

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4298

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 2123, 2124, and 2126 (MCL 324.2123, 324.2124,
and 324.2126), as added by 1995 PA 60, and by adding section 2123a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2123. (1) ~~The~~**SUBJECT TO SECTIONS 2123A AND 2124, THE**
2 department may grant **OR OTHERWISE PROVIDE FOR** an easement **FOR A**
3 **ROAD** over state-owned land under the jurisdiction of the department
4 to an individual ~~only~~ if all of the following conditions are met:

5 **(A) THE INDIVIDUAL APPLIES FOR THE EASEMENT ON A FORM PROVIDED**
6 **BY THE DEPARTMENT.**

7 **(B)** ~~(a)~~—The individual does not have other **LEGAL** access to the
8 individual's land.

9 **(C)** ~~(b)~~—The easement does not conflict with ~~an~~**ANY OF THE**

FOLLOWING:

(i) **AN** existing program or management **AS DESCRIBED IN AN EXISTING** plan of the department. ~~or a~~

(ii) **A** local ordinance.

(D) ~~(c)~~ The ~~roadway~~ **ROAD** for which the easement is granted is open to public access and ~~is not a roadway~~ for the exclusive use of the grantee.

(E) ~~(d)~~ The easement provides the logical and most feasible access to the individual's land.

(F) ~~(e)~~ The width of the ~~roadway~~ **ROAD** is restricted to the minimum consistent with the quality of the road required.

(G) ~~(f)~~ The individual agrees to construct, if necessary, and maintain the road.

(H) ~~(g)~~ The individual offers a similar ~~roadway~~ **ROAD** easement to the department **TO PROVIDE PUBLIC ACCESS TO STATE-OWNED LAND** across the **INDIVIDUAL'S** land to which the easement is to ~~provide access~~. **BE GRANTED BY THE DEPARTMENT, WHERE APPLICABLE. THE DEPARTMENT SHALL NOT ACCEPT A ROAD EASEMENT UNDER THIS SUBDIVISION IF THE ROAD EASEMENT WOULD END AT A BODY OF WATER.**

(I) **THE INDIVIDUAL DOES ALL OF THE FOLLOWING:**

(i) **PAYS THE COST OF A SURVEY.**

(ii) **PAYS THE DEPARTMENT THE FAIR MARKET VALUE OF THE EASEMENT. THE FAIR MARKET VALUE OF THE EASEMENT GRANTED BY THE DEPARTMENT SHALL BE OFFSET BY THE FAIR MARKET VALUE OF ANY EASEMENT GRANTED TO THE DEPARTMENT UNDER SUBDIVISION (H).**

(2) **EFFECTIVE 30 DAYS AFTER THE DEPARTMENT RECEIVES AN APPLICATION FOR AN EASEMENT, THE APPLICATION SHALL BE CONSIDERED TO**

1 BE COMPLETE UNLESS THE DEPARTMENT PROCEEDS AS PROVIDED UNDER
2 SUBSECTION (3).

3 (3) IF, BEFORE THE EXPIRATION OF THE 30-DAY PERIOD UNDER
4 SUBSECTION (1), THE DEPARTMENT NOTIFIES THE APPLICANT, IN WRITING,
5 THAT THE REQUEST IS NOT COMPLETE, SPECIFYING THE INFORMATION
6 NECESSARY TO MAKE THE REQUEST COMPLETE, THE RUNNING OF THE 30-DAY
7 PERIOD UNDER SUBSECTION (2) IS TOLLED UNTIL THE APPLICANT SUBMITS
8 TO THE DEPARTMENT THE SPECIFIED INFORMATION, AT WHICH TIME THE
9 REQUEST SHALL BE CONSIDERED TO BE COMPLETE.

10 (4) WITHIN 90 DAYS AFTER THE APPLICATION IS CONSIDERED TO BE
11 COMPLETE, THE DEPARTMENT SHALL GRANT OR DENY THE APPLICATION FOR
12 THE EASEMENT AND NOTIFY THE APPLICANT IN WRITING. IF THE DEPARTMENT
13 DENIES THE APPLICATION, THE NOTICE SHALL SET FORTH THE REASONS FOR
14 THE DENIAL.

15 SEC. 2123A. (1) SUBJECT TO SECTION 2124 AND NOTWITHSTANDING
16 SECTION 2123, THE DEPARTMENT SHALL GRANT OR OTHERWISE PROVIDE FOR
17 AN EASEMENT FOR A ROAD OVER STATE-OWNED LAND UNDER THE JURISDICTION
18 OF THE DEPARTMENT TO AN INDIVIDUAL IF ALL OF THE FOLLOWING
19 CONDITIONS ARE MET:

20 (A) THE INDIVIDUAL APPLIES FOR THE EASEMENT ON A FORM PROVIDED
21 BY THE DEPARTMENT.

22 (B) THE INDIVIDUAL DOES NOT HAVE OTHER LEGAL ACCESS TO THE
23 INDIVIDUAL'S LAND.

