

Legislative Analysis



COMMERCIAL HUNTING GUIDES AND SPORT FISHING GUIDES

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<http://www.house.mi.gov/hfa>

House Bill 5558 as introduced
Sponsor: Rep. Gary Howell

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

House Bill 5559 as introduced
Sponsor: Rep. John D. Cherry

House Bill 5560 as introduced
Sponsor: Rep. Rodney Wakeman

Committee: Natural Resources and Outdoor Recreation
Complete to 3-10-20

SUMMARY:

House Bill 5558 would amend Part 435 (Hunting and Fishing Licensing), House Bill 5559 would amend Part 487 (Sport Fishing), and House Bill 5560 would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to provide for the licensure and regulation of commercial hunting and fishing guides and to provide the Natural Resources Commission with the exclusive authority to regulate hunting and fishing guides.

House Bills 5558 and 5559

House Bill 5558 would provide for the licensure and regulation of *commercial hunting guides*, while House Bill 5559 would provide for the licensure and regulation of *sport fishing guides*.

Beginning March 1, 2020, the bills would prohibit an individual from acting as a commercial hunting guide or sport fishing guide in Michigan unless he or she possessed both of the following:

- A valid license to act as a commercial hunting guide or sport fishing guide.
- A valid base license issued under Part 435 of the act (for a commercial hunting guide) or a valid fishing license (for a sport fishing guide).

Commercial hunting guide would mean an individual who, for a fee or other *consideration of value*, provides assistance to another individual in hunting game. It would not include the following:

- The owner of private land while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take game on that private land.
- The owner, employee, or member of a game bird hunting preserve licensed under Part 417 (Game Bird Hunting Preserves) of the act, or his or her designee, while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take game birds authorized to be hunted on that game bird hunting preserve.
- The owner or employee of a *privately owned game ranch* while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take privately owned game that he or she is permitted to own on his or her privately owned game ranch. (*Privately owned game*

ranch would include a cervidae livestock facility registered under the Privately Owned Cervidae Producers Marketing Act.)

- An individual, business, agency, or nonprofit organization issued a permit from the Department of Natural Resources (DNR) to provide damage or nuisance animal control services, while providing those damage or nuisance animal control services.
- An employee or member of an organization conducting a not-for-profit event to recruit, retain, or promote hunting, while providing assistance to another individual in hunting game during that event.
- An individual under the age of 18, if working under the supervision of a licensed commercial hunting guide.

Sport fishing guide would mean an individual who, for a fee or other consideration, provides assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take fish. It would not include the following:

- The owner of private land while providing assistance to another individual in pursuing, capturing, catching, killing, taking, or attempting to take fish on that private land.
- An employee or member of an organization conducting a not-for-profit activity to recruit, retain, or promote fishing, while providing assistance to another individual in taking fish during that activity.
- An individual under the age of 18, if working under the supervision of a licensed sport fishing guide.

Consideration of value would mean an economic benefit, inducement, right, or profit, including monetary payment accruing to an individual or person. It would not include a voluntary sharing of the actual expenses of the guiding activity by monetary contribution or donation of fuel, food, beverages, or other supplies.

Licensure and fees

To obtain a license to act as a commercial hunting guide or sport fishing guide, an individual would have to submit to the DNR the application fee, described below, and an application in a format determined by the DNR. The DNR could grant a license only if it determined all of the following:

- That the individual holds a valid certification in first aid and CPR issued by the American Red Cross, the American Heart Association, or a comparable organization approved by the DNR.
- That the individual has a valid, lawfully obtained Michigan driver license issued under the Michigan Vehicle Code, an official state personal identification card issued under 1972 PA 222, or a sportcard issued under Part 435 of the act.
- That the individual has not been convicted of any of the following in within the past three years:
 - Any felony.
 - A violation of any of the following:
 - Obstructing or interfering in the lawful taking of animals or fish.
 - The unlawful possession or taking of game or a protected animal; unlawfully buying or selling game or a protected animal; using an

illegally constructed snare or cable restraint; or unlawfully importing a cervid carcass or parts.

- The unlawful taking or killing of any fish, game, or fur-bearing animal, or game bird, contrary to Part 411 (Protection and Preservation of Fish, Game, and Birds) of the act.
 - Part 455 (Charter and Livery Boat Safety) of the act.
 - Using dynamite, nitroglycerin, any other explosive substance, lime, electricity, or poison for the purpose of taking or killing fish; using unauthorized nets for taking game fish; buying or selling game fish or any parts of such; or unlawfully taking or possessing sturgeon.
 - Snagging fish in violation of Part 487 of the act.
- A violation of a law of a *participating state* that is substantially similar to any of the above violations. (*Participating state* would mean any state that enacts legislation to become a member of the Wildlife Compact under Part 16 (Enforcement of Laws for Protection of Wild Birds, Wild Animals, and Fish) of the act.)
- The individual is eligible to purchase a license for the game species or the fish species for which the individual will be acting as a commercial hunting guide or a sport fishing guide.

The application fee for a commercial hunting guide license or a sport fishing guide license would be \$150 for a resident or \$300 for a nonresident. Money collected from these fees would be deposited in the Game and Fish Protection Account.

