

SUBSTITUTE FOR
SENATE BILL NO. 562

A bill to amend 1955 PA 10, entitled
"Michigan historical markers act,"
by amending sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 (MCL
399.151, 399.152, 399.153, 399.154, 399.155, 399.156, 399.157,
399.158, 399.159, and 399.160), sections 1 and 2 as amended and
sections 3, 4, 5, 6, 7, 8, 9, and 10 as added by 2002 PA 488.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 **"GOVERNOR JOHN B. SWAINSON** Michigan historical markers act".

3 Sec. 2. As used in this act:

4 (a) "Application" means ~~applying~~ **A REQUEST** for the placement
5 of an official Michigan historical marker at the location of a
6 historic resource or site and for the resource's or site's listing

1 in the state register of historic sites.

2 (b) "Center" means the Michigan ~~historical~~ **HISTORY** center
3 established in the ~~department~~. **MICHIGAN HISTORY CENTER ACT, 2016 PA**
4 **470, MCL 399.801 TO 399.812.**

5 (c) "Commission" means the Michigan historical commission
6 created in section 1 ~~of 1913 PA 271, MCL 399.1.3~~ **OF THE MICHIGAN**
7 **HISTORICAL COMMISSION ACT, 2016 PA 469, MCL 399.833.**

8 (d) "Department" means the department of ~~history, arts, and~~
9 ~~libraries created in section 3 of the history, arts, and libraries~~
10 ~~act, 2001 PA 63, MCL 399.703.~~ **NATURAL RESOURCES.**

11 (E) **"FUND" MEANS THE MICHIGAN HISTORY CENTER OPERATIONS FUND**
12 **CREATED IN SECTION 8 OF THE MICHIGAN HISTORY CENTER ACT, 2016 PA**
13 **470, MCL 399.808.**

14 (F) ~~(e)~~ "Historic resource" means a publicly or privately
15 owned building, structure, site, object, or open space of historic
16 significance to ~~Michigan~~. **THIS STATE, INCLUDING PLACES ASSOCIATED**
17 **WITH A SIGNIFICANT INDIVIDUAL, GROUP, OR EVENT IN THIS STATE.**

18 (G) ~~(f)~~ "Historic significance" means value in relation to
19 historical, architectural, archaeological, engineering,
20 **TECHNOLOGICAL**, or cultural disciplines.

21 (H) **"MARKER" OR "OFFICIAL MICHIGAN HISTORICAL MARKER" MEANS**
22 **MICHIGAN HISTORICAL MARKER SIGNAGE AS APPROVED BY THE COMMISSION**
23 **UNDER THIS ACT.**

24 (I) **"MICHIGANDER" MEANS A RESIDENT OF THE STATE OF MICHIGAN.**

25 (J) ~~(g)~~ "Person" means an individual, partnership,
26 corporation, association, or other private legal entity.

27 (K) ~~(h)~~ "Work" means construction, addition, alteration,

1 repair, moving, excavation, or demolition.

2 Sec. 3. ~~Historic~~**THE** preservation **OF HISTORY, CULTURE,** and
3 related public education are declared to be public purposes. In
4 fulfillment of these purposes, the department may administer a
5 Michigan historical marker program. ~~with the following goals:~~**AFTER**
6 **FORMAL CONSULTATION WITH THE COMMISSION, THE DEPARTMENT MAY ENTER**
7 **INTO AN AGREEMENT TO ASSIST WITH ADMINISTRATION OF THE MICHIGAN**
8 **HISTORICAL MARKER PROGRAM. USING MODERN PROFESSIONAL PRACTICES, THE**
9 **CENTER SHALL ENSURE THAT THE MICHIGAN HISTORICAL MARKER PROGRAM**
10 **MEETS THE FOLLOWING GOALS:**

11 (a) Identify and locate historic sites, ~~and~~**EVENTS, OBJECTS,**
12 subjects, **AND PERSONS** having historic significance to this state.

13 (b) Educate the public about significant people, places,
14 **EVENTS,** and things in Michigan history and thereby develop the
15 public's knowledge of the importance of Michigan history.

16 (c) Encourage the public to preserve historic resources
17 ~~indicative of Michigan history~~ and to develop a sense of identity
18 as Michiganians.**MICHIGANDERS.**

19 (d) Enhance cultural tourism in this state by encouraging
20 residents and visitors to investigate ~~Michigan history~~**HISTORIC**
21 **RESOURCES** and ~~the~~**THIS** state's ~~historic~~**HERITAGE** sites.

