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HANDICAPPERS: CROSSBOW USE

AS ENROLLED

Senate Bill 59 with House committee amendments

First Analysis (9-21-93)

Sponsor: Senator Paul Wartner

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Conservation, Environment, and Great Lakes

THE APPARENT PROBLEM:

Currently, under the Wildlife Conservation Act the Department of Natural Resources (DNR) may issue a special game permit to a person who is permanently disabled provided that he or she holds the appropriate game license to take that game. Those who qualify for and receive these special hunting permits may take game from a standing vehicle or may use a modified handbow, which is one that has been altered such that a handicapper can use one arm to hold it upright while using a special mouthpiece to draw the bowstring back. Thus, persons who like to hunt with a bow but who are disabled can continue to pursue the activity, often with success. Some handicappers, however, have disabilities that prevent them from using a handbow that has been modified in this way. Instead of the handbow, many handicappers have turned to using the crossbow, which is a weapon that, once precocked and loaded with a special type of arrow, can be aimed easier and shot more accurately than the handbow. A number of states which otherwise prohibit the use of crossbows for hunting specifically allow their use by handicappers who have been certified by a physical therapist and/or a physician to have a substantial degree of permanent impairment (at least 80 percent) of a hand, elbow or shoulder. Some people now believe Michigan should adopt a similar law.

THE CONTENT OF THE BILL:

Under the Wildlife Conservation Act, the director of the Department of Natural Resources (DNR), or his or her authorized representative, may issue a permit to a person who is unable to walk, authorizing the person to take game during the open season for that game, include deer of either sex, from -- or upon -- a standing vehicle, provided that the person holds a license to take that game.

Similarly, a permit may be issued to a person who is permanently disabled, who has full use of only one arm, and who is unable to hold, air, or shoot a bow. In the latter situation, the permit authorizes the person to take game with a bow that has been modified so that it could be held, aimed and shot with one arm.

Senate Bill 59 would amend the Wildlife Conservation Act to permit a permanently disabled person to receive a crossbow hunting permit. The bill would define "crossbow" to mean a weapon consisting of a bow, mounted transversely on a stock or frame, and designed to fire an arrow, bolt, or quarrel, by the release of a bow string which was controlled by a mechanical or electric trigger, and which had a working safety and a draw weight of 100 pounds or more.

Permits. Under the bill, a permit would be issued without cost provided that the applicant held an appropriate hunting license. Permits would be issued for two years and would be renewable for persons diagnosed as having a progressive neuromuscular disease, or a central nervous disorder. Other crossbow permits issued under the provisions of the bill would be valid unless revoked under the Administrative Procedures Act. In addition, arrows, bolts and quarrels used for taking deer, bear, elk and turkey with a crossbow under a permanently disabled person's permit would have to have a broadhead hunting type of point at least 7/8 inch wide, and at least 14 inches long.

Criteria for Evaluating Disabilities. Under the bill, certain requirements would have to be met before such a permit could be issued. The applicant would have to submit a signed statement from a physician, based on a physical therapist's test findings,

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certifying the applicant's percentage of disability. A physician could certify that an applicant was permanently disabled if he or she had at least 80 percent impairment of a hand, elbow or shoulder. In making this determination, the physician and physical therapist would have to use the following standards and criteria:

* **Muscle Weaknesses:** If applicable, muscle weaknesses with a grade of "fair" or below for involved upper extremity muscle groups would be used to determine whether a person was eligible for a permit. As a guideline in testing, the therapist would be required to use "Techniques of Manual Muscle Testing," by Daniels and Worthingham, or other guidelines accepted by the American Medical Association (AMA).

* **Impaired Range of Motion:** Goniometric measurements using the "American Medical Association Guide to Evaluation and Permanent Impairment Rating," or other guidelines accepted by the AMA.

* **Peripheral Nerve Involvement:** The therapist and physician would use the American Medical Association Guide to Evaluation and Permanent Impairment Rating," or other guidelines accepted by the AMA.

* **Amputations:** Amputations involving four fingers at the proximal interphalangeal joint, wrist, elbow, and shoulder would not require objective test findings. However, the applicant would be required to present a physician's diagnosis to qualify for a permit.

* **Unilateral Hand Weakness Disabilities:** A grip dynamometer, pinch grip, and lateral grip measurements would be used, in addition to manual muscle testing, to compare dominant to nondominant hand. A five percent deficit would be the standard acceptance for nondominant. Bilateral hand weaknesses or bilateral upper extremity weaknesses, or both, would be subject to manual muscle testing only.

