

House File 2193 - Introduced

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A BILL FOR

1 An Act requiring search warrants for certain activities under
2 the jurisdiction of the natural resource commission.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 481A.12, Code 2016, is amended to read
2 as follows:

3 **481A.12 Seizure of wildlife taken or handled illegally.**

4 The director or any peace officer shall seize ~~with or without~~
5 pursuant to a search warrant and take possession of, ~~or direct~~
6 ~~the disposal of~~, any fish, furs, birds, or animals, or mussels,
7 clams, or frogs, which have been caught, taken, or killed at
8 a time, in a manner, or for a purpose, or had in possession
9 or under control, or offered for shipment, or illegally
10 transported in the state or to a point beyond its borders,
11 contrary to the Code. All fish, furs, birds, or animals, or
12 mussels, clams, or frogs seized under **this section** ~~may~~ shall be
13 relinquished to a representative of the commission ~~or disposed~~
14 ~~of~~ and kept as provided in section 481A.13.

15 Sec. 2. **NEW SECTION. 481A.35A Enforcement — search warrant**
16 **required — exception.**

17 1. A peace officer shall not enter onto private property,
18 without the permission of the owner or occupant of the
19 property, for the purposes of investigating a violation of or
20 enforcing a provision of this chapter or any other law under
21 the authority of the natural resource commission without first
22 making an application under oath or affirmation to the district
23 court of the county in which the property is located for the
24 issuance of a search warrant to search that property. However,
25 a peace officer may enter onto private property without
26 permission or a search warrant if the officer has probable
27 cause to believe that illegal activity is occurring or has
28 occurred on the property based on the officer's own first-hand
29 observations that are made from a location at which the officer
30 is legally authorized to be.

31 2. The court may issue a search warrant, after examination
32 of the applicant and any witnesses, if the court is satisfied
33 that there is probable cause to believe the existence of the
34 allegations in the application.

35 Sec. 3. Section 483A.32, Code 2016, is amended to read as

1 follows:

2 **483A.32 Public nuisance.**

3 Any device, contrivance, or material used to violate a rule
4 adopted by the commission, or any other provision of this
5 chapter or **chapter 481A, 481B, 482, 484A, or 484B**, is a public
6 nuisance and may be condemned by the state. The director, the
7 director's officers, or any peace officer, shall seize the
8 devices, contrivances, or materials used as a public nuisance,
9 ~~without warrant or process~~ pursuant to a search warrant,
10 and deliver them to a magistrate having jurisdiction. An
11 automobile shall not be construed to be a public nuisance under
12 this section.

13

EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill provides that when the director of the department
17 of natural resources or the director's officers or any peace
18 officer seizes wildlife possessed or taken illegally, or seizes
19 property used to violate a provision of the natural resources
20 laws relating to wildlife, the director or officer must conduct
21 that seizure pursuant to a search warrant. Currently, such
22 seizure may be accomplished without obtaining a search warrant.

23 The bill also provides that a peace officer shall not enter
24 onto private property, without the permission of the owner or
25 occupant of the property, for the purposes of investigating
26 a violation of or enforcing the wildlife laws arising under
27 Code chapter 481A or any other law under the authority of
28 the natural resource commission, without first making an
29 application to the district court of the county where the
30 property is located for the issuance of a search warrant to
31 search that property. However, a peace officer may enter onto
32 private property without permission or a search warrant if the
33 officer has probable cause to believe that illegal activity
34 is occurring on that property based on the officer's own
35 first-hand observations that are made from a location at which

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1 the officer is legally authorized to be.