



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3908

by Rep. John M. Cabello

#### SYNOPSIS AS INTRODUCED:

510 ILCS 68/105-40

515 ILCS 5/1-185

520 ILCS 5/1.19

from Ch. 56, par. 1-185

from Ch. 61, par. 1.19

Amends the Herptiles-Herps Act, the Fish and Aquatic Life Code, and the Wildlife Code. Provides that no employee of the Department of Natural Resources shall search any home or its curtilage without a valid warrant, permission, or probable cause that the home or its curtilage contains evidence of a violation of the Acts. Makes other changes. Effective immediately.

LRB099 07897 MGM 28037 b

1 AN ACT concerning wildlife.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Herptiles-Herps Act is amended by changing  
5 Section 105-40 as follows:

6 (510 ILCS 68/105-40)

7 Sec. 105-40. Power of entry and examination; access to  
8 lands and waters. Authorized employees of the Department are  
9 empowered, under law, to enter all lands and waters to enforce  
10 this Act. Authorized employees with a reasonable suspicion that  
11 they will find evidence of a violation of this Act may ~~are~~  
12 ~~further empowered to~~ examine all buildings, private or public  
13 clubs (except dwellings), fish markets, reptile shows, pet  
14 stores, camps, vessels, cars (except sealed railroad cars or  
15 other sealed common carriers), conveyances, vehicles,  
16 watercraft, or any other means of transportation or shipping,  
17 tents, bags, pillowcases, coats, jackets, or other receptacles  
18 and to open any box, barrel, package, or other receptacle in  
19 the possession of a common carrier, which might contain ~~that~~  
20 ~~they have reason to believe contains~~ reptile or amphibian life  
21 or any part of reptile or amphibian life taken, bought, sold or  
22 bartered, shipped, or had in possession contrary to this Act,  
23 including administrative rules, or that the receptacle

1 containing the reptile or amphibian is falsely labeled.

2 Authorized employees of the Department shall be given free  
3 access to and shall not be hindered or interfered with in  
4 making an entry and examination. Any permit or license held by  
5 a person preventing free access or interfering with or  
6 hindering an employee shall not be issued to that person for  
7 the period of one year after his or her action.

8 Employees of the Department, as specifically authorized by  
9 the Director, are empowered to enter all lands and waters for  
10 the purpose of reptile or amphibian investigations, State and  
11 federal permit inspections, as well as reptile or amphibian  
12 censuses or inventories, and are further empowered to conduct  
13 examination of equipment and devices in the field, under law,  
14 to ensure compliance with this Act.

15 However, no employee of the Department shall search any  
16 home or its curtilage without a valid warrant, permission, or  
17 probable cause that the home or its curtilage contains evidence  
18 of a violation of this Act.

19 In determining what constitutes "curtilage", the  
20 Department shall consider, but is not limited to considering,  
21 the proximity of the area to the home, whether the area is  
22 included within an enclosure surrounding the home, the nature  
23 of the uses to which the area is put, the steps taken by the  
24 resident to protect the area from observation by people passing  
25 by, or any combination of these factors.

26 (Source: P.A. 98-752, eff. 1-1-15.)

1 Section 10. The Fish and Aquatic Life Code is amended by  
2 changing Section 1-185 as follows:

3 (515 ILCS 5/1-185) (from Ch. 56, par. 1-185)

4 Sec. 1-185. Power of entry and examination. Authorized  
5 employees of the Department are empowered, under law, to enter  
6 all lands and waters to enforce this Code. Authorized employees  
7 with a reasonable suspicion that they will find evidence of a  
8 violation of this Code may ~~are further empowered to~~ examine all  
9 buildings, private or public clubs (except dwellings), fish  
10 markets, cold storage houses, locker plants, camps, vessels,  
11 cars (except sealed railroad cars or other common carriers),  
12 conveyances, vehicles, water craft, or any other means of  
13 transportation or shipping, tents, game bags, game coats, or  
14 other receptacles and to open and examine any box, barrel,  
15 package, or other receptacle in the possession of a common  
16 carrier, which might contain ~~that they have reason to believe~~  
17 ~~contains~~ aquatic life or any part of aquatic life taken,  
18 bought, sold or bartered, shipped, or had in possession  
19 contrary to this Code, including administrative rules, or that  
20 the receptacle containing the aquatic life is falsely labeled.

