

Legislative Analysis



DNR AND EGLE STATUTORY WARRANT REQUIREMENTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4073 as introduced
Sponsor: Rep. Dave Prestin

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

House Bill 4421 as introduced
Sponsor: Rep. Tom Kunse

Committee: Natural Resources and Tourism
Complete to 9-16-25

SUMMARY:

House Bill 4073 would amend the Natural Resources and Environmental Protection Act (NREPA) to generally prohibit a Department of Natural Resources (DNR) employee from entering private property without the owner's or lessee's permission. The prohibition would not apply if the employee is a peace officer or authorized park and recreation officer who has a warrant, who is in hot pursuit of a criminal suspect, or who reasonably believes a person will be endangered or evidence will be jeopardized if the officer delays entering the property to first obtain a warrant. The prohibition would control over another provision that authorizes an officer appointed by the DNR to enter private property (except a dwelling) to conduct certain searches without a warrant if the officer has probable cause to believe a person is violating specified laws.

The act requires the DNR and officers appointed by the DNR to do (among other things) all of the following:

- Enforce state laws for the protection, propagation, or preservation of wild birds, wild animals, and fish.
- Enforce all other state laws that pertain to the powers and duties of the DNR or the Commission on Natural Resources.
- Bring or prosecute actions or proceedings, or have them brought or prosecuted, to punish a person for violating the laws described above.

The act provides that if an officer appointed by the DNR has probable cause to believe that a law described above has been violated (or is being violated) by a particular person, the officer may, without warrant, do any of the following:

- Search any place (except a dwelling or dwelling house or within the curtilage of a dwelling house) where nets, hunting or fishing gear, or wild birds, wild animals, or fish might be kept, such as a boat, automobile, other vehicle or conveyance; a receptacle, including a fish box or game bag; or any other place that is not a dwelling.
- Enter into or upon any private or public property to conduct the above search.
- Enter into or upon any private or public property for the purpose of patrolling, investigating, or examining when the officer has probable cause to believe that the violation has occurred or is occurring on that property.

The bill would add a new section to NREPA that would generally limit the power of DNR employees to enter into or upon private property except under certain specified circumstances. The above-described provision concerning the ability of DNR officers to conduct searches and enter into or upon property would specifically be made subject to this new section.

The new section would provide that, notwithstanding any other provision of NREPA, an employee of the DNR would be prohibited from entering private property unless one of the following applies:

- The owner or lessee of the property authorizes the entry.
- The employee is a peace officer or is a park and recreation officer commissioned under section 1606 of NREPA¹ and one or more of the following apply:
 - The employee has a warrant from a court of competent jurisdiction that authorizes the entry.
 - The employee reasonably believes that, if the employee delays in order to seek a warrant, evidence of a crime will be destroyed or concealed or an individual will be endangered.
 - The employee is in hot pursuit of a criminal suspect.

MCL 324.1602 and proposed MCL 324.1507

House Bill 4421 would amend NREPA to prohibit a Department of Environment, Great Lakes, and Energy (EGLE) officer or employee from entering private property during the course of their duties without first obtaining a warrant or the consent of the property owner or occupant.

Proposed MCL 324.1506

BACKGROUND:

House Bill 4073 is a reintroduction of House Bill 4315 of the 2021-22 legislative session and of House Bill 4385 of the 2023-24 legislative session. It is substantially similar to both of those bills.

FISCAL IMPACT:

House Bill 4073 is unlikely to affect revenues or costs for the Department of Natural Resources. The department's Law Enforcement Division is supported by appropriations totaling \$52.3 million Gross (\$18.1 million GF/GP) in FY 2023-24.

House Bill 4421 is unlikely to affect revenues or costs for EGLE. The department's Environmental Investigations Unit is supported by appropriations totaling \$2.4 million Gross (\$964,500 GF/GP) and 12.0 FTE positions in FY 2024-25.

Each bill also would have an indeterminate fiscal impact on the state and on local units of government. Under section 3313 of NREPA, violations of the act could be misdemeanors, with potential imprisonment and varying fines, depending on the circumstances of the offenses. Other violations could result in orders to pay civil fines and/or restitution. Again, circumstances

¹ The section allows park and recreation officers to be commissioned as peace officers for certain enforcement purposes and with limited powers. See <http://legislature.mi.gov/doc.aspx?mcl-324-1606>

of the offenses would dictate outcomes. Misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Revenue collected from payment of civil fines is used to support public and county law libraries as well. Also, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be required to be deposited into the state's Justice System Fund, which supports various justice-related endeavors in the judicial branch and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

The fiscal impact on local court systems would depend on how provisions of the bills affected court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, an estimate of the amount of costs related to county jails, penal/civil fine revenue collections, or costs to local courts cannot be made.

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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.