

**SUBSTITUTE FOR
SENATE BILL NO. 118**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 72108 and 73301 (MCL 324.72108 and 324.73301),
section 72108 as amended by 2014 PA 215 and section 73301 as
amended by 2007 PA 174, and by adding section 73302.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 72108. (1) The department may do any of the following:

2 (a) Grant easements or, pursuant to part 13, use permits or
3 lease land owned by ~~the~~**THIS** state that is being used for a Pure
4 Michigan Trail for a use that is compatible with the use of the
5 Pure Michigan Trail.

6 (b) Enter into contracts for concessions along a state owned
7 Pure Michigan Trail.

8 (c) Lease land adjacent to a state owned Pure Michigan Trail

1 for the operation of concessions.

2 (2) If the department acquires land, the director may state
3 that the specified land is acquired for use as a Pure Michigan
4 Trail. Following acquisition of land that the director states is
5 acquired for use as a Pure Michigan Trail, any revenue derived from
6 ~~that THE land pursuant to UNDER~~ subsection (1), except as otherwise
7 provided by law, ~~shall MUST~~ be deposited into the fund.

8 (3) IF THE DEPARTMENT ENTERS INTO NEGOTIATIONS WITH A RAILROAD
9 FOR THE DEPARTMENT TO BECOME A TRAIL SPONSOR UNDER 16 USC 1247(D) ,
10 THE DEPARTMENT SHALL COMPLY WITH 49 CFR 1152.29(A) (2) (II) . THE
11 DEPARTMENT SHALL ASSUME FULL RESPONSIBILITY FOR ANY POTENTIAL LEGAL
12 LIABILITY ARISING OUT OF THE TRANSFER OR USE OF THE RAILROAD RIGHT-
13 OF-WAY. IN EXCHANGE FOR THE DEPARTMENT'S ASSUMPTION OF LIABILITY,
14 THE RAILROAD SHALL PROVIDE THE DEPARTMENT WITH THE FAIR VALUE OF
15 THE DEPARTMENT'S ASSUMPTION OF LIABILITY. AS USED IN THIS
16 SUBSECTION, "FAIR VALUE" MEANS THE VALUE THAT THE DEPARTMENT AND
17 THE RAILROAD MUTUALLY AGREE ACCURATELY REFLECTS THE RISK OF
18 LIABILITY ASSUMED BY THE DEPARTMENT.

19 Sec. 73301. (1) Except as otherwise provided in this section,
20 a cause of action ~~shall DOES~~ not arise for injuries to a person who
21 is on the land of another without paying to the owner, tenant, or
22 lessee of the land a valuable consideration for the purpose of
23 fishing, hunting, trapping, camping, hiking, sightseeing,
24 motorcycling, snowmobiling, or any other outdoor recreational use
25 or trail use, with or without permission, against the owner,
26 tenant, or lessee of the land unless the injuries were caused by
27 the gross negligence or willful and wanton misconduct of the owner,

1 tenant, or lessee.

2 (2) A cause of action ~~shall~~**DOES** not arise for injuries to a
3 person who is on the land of another without paying to the owner,
4 tenant, or lessee of the land a valuable consideration for the
5 purpose of entering or exiting from or using a Michigan trailway as
6 designated under part 721 or other public trail, with or without
7 permission, against the owner, tenant, or lessee of the land unless
8 the injuries were caused by the gross negligence or willful and
9 wanton misconduct of the owner, tenant, or lessee. For purposes of
10 this subsection, a Michigan trailway or public trail may be located
11 on land of any size including, but not limited to, urban, suburban,
12 subdivided, and rural land.

13 (3) A CAUSE OF ACTION DOES NOT ARISE, FOR INJURIES TO A
14 PERSON, AGAINST A PERSON, OTHER THAN A FOR-PROFIT LEGAL ENTITY,
15 WITH WHOM THE OWNER, TENANT, OR LESSEE OF LAND CONTRACTS TO
16 CONSTRUCT, MAINTAIN, OR OPERATE A TRAIL OR OTHER LAND IMPROVEMENT
17 USED BY THE INJURED PERSON AS DESCRIBED IN SUBSECTIONS (1) AND (2),
18 UNLESS THE INJURIES WERE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL
19 AND WANTON MISCONDUCT OF THE PERSON, OTHER THAN A FOR-PROFIT LEGAL
20 ENTITY, WITH WHOM THE OWNER, TENANT, OR LESSEE CONTRACTS.