Additionally, the operator of a charter boat licensed under Part 445 of the act would not be required to pay an application fee for a sport fishing guide license. Furthermore, if an individual elected to obtain a public boating access entry pass with the sport fishing guide license, the fee would be \$300. Money collected from this fee would be deposited in the Waterways Account.

A commercial hunting guide license or sport fishing guide license would be valid for three years after the date it is issued. Additionally, for sport fishing guide licenses, the DNR would have to allow an individual to obtain a public boating access entry pass required under Part 781 (Michigan State Waterways Commission) of the act with any sport fishing guide license for each year that the license is valid.

The DNR could revoke a commercial hunting guide license or sport fishing guide license for any of the following reasons:

- The DNR determines that the individual is not eligible to hold a license.
- The individual provides false information.
- For commercial hunting guide licenses, the individual fails to file an annual report, as described below, and that report remains unfiled for more than 90 days after it is due.

Reporting

A commercial hunting guide would have to file an annual report with the DNR, and a sport fishing guide would have to file monthly reports with the DNR. The reports would be in a format determined by the DNR and would contain information related to all of the following:

- The counties of Michigan where the individual acted as a commercial hunting guide or sport fishing guide.

- The species of game or fish for which the individual acted as a commercial hunting guide or sport fishing guide.
- The number of clients that the commercial hunting guide had during the year, or the number of clients that the sport fishing guide had for each fishing trip and the number of hours fished for each fishing trip.
- The number of game animals harvested by the clients of the commercial hunting guide, or the number of fish caught and released and harvested by the clients of the sport fishing guide.
- Any additional information the DNR requires regarding the biological characteristics of the game animals or fish caught and released or harvested or regarding the fishing activity.
- Additionally, for sport fishing guides:
 - The bodies of water where the individual acted as a sport fishing guide.
 - For any month that the guide did not act as a sport fishing guide, a report stating that the individual did not act as a sport fishing guide during that month.

If a sport fishing guide failed to file a monthly report and that report remained unfiled for more than 90 days after the date it was due, he or she would be subject to the following:

- A \$100 civil fine for the first violation.
- A \$200 civil fine for the second violation.
- A \$500 civil fine for a third violation.
- For a fourth violation, after notice and an opportunity for a hearing under the Administrative Procedures Act, revocation of his or her sport fishing guide license.

Information submitted in the above reports would be considered confidential and exempt from disclosure under the Freedom of Information Act.

Miscellaneous provisions and other violations

The DNR would have to post annually on its website all of the following:

- The number of applications submitted for a license in the previous year.
- The number of licenses issued in the previous year.
- A list of individuals who have valid licenses.

An individual would have to carry the commercial hunting guide license or sport fishing guide license and present it upon the demand of a conservation officer, law enforcement officer, tribal conservation officer, or the owner or occupant of any land where the individual is acting as a commercial hunting guide or sport fishing guide.

An individual who acts as a commercial hunting guide or sport fishing guide without a valid license or on commercial forestland would be subject to a civil fine of up to \$500 for a first violation and up to \$1,000 for a second or subsequent violation. All civil fines collected under the bills would be deposited in the Game and Fish Protection Account.

An individual who provides false information to the DNR would be subject to a civil fine of up to \$500. Additionally, sport fishing guides providing false information to the DNR would also be subject to the costs of prosecution.

HB 5558 (Commercial Hunting Guides):	Proposed MCL 324.43528c and 324.43528d
HB 5559 (Sport Fishing Guides):	Proposed MCL 324.48714a and 324.48714b

House Bill 5560

Currently, the Natural Resources Commission has the exclusive authority to regulate the taking of game in Michigan.

House Bill 5560 would add to this exclusive authority the regulation of sport fishing under Part 487 of the act, including regulating the use of commercial hunting or sport fishing guides in taking game and fish.

MCL 324.40113a

The bills would take effect 90 days after enactment. All three bills are tie-barred to one another, which means that none of them could take effect unless all of them were enacted.

FISCAL IMPACT:

House Bill 5558 (commercial hunting guide licenses) and House Bill 5559 (sport fishing guide licenses) are likely to increase costs and revenues for the DNR. The bills would require the department to annually report the number of license applications, licenses awarded, and license recipients. The bills also provide for the regulation and enforcement of guide license requirements by the department. These increased costs may be offset by revenue from licenses sales and license-related fines which would be credited to the Game and Fish Protection Fund according to the bills. Sport fishing guides would be given the option to purchase a public boating access entry pass for \$300 under HB 5559, with revenue credited to the Michigan State Waterways Fund.

It is unclear whether the aforementioned costs would be met by revenue from license and entry pass sales. The FY 2019-20 DNR budget includes \$76.2 million from the Game and Fish Protection Fund, the majority of which supports programs in wildlife, fisheries, and law enforcement. The FY 2019-20 DNR budget also includes \$30.4 million from the Michigan State Waterways Fund, the majority of which supports parks and recreation as well as state and local boating infrastructure.

House Bill 5560 is unlikely to affect DNR costs or revenues; none of these three bills is likely to affect local government costs or revenues.

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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.