

Legislative Analysis



DNR AND EGLE STATUTORY WARRANT REQUIREMENTS

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

House Bill 4073 (H-1) as reported from committee
Sponsor: Rep. Dave Prestin

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

House Bill 4421 (H-2) as reported from committee
Sponsor: Rep. Tom Kunse

Committee: Natural Resources and Tourism
Complete to 11-4-25

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 or a warrant.

Under current law, NREPA requires the DNR and officers appointed by the DNR officer to do 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.

Under section 1602 of NREPA, 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 eliminate the provisions that allow a DNR officer to do these actions without a warrant and would add a provision stating that the open fields doctrine does not apply to DNR officers.¹

MCL 324.1602

¹ The open fields doctrine, based on a 1924 U.S. Supreme Court ruling, holds that a search of areas beyond the curtilage of a home does not require a warrant under the Fourth Amendment. Curtilage is an area outside the home that is "so intimately tied to the home itself that it should be placed under the home's 'umbrella' of protection" (quoting *United States v. Dunn*, 107 S Ct 1134 (1987) <https://www.law.cornell.edu/supremecourt/text/480/294>).

House Bill 4421 would amend NREPA to prohibit an agent of the Department of Environment, Great Lakes, and Energy (EGLE) from entering private property during the course of their duties without first obtaining a warrant or the consent of the property owner or occupant. The bill would also specify that the open fields doctrine does not apply to a search conducted by an agent of EGLE.

Proposed MCL 324.1506

BACKGROUND AND DISCUSSION:

According to testimony presented in testimony, some property owners feel that the current authority of DNR officers is too broad and has led to harassment of individuals who have made complaints about their treatment by officers in prior incidents. Because their property can be searched without a warrant if probable cause exists as defined in NREPA, some individuals believe that DNR officers have used this broad authority to enter their property in retaliation. Similar interactions have been reported involving regulators from EGLE, with inspections of alleged violations taking place without adequate notice to the property owners.

In committee testimony, representatives from the departments denied unprofessional conduct on the part of their employees, and noted that DNR officers have a unique responsibility to investigate activities such as poaching, which may result in wildlife being taken if officers had to wait to obtain a warrant after observing wrongdoing. Supporters of the bills say the changes made would not affect officers' ability to act to address an immediate law violation but would instead ensure that there are appropriate legal grounds for property owners to seek remedy if they believe they are being targeted by the DNR or EGLE.

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 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.

POSITIONS:

The following entities indicated support for the bills (9-24-25):

- Americans for Prosperity
- Pacific Legal Foundation

The following entities indicated support for House Bill 4421 (9-17-25):

- Michigan Farm Bureau
- Genesee County Drain Commission
- National Federation of Independent Businesses

A representative of Michigan Resource Stewards testified in opposition to the bills. (9-17-25)

A representative of the Department of Natural Resources testified in opposition to HB 4073. (3-26-25)

The following entities indicated opposition to the bills:

- Michigan League of Conservation Voters (9-24-25)
- Michigan Environmental Council (9-17-25)

The Department of Environment, Great Lakes, and Energy indicated opposition to HB 4421. (9-17-25)

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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.