

Legislative Analysis



CIVIL INFRACTIONS FOR CERTAIN VIOLATIONS

Phone: (517) 373-8080
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House Bill 4149 (H-1) as reported from committee
Sponsor: Rep. John N. Damoose

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

House Bill 4150 (H-1) as reported
Sponsor: Rep. Annette Glenn

House Bill 4151 as reported
Sponsor: Rep. Steven Johnson

House Bill 4152 (H-1) as reported
Sponsor: Rep. Gary Howell

Committee: Judiciary
Complete to 4-14-21

SUMMARY:

House Bills 4149, 4151, and 4152 would amend the Natural Resources and Environmental Protection Act (NREPA) to remove criminal penalties for certain violations of the act and instead make the violations civil infractions. House Bill 4150 would amend the Michigan Vehicle Code to create new civil infractions.

House Bill 4149 would amend section 48738 of NREPA, which prescribes penalties for violations of Part 487 (Sport Fishing). Section 48703 of that part requires a person to mark his or her name and address on a tip-up or similar device used in ice fishing and limits the number of rods and lines an angler can use. Currently, a person convicted of violating these provisions is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$500, or both. Under the bill, a person who failed to attach his or her name and address to a tip-up or fished with more lines than authorized would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

MCL 324.48738

House Bill 4150 would amend section 802 of the Michigan Vehicle Code, which provides for special registrations for certain vehicles that are used exclusively for farming operations.

The bill would add language providing that a person who obtains such a special registration must use the vehicle exclusively for the specified purposes. A person who violated these provisions would be responsible for a civil infraction.

The bill would take effect October 1, 2021.

House Bill 4150 is tie-barred to HB 4153, which means that it could not take effect unless HB 4153 were also enacted. Among other things, HB 4153 as introduced would provide that the civil fine for the civil infractions proposed by HB 4150 could not be more than \$150.

MCL 257.802

House Bill 4151 would amend section 43560 of NREPA, which prescribes penalties for certain violations of Part 435 (Hunting and Fishing Licenses). Section 43516(3) of that part requires an individual who has been issued a hunting, fur harvester's, or fishing license to carry the license (or an electronic copy) when he or she is hunting, trapping, or fishing or engaged in certain other activities and to show it to an officer on demand. Currently, a person convicted of violating section 43516(3) is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of \$25 to \$250 and the costs of prosecution, or both. Under the bill, a person who violated section 43516(3) would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

MCL 324.43560

House Bill 4152 would amend sections 40118 and 43558 of NREPA, which provide penalties for certain violations of Parts 401 and 435.

The Wildlife Conservation Order currently requires a person to affix his or her name, driver license number, or sportcard number to a ground blind, tree stand, scaffold, or raised platform and restricts supplemental feeding of deer. Currently under section 40118, a person convicted of violating those provisions is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of \$50 to \$500, or both, and the costs of prosecution. Under the bill, a person who violated those or related provisions would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

Section 43509(2) of NREPA prohibits a person from taking or possessing a wild animal without having in his or her possession a valid license as provided under Part 435 (Hunting and Fishing Licensing). Currently under section 43558, a person convicted of violating that provision is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of \$25 to \$250 and the costs of prosecution, or both. Under the bill, a person who violated those provisions or others on the same topics would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

The bill would take effect 90 days after its enactment.

MCL 324.40118 and 324.43558

BACKGROUND:

House Bills 4149, 4150, 4151, and 4152 are respectively reintroductions of House Bills 5695, 5686, 5694, and 5697 of the 2019-20 legislative session. Those bills were passed by the House of Representatives.

Additionally, the bills are part of a larger civil infraction package in the current legislative session (including at least House Bills 4141 through 4155) that either have been reported by the House Judiciary committee or are still under its consideration.

FISCAL IMPACT:

House Bills 4149, 4151, and 4152 would have an indeterminate fiscal impact on the state and on local units of government. Currently, sections 40118, 43558, 43560, and 48738 of NREPA provide that a person who violates certain provisions of the act is guilty of a misdemeanor. The bills would reduce those violations from a misdemeanor charge to a civil infraction.

Reducing the penalty from a misdemeanor to a civil infraction would impact costs to local county jails, revenue deposited into the state's Justice System Fund, and revenue used to support public and county law libraries. Costs to local county jails would be reduced. Costs of incarceration in local county jails varies by jurisdiction, so the savings to local units cannot be determined.

Revenue collected from the payment of civil infraction penalties is used to support public and county law libraries, but, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be deposited into the state's Justice System Fund, so revenue to the state would be increased. Justice System Fund revenue supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made.

House Bill 4150 would have an indeterminate fiscal impact on the state and on local units of government. The bill would add civil infraction penalties. Revenue collected from the payment of civil fines is used to support public and county law libraries. Also, under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue that libraries or the state would collect cannot be made.

POSITIONS:

The following entities indicated support for the bills (2-9-21):

- Mackinac Center for Public Policy
- Michigan Catholic Conference
- Prosecuting Attorneys Association of Michigan

Criminal Defense Attorneys of Michigan indicated support for HBs 4149 and 4151. (3-9-21)

The Department of Natural Resources indicated having no position on HBs 4149, 4151, and 4152. (2-9-21)

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Robin Risko

■ 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.