

SUBSTITUTE FOR  
HOUSE BILL NO. 4073

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 1602 (MCL 324.1602), as added by 1995 PA 60.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1602. (1) The department ~~or~~ an officer appointed by the  
2       department ~~may file~~ **do any of the following:**

3       **(a) File** a complaint and commence proceedings against ~~any a~~  
4       person for a violation of ~~any of the laws or statutes~~ **a statute or**  
5       **other law** described in section 1601, without the sanction of the  
6       prosecuting attorney of the county in which the proceedings are  
7       commenced ~~. In such a case, the officer is not obliged to furnish~~  
8       **and without furnishing** security for costs. ~~The department, or an~~  
9       ~~officer appointed by the department, may appear~~

1       **(b) Appear** for the people in ~~any~~**a** court of competent  
2 jurisdiction in ~~any cases~~**a case** for violation of ~~any of the~~  
3 ~~statutes or laws~~**a law** described in section 1601. ~~, may prosecute~~

4       **(c) Prosecute** the ~~eases~~**case** in the same manner and with the  
5 same authority as the prosecuting attorney of ~~any~~**the** county in  
6 which the proceedings are commenced. ~~, and may sign~~

7       **(d) Sign** vouchers for the payment of jurors' or witnesses'  
8 fees in ~~those cases~~**the case** in the same manner and with the same  
9 authority as ~~a prosecuting attorneys~~**attorney** in ~~a criminal~~**case**.  
10 ~~eases. Whenever an officer appointed by the department has probable~~  
11 ~~cause to believe that any of the statutes or laws mentioned in~~  
12 ~~section 1601 have been or are being violated by any particular~~  
13 ~~person, the officer has the power to search, without warrant, any~~  
14 ~~boat, conveyance, vehicle, automobile, fish box, fish basket, game~~  
15 ~~bag, game coat, or any other receptacle or place, except dwellings~~  
16 ~~or dwelling houses, or within the curtilage of any dwelling house,~~  
17 ~~in which nets, hunting or fishing apparatuses or appliances, wild~~  
18 ~~birds, wild animals, or fish may be possessed, kept, or carried by~~  
19 ~~the person, and an officer appointed by the department may enter~~  
20 ~~into or upon any private or public property for that purpose or for~~  
21 ~~the purpose of patrolling, investigating, or examining when he or~~  
22 ~~she has probable cause for believing that any of the statutes or~~  
23 ~~laws described in section 1601 have been or are being violated on~~  
24 ~~that property. The term "private property" as used in this part does~~  
25 ~~not include dwellings or dwelling houses or that which is within~~  
26 ~~the curtilage of any dwelling house. An officer appointed by the~~  
27 ~~department shall at any and all times seize and take possession of~~  
28 ~~any and all nets, hunting or fishing apparatuses or appliances, or~~  
29 ~~other property, wild birds, wild animals, or fish, or any part or~~

~~parts thereof, which have been caught, taken, killed, shipped, or had in possession or under control, at a time, in a manner, or for a purpose, contrary to any of the statutes or laws described in section 1601, and the seizure may be made without a warrant. A common carrier is not responsible for damages or otherwise to any owner, shipper, or consignee by reason of any such seizure. When a complaint is made on oath to any magistrate authorized to issue warrants in criminal cases that any wild birds, wild animals, or fish, any part or parts of wild birds, wild animals, or fish, or any nets, hunting or fishing apparatuses or appliances, or other property have been or are being killed, taken, caught, had in possession or under control, or shipped, contrary to the statutes or laws described in section 1601, and that the complainant believes the property to be stored, kept, or concealed in any particular house or place, the magistrate, if he or she is satisfied that there is probable cause for the belief, shall issue a warrant to search for the property. The warrant shall be directed to the department, or an officer appointed by the department, or to any other peace officer. All wild~~

**(2) The open fields doctrine does not apply to a search by an officer appointed by the department.**

**(3) Wild birds, wild animals, fish, nets, boats, fishing or hunting appliances or apparatuses, ~~or automobiles~~ or other property of any kind seized by an officer as the proceeds or instrumentalities of a violation of a law described in section 1601 shall be turned over to the department to be held by the department subject to the order of the court as provided in this part.**

~~(2) For the purposes of this part, "probable cause" or "probable cause to believe" is present on the part of a peace~~

1 ~~officer if there are facts that would induce any fair-minded person~~  
2 ~~of average intelligence and judgment to believe that a law or~~  
3 ~~statute had been violated or was being violated contrary to any of~~  
4 ~~the statutes or laws described in section 1601.~~