21 Authorized employees of the Department shall be given free  
22 access to and shall not be hindered or interfered with in  
23 making an entry and examination. Any license held by a person  
24 preventing free access or interfering with or hindering an

1 employee shall not be issued to that person for the period of  
2 one year after his or her action.

3 Employees of the Department as specifically authorized by  
4 the Director are empowered to enter all lands and waters for  
5 purposes of pollution investigations, State and federal permit  
6 inspections, as well as aquatic life and wildlife censuses or  
7 inventories, and are further empowered to conduct examination  
8 of equipment and devices in the field, under law, to ensure  
9 compliance with this Code.

10 However, no employee of the Department shall search any  
11 home or its curtilage without a valid warrant, permission, or  
12 probable cause that the home or its curtilage contains evidence  
13 of a violation of this Code.

14 In determining what constitutes "curtilage", the  
15 Department shall consider, but is not limited to considering,  
16 the proximity of the area to the home, whether the area is  
17 included within an enclosure surrounding the home, the nature  
18 of the uses to which the area is put, the steps taken by the  
19 resident to protect the area from observation by people passing  
20 by, or any combination of these factors.

21 (Source: P.A. 87-833.)

22 Section 15. The Wildlife Code is amended by changing  
23 Section 1.19 as follows:

24 (520 ILCS 5/1.19) (from Ch. 61, par. 1.19)

1           Sec. 1.19. All authorized employees of the Department are  
2 empowered, pursuant to law, to enter all lands and waters to  
3 enforce the provisions of this Code Act. Authorized employees  
4 with a reasonable suspicion that they will find evidence of a  
5 violation of this Code may ~~are further empowered to~~ examine all  
6 buildings, private or public clubs (except dwellings), fish  
7 markets, cold storage houses, locker plants, camps, vessels,  
8 cars (except sealed railroad cars or other sealed common  
9 carrier), conveyances, vehicles, watercraft or other means of  
10 transportation or shipping whatsoever, tents, game bags, game  
11 coats or other receptacles, and to open and examine any box,  
12 barrel, package, or other receptacle in the possession of a  
13 common carrier, which might contain ~~they have reason to believe~~  
14 ~~contains~~ wild birds or any part thereof (their nests or eggs),  
15 or wild mammals or any part thereof, taken, destroyed, bought,  
16 sold or bartered, shipped, or held in possession contrary to  
17 any of the provisions of this Code Act, including  
18 administrative rules, or that the receptacle containing the  
19 same is falsely labeled.

20           All authorized employees of the Department shall be given  
21 free access to and shall not be hindered or interfered with in  
22 making such examination, and any license issued by the  
23 Department held by the person preventing such free access or  
24 interfering with or hindering such authorized employee shall be  
25 subject to confiscation by the Department; and no license or  
26 permit of any kind whatsoever shall be issued to such person

1 for the period of one year thereafter.

2 Authorized law enforcement employees of the Department are  
3 empowered to conduct examination of equipment and devices in  
4 the field, pursuant to law, to ensure compliance with the  
5 provisions of this Code Act.

6 However, no employee of the Department shall search any  
7 home or its curtilage without a valid warrant, permission, or  
8 probable cause that the home or its curtilage contains evidence  
9 of a violation of this Code.

10 In determining what constitutes "curtilage", the  
11 Department shall consider, but is not limited to considering,  
12 the proximity of the area to the home, whether the area is  
13 included within an enclosure surrounding the home, the nature  
14 of the uses to which the area is put, the steps taken by the  
15 resident to protect the area from observation by people passing  
16 by, or any combination of these factors.

17 (Source: P.A. 85-152.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.