21 (4) ~~(3)~~A cause of action ~~shall~~**DOES** not arise against the
22 owner, tenant, or lessee of land or premises for injuries to a
23 person who is on that land or premises for the purpose of gleaning
24 agricultural or farm products, unless that person's injuries were
25 caused by the gross negligence or willful and wanton misconduct of
26 the owner, tenant, or lessee.

27 (5) ~~(4)~~A cause of action ~~shall~~**DOES** not arise against the

1 owner, tenant, or lessee of a farm used in the production of
2 agricultural goods as defined by section 35(1)(h) of the former
3 single business tax act, 1975 PA 228, or by section 207(1)(d) of
4 the Michigan business tax act, 2007 PA 36, MCL 208.1207, for
5 injuries to a person who is on that farm and has paid the owner,
6 tenant, or lessee valuable consideration for the purpose of fishing
7 or hunting, unless that person's injuries were caused by a
8 condition ~~which~~ **THAT** involved an unreasonable risk of harm and all
9 of the following apply:

10 (a) The owner, tenant, or lessee knew or had reason to know of
11 the condition or risk.

12 (b) The owner, tenant, or lessee failed to exercise reasonable
13 care to make the condition safe, or to warn the person of the
14 condition or risk.

15 (c) The person injured did not know or did not have reason to
16 know of the condition or risk.

17 **(6)** ~~(5)~~ A cause of action ~~shall~~ **DOES** not arise against the
18 owner, tenant, or lessee of land or premises for injuries to a
19 person, other than an employee or contractor of the owner, tenant,
20 or lessee, who is on the land or premises for the purpose of
21 picking and purchasing agricultural or farm products at a farm or
22 "u-pick" operation, unless the person's injuries were caused by a
23 condition that involved an unreasonable risk of harm and all of the
24 following apply:

25 (a) The owner, tenant, or lessee knew or had reason to know of
26 the condition or risk.

27 (b) The owner, tenant, or lessee failed to exercise reasonable

1 care to make the condition safe, or to warn the person of the
2 condition or risk.

3 (c) The person injured did not know or did not have reason to
4 know of the condition or risk.

5 (7) ~~(6)~~—As used in this section, "agricultural or farm
6 products" means the natural products of the farm, nursery, grove,
7 orchard, vineyard, garden, and apiary, including, but not limited
8 to, trees and firewood.

9 **SEC. 73302. (1) A CAUSE OF ACTION DOES NOT ARISE AGAINST A**
10 **RAILROAD THAT OWNS OR FORMERLY OWNED OR OPERATED A RIGHT-OF-WAY OF**
11 **A RAIL LINE THAT HAS BEEN DEDICATED FOR INTERIM TRAIL USE AND RAIL**
12 **BANKING UNDER 16 USC 1247(D) FOR INJURIES TO A PERSON WHO IS ON THE**
13 **RIGHT-OF-WAY THAT OCCUR AFTER THE SURFACE TRANSPORTATION BOARD**
14 **APPROVES THE DEDICATION OF THE RIGHT-OF-WAY UNDER 16 USC 1247(D)**
15 **AND BEFORE THE RIGHT-OF-WAY IS REACTIVATED FOR RETURN TO RAIL**
16 **SERVICE.**

17 **(2) A CAUSE OF ACTION DOES NOT ARISE AGAINST A RAILROAD THAT**
18 **OWNS OR FORMERLY OWNED OR OPERATED A RIGHT-OF-WAY OF A RAIL LINE**
19 **THAT HAS BEEN SET APART FOR INTERIM TRAIL USE AND RAIL BANKING**
20 **UNDER THE STATE TRANSPORTATION PRESERVATION ACT OF 1976, 1976 PA**
21 **295, MCL 474.51 TO 474.70, FOR INJURIES TO A PERSON WHO IS ON THE**
22 **RIGHT-OF-WAY THAT OCCUR AFTER THE DEDICATION OF THE RIGHT-OF-WAY**
23 **UNDER THE STATE TRANSPORTATION PRESERVATION ACT OF 1976, 1976 PA**
24 **295, MCL 474.51 TO 474.70, AND BEFORE THE RIGHT-OF-WAY IS**
25 **REACTIVATED FOR RETURN TO RAIL SERVICE.**

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.