

PNEUMATIC GUNS: INCLUDE THOSE THAT FIRE BOLTS OR ARROWS

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House Bill 4080 as reported from committee
Sponsor: Rep. Beau Matthew LaFave
Committee: Natural Resources and Outdoor Recreation
Complete to 6-24-21

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

BRIEF SUMMARY: House Bill 4080 would amend the Natural Resources and Environmental Protection Act (NREPA) to expand the definition of pneumatic gun to include devices that shoot bolts or arrows (e.g., pneumatic airbows). The bill also would revise other provisions concerning permits for hunters with certain disabilities or physical limitations.

FISCAL IMPACT: House Bill 4080 would have an indeterminate fiscal impact on the Department of Natural Resources (DNR). It is unclear whether the addition of pneumatic airbows to NREPA or the expansion of hunting opportunities for persons with disabilities would result in an increase in permit revenue for the department. It is also unclear whether these new provisions, as well as the mandate for the DNR to issue a permit to a person unable to walk through a dense wooded area due to disability, would affect departmental costs. These changes would be unlikely to affect local government revenues or costs.

THE APPARENT PROBLEM:

Outdoor recreation, including hunting, brings billions of dollars into Michigan's economy every year. However, it can be difficult for persons with certain disabilities to enjoy hunting in Michigan, due at least in part to restrictions on weapons under current law. Specifically, the best weapon available for disabled persons with the use of one arm or less is a crossbow with a crank—yet that, some have noted, can still be too difficult to handle and use. Legislation has been proposed to allow an alternative hunting device for persons with certain kinds of disabilities, and to make other changes to provisions in NREPA that pertain to hunters with certain physical limitations, to help ensure that everyone can fully enjoy Michigan's great outdoors.

THE CONTENT OF THE BILL:

Pneumatic guns

Under both current law and the bill, *pneumatic guns*—except for paintball guns—are considered firearms for purposes of Part 401 (Wildlife Conservation) of NREPA.

A *pneumatic gun* is now defined as any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air.

Under the bill, *pneumatic gun* would mean an implement, designed as a gun, that will expel a BB, *bolt*, *arrow*, or pellet by spring, gas, or air.

The bill would allow the Natural Resources Commission (NRC) to issue orders allowing an individual to take game with a pneumatic gun during any open season in which a firearm may be used for taking that game.

The bill also would allow the DNR to issue a permit to an *individual with a disability or physical limitation* to take game with a pneumatic gun during an open season in which a bow may be used for taking game if the individual submits a certification from a physician, physical therapist, occupational therapist, or other medical professional that, due to a physical disability or limitation, the individual is unable to hold, aim, and shoot a bow or crossbow. The DNR would have to develop a certification form and make it available to the public.

Individual with a disability or physical limitation would mean an individual who is determined by a physician, physician assistant, or optometrist to have one or more of the following physical characteristics:

- Blindness.
- The inability to walk more than 200 feet without having to stop and rest.
- Both the inability to use one or both legs or feet and the inability to walk without the assistance of another person or the use of an assistive device.
- A lung disease from which the person's forced expiratory volume for one second, when measured by spirometry, is less than one liter or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
- A cardiovascular condition that causes the person to measure between 3 and 4 on the New York heart classification scale or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American Heart Association and approved by the Department of Health and Human Services.
- An arthritic, neurological, or orthopedic condition that severely limits the person's ability to walk.
- The persistent reliance upon an oxygen source other than ordinary air.

Other amendments

NREPA currently allows the DNR to issue, to an individual who is unable to walk because the individual is a paraplegic, an amputee, or permanently disabled, a permit authorizing him or her to take game from or upon a standing vehicle, if the game is in season and the individual holds a license for it and complies with all other laws and rules for taking it.

The bill would retain these provisions, but would change the qualifying threshold from the inability to walk to the inability to walk through a dense wooded area or to walk 200 feet in field conditions due to a permanent or temporary disability or a medical condition.

NREPA also currently allows the DNR to issue, to a disabled individual who has full use of only one arm and is unable to hold, aim, and shoot a bow, a permit authorizing him or her to take game using a modified bow that can be held, aimed, and shot with one arm, if the game is in season and the individual holds a license for it and complies with all other laws and rules for taking it.