24 (C) THE EASEMENT DOES NOT CONFLICT WITH ANY OF THE FOLLOWING:

25 (i) WITH AN EXISTING PROGRAM OR MANAGEMENT AS DESCRIBED IN AN
26 EXISTING PLAN OF THE DEPARTMENT.

27 (ii) IF THE LAND WAS ACQUIRED USING REVENUE FROM HUNTING AND

1 FISHING LICENSE FEES, FEDERAL FUNDS FROM A WILDLIFE OR SPORT FISH
2 RESTORATION PROGRAM, OR OTHER STATE OR FEDERAL PROGRAM FUNDS, WITH
3 STATE OR FEDERAL LAWS GOVERNING THE USE OF LANDS ACQUIRED THROUGH
4 THE RESPECTIVE PROGRAM.

5 (iii) WITH A LOCAL ORDINANCE.

6 (D) THE EASEMENT DOES NOT CROSS AN ENVIRONMENTALLY SENSITIVE
7 AREA, INCLUDING, BUT NOT LIMITED TO, A WETLAND AS DEFINED IN
8 SECTION 30301 OR A CRITICAL DUNE AREA AS DEFINED IN SECTION 35301.

9 (E) THE INDIVIDUAL OFFERS A SIMILAR ROAD EASEMENT TO THE
10 DEPARTMENT TO PROVIDE PUBLIC ACCESS TO STATE-OWNED LAND ACROSS THE
11 INDIVIDUAL'S LAND TO WHICH THE EASEMENT IS TO BE GRANTED BY THE
12 DEPARTMENT, WHERE APPLICABLE. THE DEPARTMENT SHALL NOT ACCEPT A
13 ROAD EASEMENT UNDER THIS SUBDIVISION IF THE ROAD EASEMENT WOULD END
14 AT A BODY OF WATER.

15 (F) THE INDIVIDUAL DOES ALL OF THE FOLLOWING:

16 (i) PAYS THE COST OF A SURVEY.

17 (ii) PAYS TO THE DEPARTMENT THE FAIR MARKET VALUE OF THE
18 EASEMENT. THE FAIR MARKET VALUE OF THE EASEMENT GRANTED BY THE
19 DEPARTMENT SHALL BE OFFSET BY THE FAIR MARKET VALUE OF ANY EASEMENT
20 GRANTED TO THE DEPARTMENT UNDER SUBDIVISION (E).

21 (2) EFFECTIVE 30 DAYS AFTER THE DEPARTMENT RECEIVES AN
22 APPLICATION FOR AN EASEMENT, THE APPLICATION SHALL BE CONSIDERED TO
23 BE COMPLETE UNLESS THE DEPARTMENT PROCEEDS AS PROVIDED UNDER
24 SUBSECTION (3).

25 (3) IF, BEFORE THE EXPIRATION OF THE 30-DAY PERIOD UNDER
26 SUBSECTION (1), THE DEPARTMENT NOTIFIES THE APPLICANT, IN WRITING,
27 THAT THE REQUEST IS NOT COMPLETE, SPECIFYING THE INFORMATION

1 NECESSARY TO MAKE THE REQUEST COMPLETE, THE RUNNING OF THE 30-DAY
 2 PERIOD UNDER SUBSECTION (2) IS TOLLED UNTIL THE APPLICANT SUBMITS
 3 TO THE DEPARTMENT THE SPECIFIED INFORMATION, AT WHICH TIME THE
 4 REQUEST SHALL BE CONSIDERED TO BE COMPLETE.

5 (4) WITHIN 90 DAYS AFTER THE APPLICATION IS CONSIDERED TO BE
 6 COMPLETE, THE DEPARTMENT SHALL GRANT OR DENY THE APPLICATION FOR
 7 THE EASEMENT AND NOTIFY THE APPLICANT IN WRITING. IF THE DEPARTMENT
 8 DENIES THE APPLICATION, THE NOTICE SHALL SET FORTH THE REASONS FOR
 9 THE DENIAL.

10 (5) THE DEPARTMENT MAY IMPOSE CONDITIONS ON AN EASEMENT
 11 GRANTED UNDER THIS SECTION.

12 Sec. 2124. The department shall not grant an easement over
 13 state-owned land under the jurisdiction of the department if any of
 14 the following ~~occur~~ **APPLY**:

15 (a) The proposed easement is over land designated as a
 16 wilderness area, wild area, or natural area under part 351.

17 (b) The proposed easement is over land in an area closed to
 18 vehicular traffic pursuant to a ~~management~~ **AS DESCRIBED IN AN**
 19 **EXISTING** plan ~~approved by~~ **OF** the department.

20 (c) The construction or use of the new or existing ~~roadway~~
 21 **ROAD** will result in ~~unnecessary~~ **UNREASONABLE** damage to or
 22 destruction of the surface, soil, animal life, fish or **OTHER**
 23 aquatic life, or property.

24 Sec. 2126. Before the department ~~may grant~~ **GRANTS** an easement
 25 under this subpart, the individual applying for the easement shall
 26 pay charges as required by the department. The charges shall be the
 27 same as those charges required for the granting of an easement

1 under Act No. 10 of the Public Acts of 1953, being section 322.651
2 of the Michigan Compiled Laws. **SECTION 2129.**