

Senate File 45 - Introduced

SENATE FILE 45

BY ZAUN

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 2019, 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, animals, 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, animals, mussels,
12 clams, or frogs seized under **this section** shall be relinquished
13 to a representative of the commission, ~~disposed of, or and~~ kept
14 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, subsection 1, Code 2019, is amended

1 to read as follows:

2 1. Subject to [subsection 2](#), any device, contrivance, or
3 material used to violate a rule adopted by the commission, or
4 any other provision of [this chapter](#) or [chapter 481A, 481B, 482,](#)
5 [484A, or 484B](#), is a public nuisance and may be condemned by the
6 state. The director, the director's officers, or any peace
7 officer, shall seize the devices, contrivances, or materials
8 used as a public nuisance, ~~without warrant or process pursuant~~
9 to a search warrant, and deliver them to a magistrate having
10 jurisdiction. An automobile shall not be construed to be a
11 public nuisance under [this section](#).

12 EXPLANATION

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

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

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