hold, aim, and shoot a bow, a permit that authorizes the individual to take game using a modified bow that may be held, aimed, and shot with one arm, if the game is in season and the individual holds a license for it and complies with all other laws and rules for taking it.

The bill would change the eligibility threshold to “an individual...who has full use of only one arm *or less*” and the nature of the modified bow to one that “may be held, aimed, and shot with one arm *or less*.”

[Note: It is unclear whether the bill as written would require the bow to be modified to be held, aimed, and shot with *less than* one arm in all circumstances.]

The bill also would remove a provision that now authorizes the Natural Resources Commission to issue an order regarding bows that are modified as described above (i.e., to be held, aimed, and shot with one arm).

The bill would take effect 90 days after being enacted.

MCL 324.40102 et seq.

#### ***BACKGROUND:***

House Bill 4332 is a reintroduction of HB 5180 of the 2017-18 legislative session, which was passed by the House of Representatives.<sup>1</sup>

#### ***ARGUMENTS:***

##### ***For:***

Supporters of the bill argue that allowing persons with certain disabilities to hunt with a pneumatic gun would serve as a useful tool to encourage more hunting opportunities and offer greater independence. A pneumatic gun can be easier and safer to operate, offering a person with one arm or less the ability to use the gun on his or her own. This is unlike a crossbow, which, even though it is easier to use than a compound or recurve bow, needs to be cranked and loaded with at least one arm and one foot.

Supporters of the bill also highlight that the permissive components of the bill would give the DNR discretion to allow disabled individuals to hunt with a pneumatic bow. This permissive aspect would allow the DNR take into consideration possible needs of the individual hunter, such as whether the hunter is disabled or has a broken arm, as well as any past hunting infractions, when approving or denying a hunting permit.

##### ***Against:***

Critics of the bill argue that use of a pneumatic gun would best be addressed in a separate act to regulate the gun and use of the gun during firearm season for deer hunting. Because of the mechanics of the gun and firing of certain projectiles from the gun, critics argue that it is closer to a firearm than an archery weapon and should be treated under the law as such.

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<sup>1</sup> <http://legislature.mi.gov/doc.aspx?2017-HB-5180>

Critics further argued that allowing persons with disabilities to use pneumatic guns could lead to allowing all hunters to use pneumatic guns. This occurred with crossbows, the use of which was allowed only for disabled persons, but then expanded to all persons. Critics expressed concern that expanding further use of pneumatic guns would detrimentally affect deer populations because a pneumatic gun is very easy to use and would make hunting deer easier.

Additionally, pneumatic guns are not part of the federal Pittman-Robinson Act. As a result, sales from these weapons do not contribute to the 11% excise tax collected under that act by the federal government, which then distributes it to states based on land mass and hunting numbers. Michigan is usually in the top five states to receive funds through the Pittman-Robinson Act. Opponents of the bill also expressed concern that more pneumatic guns would be sold and that other guns, which fall under the act, would have fewer sales, resulting in a loss of wildlife funding for Michigan.

Finally, some critics of the bill would like to see clarifying language for the phrase “use of one arm or less” to ensure that the bill would apply to hunters with disabilities and that hunters with broken arms or wrists could not get a permit to use a pneumatic gun.

***POSITIONS:***

A representative of Up North Air Gunner testified in support of the bill. (10-22-19)

Velocity Outdoors indicated support for the bill. (10-22-19)

A representative of the Department of Natural Resources testified in opposition to the bill. (10-22-19)

The following organizations indicated opposition to the bill (10-29-19):

- UP Whitetails of Marquette County
- Michigan Trappers and Predatory Callers Association

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