* **Spinal Cord Injury:** Any spinal cord injury above the level of C-8, resulting in permanent disability to the lower extremities and leaving the applicant permanently nonambulatory, as diagnosed by a physician, would not require objective test findings. However, the applicant would be required to

present a physician's diagnosis to qualify for a permit.

* **Coordination Assessment:** "Coordination" would be defined as the ability to execute smooth, accurate, controlled movement. "Incoordination," or "coordination deficit," would mean abnormal motor function, characterized by awkward, extraneous, uneven, or inaccurate movements, and caused by central nervous disorders, including -- but not limited to -- Parkinson's disease, cerebral palsy, hemiplegia, hemiparesis, and closed head trauma, or by progressive neuromuscular diseases, such as muscular dystrophy, multiple sclerosis, and amyotrophic lateral sclerosis. The purpose of the assessment would be to assess the ability of muscles or groups of muscles to work together to perform a task. For safety considerations, the test would eliminate severely involved applicants from qualifying for a permit.

Denial of Permit. A person whose application did not meet the bill's eligibility requirements could seek another opinion from the same or a different physical therapist.

Penalties. Falsely obtaining or using a permit authorized under the provisions of the bill would be a misdemeanor, punishable by imprisonment for up to 90 days, a fine of \$200 to \$1,000, or both, and the cost of prosecution.

MCL 300.264 and 300.264a

HOUSE COMMITTEE ACTION:

The House Conservation, Environment and Great Lakes Committee adopted a number of technical amendments to the Senate-passed version of the bill.

FISCAL IMPLICATIONS:

The Department of Natural Resources says the bill would have minimal fiscal implications for the department by potentially increasing the number of hunting licenses purchased and, thus, the amount of revenue generated from this source. (9-20-93)

ARGUMENTS:

For:

The bill would allow a handicapper who met the 80 percent threshold for permanent impairment of a

hand, elbow or shoulder, as certified by physical therapist and a physician, to apply for and receive a permit to hunt with a crossbow. Michigan law has prohibited the use of the crossbow for hunting primarily because of fears that poachers could easily use this quiet but remarkably accurate weapon to take game illegally. To accommodate disabled hunters, the legislature authorized the DNR to issue a permit that allows a person to use a modified handbow or compound handbow (i.e., a bow with special pulleys and wheels that is easier to draw); thus, some handicappers who were physically capable could hunt successfully with a bow. In most cases, though, such a modified bow still requires that one arm be used. Current law fails to accommodate those handicappers who may lack the strength, perhaps due to a muscular impairment, to draw a modified handbow, or for some other reason cannot use one with much proficiency. A crossbow, however, can be cocked and made ready to shoot for a handicapper with at least some use of one of his or her hands/arms. The bill would help to prevent illegal use of crossbows by specifying the types of disabilities that would qualify a person to obtain a crossbow permit. Use of crossbows by handicappers for hunting reportedly is permitted in a number of other states, including some neighboring Midwestern states, and has opened up the exciting world of hunting to those whose physical disabilities otherwise prevent them from enjoying this activity.

Against:

There seems no justifiable reason to allow certain handicappers to hunt with a crossbow when they could just as easily go hunting with a gun.

Response:

While it's true that a handicapper may hunt with a gun, this of course is only permitted during gun season. Even though the hunting seasons for small game generally are the same for both gun and bow, for deer the seasons are much different: Gun deer season (not including muzzleloaders) lasts only 15 days while deer bow season runs substantially longer. Thus, handicappers are granted significantly less time to hunt deer than are other hunters.

Against:

Some people fear that allowing use of the crossbow for hunting in Michigan by handicappers will open the way for their legal use by anyone, which could lead to increased problems with poaching. At shorter distances, a crossbow reportedly shoots as accurately as a gun, only without the noise.

POSITIONS:

The Department of Natural Resources supports the bill. (9-20-93)

The Michigan Physical Therapy Association supports the bill. (9-20-93)

Outdoors Forever, a nonprofit organization dedicated to promoting lifelong access to the outdoors, supports the bill. (9-20-93)

A spokesman for Michigan Bowhunters testified in support of the bill before the House Conservation, Environment and Great Lakes Committee on 9-15-93.

The Michigan United Conservation Clubs has no position on the bill. (9-15-93)