The bill would retain these provisions, but would change the qualifying threshold to “an individual...who has full use of only one arm *or less*” and change the nature of the modified bow to one that “may be held, aimed, and shot with one arm *or less*.”

Finally, the bill would remove a provision that now authorizes the NRC to issue an order regarding bows that are modified as described above.

The bill would take effect 90 days after being enacted.

MCL 324.40102 et seq.

BACKGROUND:

House Bill 4080 is a reintroduction of HB 4332 of the 2019-20 legislative session. That bill was passed by both houses of the legislature but was vetoed by the governor.¹ In her veto message, Governor Whitmer said, in part, that the bill would have created an unworkable permitting system for the DNR that would depend on a subjective evaluation of physical fitness. The message also urged that future legislation be developed in consultation with the DNR Accessibility Advisory Council, which provides guidance to the DNR on improving accessibility to Michigan’s natural resources.²

ARGUMENTS:

For:

Supporters of the bill argue that allowing persons with certain disabilities to hunt with a pneumatic gun would serve as a useful tool to encourage more hunting opportunities and offer greater independence. A pneumatic gun can be easier and safer to operate, offering a person with one arm or less the ability to use the gun on his or her own. This is unlike a crossbow, which, even though it is easier to use than a compound or recurve bow, needs to be cranked and loaded with at least one arm and one foot.

Proponents also highlight that the permissive components of the bill would give the DNR discretion to allow disabled individuals to hunt with a pneumatic bow. This permissive aspect would allow the DNR take into consideration possible needs of the individual hunter, such as whether the hunter is disabled or has a broken arm, as well as any past hunting infractions, when approving or denying a hunting permit.

Additionally, allowing the use of a pneumatic gun during Michigan’s archery season will allow disabled persons to hunt more easily than during the later firearm season, when there is often heavy snow through which it is difficult for disabled persons to navigate.

Against:

Critics of the bill argue that, because of the mechanics of a pneumatic gun and the firing of certain projectiles from the gun, it is closer to a firearm than an archery weapon and should be treated under the law as such. Archery season is meant to be challenging, yet allowing

¹ <http://legislature.mi.gov/doc.aspx?2019-HB-4332>

² https://content.govdelivery.com/attachments/MIEOG/2020/10/15/file_attachments/1571567/Veto%20Letters%20101520.pdf

pneumatic guns would dramatically change the makeup of the season. Additionally, persons with disabilities are currently given time early in the archery season to use a firearm, and crossbows are allowed for the rest of the season.

Opponents of the bill also argue that allowing persons with disabilities to use pneumatic guns could lead to allowing all hunters to use pneumatic guns. This occurred with crossbows, the use of which was initially allowed only for disabled persons, but then expanded to all persons. Some expressed concern that expanding further use of pneumatic guns would detrimentally affect deer populations because a pneumatic gun is very easy to use and would make hunting deer easier.

Additionally, some would like to see clarifying language for the phrase “use of one arm or less” to ensure that the bill would apply to hunters with disabilities and that hunters with broken arms or wrists could not get a permit to use a pneumatic gun.

Finally, opposition from previous committee testimony on this issue stated that pneumatic guns are not part of the federal Pittman-Robinson Act. As a result, sales from these weapons do not contribute to the 11% excise tax collected under that act by the federal government, which then distributes it to states based on land mass and hunting numbers. Michigan is usually in the top five states to receive funds through the Pittman-Robinson Act. If more pneumatic guns are sold and other guns, which fall under the act, have fewer sales, it could result in a loss of wildlife funding for Michigan.

POSITIONS:

The following entities indicated support for the bill (5-6-21):

- Airguns of Michigan
- Airgun Sporting Association
- Pyramyd Air

Representatives of the following entities testified in opposition of the bill (5-6-21):

- Department of Natural Resources
- Department of Natural Resources, Law Enforcement Division
- Michigan Bow Hunters Association

The following entities indicated opposition for the bill:

- Michigan Trappers and Predator Callers Association (5-6-21)
- UP Whitetails Association of Marquette County (5-20-21)

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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.