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STATE REPRESENTATIVE • 38TH ASSEMBLY DISTRICT

Senate Committee on Natural Resources August 15, 2013

Thank you chairman Kedzie and members for holding a hearing today on Assembly Bill 8, relating to restrictions imposed by local governmental units on hunting with a bow and arrow or crossbow.

The Deer Collision Reduction Act seeks to curb the number of motor vehicle deer crashes in the state by increasing the ability for archery enthusiasts to hunt deer on their property. Current prohibitions on hunting in urban areas means the Department of Natural Resources has little to no ability to control our deer herd. As a result, these urban areas have become places of refuge for deer, resulting in expensive property damage and increased numbers of automobile accidents.

Motor vehicle-deer crashes can result in serious injury, and certainly the possibility of death. In 2012 law enforcement agencies reported 18,864 deer vs. motor vehicle crashes statewide. Dane County had the most with 851, Shawano County had the second highest with 800 and Waukesha County came in third with 710. Bow hunting is a safe and effective management tool that can help us address these incidents and ultimately lower these numbers.

The Deer Collision Reduction Act passed out of the Assembly Natural Resources Committee with bi-partisan support and passed the Assembly Floor on a bi-partisan voice vote. This is a common sense solution to a serious problem. Once again, thank you for your time, I will be happy to answer any questions.



2013 ASSEMBLY BILL 8

HUNTING RESTRICTIONS IMPOSED BY LOCAL UNITS OF GOVERNMENT – BOWS & CROSSBOWS.

Testimony by: Conservation Warden Thomas Van Haren – Dept. of Natural Resources.

Appearing for Information Only

Senate Natural Resources Committee

August 15, 2013 10:00 AM

Room 300 Southeast

The Department is appearing for informational purposes on AB 8, as amended by Assembly Amendments 1 and 3. As amended this bill will change state statutes related to a local unit of governments authority to prohibit the use of bow and arrow or crossbows for hunting.

This proposal would likely increase, or create new areas where people could hunt with archery gear within municipalities that currently do not exist. Hunters will still need to contact their local unit of government to find out if the municipality has taken advantage of the ordinance authorities preserved in the bill. The changes made in this bill do not prevent a municipality from prohibiting hunting on lands the municipality owns, and still allow a local unit of government to essentially require archery hunters to hunt from elevated locations so they are shooting down toward the ground, and to have permission from the owner of any building located within a specified distance of where the person is hunting, up to 100 yards from any such building.

Since 1990 the DNR has investigated 1063 hunting incidents of which only 17 involved archery equipment.

Thank you for your time.

Background Information

Related Wisconsin State Statutes

29.038 Local regulation of wildlife

- (2) No local governmental unit may enact any ordinance or adopt any regulation, resolution or other restriction for the purpose of regulating the hunting, fishing, trapping or management of wild animals, except as follows:
- (a) A local governmental unit may enact an ordinance or adopt any regulation, resolution or other restriction that is authorized under this chapter.
 - (b) A local governmental unit may enact an ordinance or adopt any regulation, resolution or other restriction that restricts or prohibits access for hunting, fishing or trapping in any portion of land that it owns or leases.

941.20 Endangering safety by use of dangerous weapon.

- (1) Whoever does any of the following is guilty of a Class A misdemeanor:
- (a) Endangers another's safety by the negligent operation or handling of a dangerous weapon; or
 - (b) Operates or goes armed with a firearm while he or she is under the influence of an intoxicant; or
 - (bm) Operates or goes armed with a firearm while he or she has a detectable amount of a restricted controlled substance in his or her blood. A defendant has a defense to any action under this paragraph that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.
 - (c) Except as provided in sub. (1m), intentionally points a firearm at or toward another.
 - (d) While on the lands of another discharges a firearm within 100 yards of any building devoted to human occupancy situated on and attached to the lands of another without the express permission of the owner or occupant of the building. "Building" as used in this paragraph does not include any tent, bus, truck, vehicle or similar portable unit.

Current Wisconsin Administrative Code

NR 19.40 Department authority to void local hunting, fishing and trapping ordinances.

- (1) PURPOSE. These rules are developed, pursuant to s. 227.11, Stats., to establish procedures for determining when local ordinances should be voided under s. 29.038, Stats., because they have more than an incidental effect on hunting, fishing or trapping, or do not have public health and safety as a primary purpose.
- (2) DEFINITIONS. In this section:
- (a) "Building devoted to human occupancy" has the meaning used in s. 941.20 (1) (d), Stats.
 - (b) "Undeveloped lands" has the meaning given in s. 943.13 (1e) (f), Stats.

(3) DEPARTMENT DETERMINATIONS. Department determinations related to the legality of local ordinances regulating hunting, fishing or trapping shall consider the following factors when determining the validity of a local ordinance. The listed factors are not weighted and are factors which would favor a department decision to void the ordinance.

(a) The extent to which the ordinance affects undeveloped lands or lands which are zoned agricultural, forestry, lowland conservancy, upland conservancy or flood plain.

(b) The extent to which the department has received complaints about the ordinance.

(c) Whether the ordinance purports to directly regulate hunting.

(d) Whether the ordinance requires a permit to discharge a firearm or a bow, whether a fee is charged which exceeds 150% of the issuance fee established by s. NR 19.02 (4) (b), creates a higher fee for non-residents or requires a background check.

Note: At the current time, the fee established by s. NR 19.02 (4) (b) is \$3.00.

(e) Whether the ordinance restricts the discharge of fine shot while the shooter is in or on the water more than 100 yards from the nearest developed shoreline, and shooting away from or parallel to that shoreline.

(f) Whether the ordinance prohibits the discharge of fine shot when on undeveloped lands which are more than 100 yards from buildings devoted to human occupancy, and shooting away from the buildings.

(g) Whether the ordinance prohibits hunting, fishing or trapping on department property otherwise open to hunting, fishing or trapping or on property leased by or under easement to the department for the purpose of hunting, fishing or trapping.

(h) Whether the ordinance prohibits the discharge of shotguns or bows within all areas of the municipality.

(i) Whether the ordinance prohibits the discharge of bows.

(j) Whether existing state laws adequately address the local safety concerns.

(k) Whether the ordinance prohibits fishing by individuals located on public waters.

(L) Whether less restrictive alternatives are available to address a municipality's safety concerns.

(m) Whether the ordinance prohibits live trapping.

(n) Whether the ordinance has no apparent health or safety purpose.

(4) EXCEPTION. This section does not apply to fishing rafts subject to regulation under s. 30.126, Stats.

(5) PROCEDURES.

(a) Prior to holding a hearing to determine the validity of a local ordinance under s. 29.038, Stats., the department shall mail the affected municipality a notice of the time and location of the hearing. The department shall also publish a class I notice under ch. 985, Stats., of the hearing in the county in which the municipality is located. The notice shall be given at least 30 days prior to the date set for the hearing.

- (b) Hearings shall be conducted to the extent possible in a manner consistent with s. 227.18 (1) and (2), Stats.
- (c) The final decision shall be made by the secretary or the secretary's designee.
- (d) The decision shall be in writing and accompanied by findings of fact and conclusions of law.
- (e) The department may void ordinances found to be in violation of s. 29.038, Stats., in whole or in part, or as applied to certain areas, certain classes of persons, certain times of the year, or certain circumstances.

NR 19.40 History

History: Cr. Register, May, 2001, No. 545, eff. 6-1-01