

DNR STATUTORY WARRANT REQUIREMENTS

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

House Bill 4315 as introduced
Sponsor: Rep. Beau Matthew LaFave
Committee: Government Operations
Complete to 3-17-22

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

SUMMARY:

House Bill 4315 would amend the Natural Resources and Environmental Protection Act (NREPA) to prohibit an employee of the Department of Natural Resources (DNR) from entering private property without the permission of the owner or lessee of the property, unless the employee is a peace officer or authorized park and recreation officer who has a warrant, who is in hot pursuit of a criminal suspect, or who reasonably believes that a person will be endangered or evidence of a crime will be destroyed or hidden if the officer delays in order to seek a warrant. The bill also would state that this prohibition controls another provision that authorizes an officer appointed by the DNR to enter private property (except for a dwelling) to conduct certain searches without a warrant if the officer has probable cause to believe that a person is violating certain specified laws.

NREPA requires the DNR and officers appointed by the DNR to do, among other things, 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.

The act provides that if an officer appointed by the DNR has probable cause to believe that a law described above is being violated (or has been 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 add a new section to NREPA that would generally limit the power of DNR employees to enter into or upon private property except under certain specified circumstances. The above provision concerning the ability of DNR officers to conduct searches and enter into or upon property would also specifically be made subject to this new section.

The new section would provide that, notwithstanding any other provision of NREPA, an employee of the DNR is prohibited from entering into or upon private property unless one of the following applies:

- The owner or lessee of the property authorizes the entry.
- The employee is a peace officer or is a park and recreation officer commissioned under section 1606 of NREPA¹ and one or more of the following apply:
 - The employee has a warrant from a court of competent jurisdiction that authorizes the entry.
 - The employee reasonably believes that, if the employee delays in order to seek a warrant, evidence of a crime will be destroyed or concealed or an individual will be endangered.
 - The employee is in hot pursuit of a criminal suspect.

MCL 324. 1602 and proposed MCL 324.1507

FISCAL IMPACT:

House Bill 4315 is unlikely to affect revenues or costs for the Department of Natural Resources. The department's Law Enforcement Division is supported by appropriations totaling \$45.8 million Gross (\$12.6 million GF/GP) in FY 2021-22.

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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.

¹ The section allows park and recreation officers to be commissioned as peace officers for certain enforcement purposes and with limited powers. See <http://legislature.mi.gov/doc.aspx?mcl-324-1606>