22 (e) Unite people from various regions of this state through
23 improved dissemination of information about historic resources ~~and~~
24 ~~places.~~**AND THIS STATE'S HERITAGE AND CULTURAL RESOURCES.**

25 Sec. 4. The department ~~may list a historic resource or site in~~
26 **SHALL MAINTAIN** the state register of historic sites. ~~and~~
27 ~~commemorate the resource or site with the placement of an official~~

~~Michigan historical marker if the historic resource or site meets
written criteria adopted by the department upon recommendation of
the commission.~~

**MARKERS AND LOCATIONS APPROVED BY THE COMMISSION
SHALL BE ADDED TO THE STATE REGISTER OF HISTORIC SITES. THE
DEPARTMENT SHALL PROVIDE INFORMATION TO THE PUBLIC REGARDING THE
STATE REGISTER OF HISTORIC SITES, THE MARKER DATABASE, AND THE
MICHIGAN HISTORICAL MARKER PROGRAM THROUGH ONLINE, PRINTED, OR
OTHER MEDIA.**

Sec. 5. (1) An application may be filed by 1 of the following
persons or agencies:

(a) A person owning or in possession of a historic resource ~~or
site~~ or a person having written consent from the owner or person in
possession of a historic resource. ~~or site.~~

(b) A department or agency of this state or of a political
subdivision of ~~the~~ **THIS** state owning, controlling, or in possession
of a historic resource. ~~or site.~~

**(C) THE COMMISSION ON ITS OWN MOTION WITH CONSENT FROM THE
LANDOWNER.**

(2) A person or agency may submit **AN** application **FOR A MARKER**
to the center only on a form prescribed by ~~and obtained from the~~
center **IN CONSULTATION WITH THE COMMISSION.** The form shall include
all requested information and be accompanied by the following
attachments:

(a) Current **AND, IF AVAILABLE, HISTORIC** images. ~~as
prescribed by the center.~~

(b) Documentation **SUPPORTING REPRESENTATIONS IN THE
APPLICATION** from a ~~recognized and authoritative source acceptable~~

1 ~~to the center,~~ **SOURCES**, supporting the historic significance of the
2 historic resource. ~~This documentation shall demonstrate the~~
3 ~~historic significance of the historic resource.~~

4 (c) Any additional documents ~~required by the center.~~ **REQUESTED.**

5 (3) An application and all attachments submitted to the center
6 under subsection (2) become the property of ~~the~~ **THIS** state.

7 (4) An applicant ~~other than an agency~~ shall pay the center an
8 application fee of \$250.00 at the time an application is submitted.
9 The center may not process an application without this fee. The
10 center shall **FORWARD THE FEE TO THE STATE TREASURER FOR** deposit ~~the~~
11 ~~fee in~~ **INTO** the ~~historical marker fund. created in section 9.~~ The
12 center shall refund the fee if the center decides the historic
13 resource is not eligible for a ~~historical marker.~~

14 (5) The center shall review each application for completeness
15 and accuracy. The center's review may include verification of the
16 accuracy of furnished information and the location of the historic
17 resource or site. The center may ~~require~~ **REQUEST** the applicant to
18 furnish additional information considered necessary to complete the
19 center's review of the application and attachments. ~~Center~~
20 ~~representatives may visit the site if necessary.~~

21 (6) Submission of an application does not guarantee that a
22 historic resource or site will receive an official Michigan
23 historical marker. If the ~~center~~ **COMMISSION** concludes that the
24 application meets the criteria for the placement of an official
25 Michigan historical marker, the ~~center~~ **COMMISSION** shall ~~endorse~~
26 **APPROVE** the application and **THE CENTER SHALL WORK WITH THE SPONSOR**
27 **TO** prepare marker text for presentation to the commission. However,

1 if the ~~center~~**COMMISSION** concludes that the application fails to
2 meet a criterion or another requirement for placement of a marker,
3 the center shall notify the applicant of that decision in writing
4 and shall specify the reason or reasons why the application is
5 denied.

6 (7) IF THE COMMISSION APPROVES AN APPLICATION FOR A MARKER,
7 THE CENTER SHALL ARRANGE FOR A MARKER TO BE PREPARED. THE CENTER
8 SHALL GIVE A PREFERENCE TO A QUALIFIED MICHIGAN-BASED COMPANY FOR
9 THE PREPARATION OF THE MARKER. BEFORE A MARKER IS ORDERED, THE
10 APPLICANT SHALL PAY THE FULL ACTUAL COST OF THE MARKER.

11 Sec. 6. (1) ~~Upon receipt of an application and proposed marker~~
12 ~~text from the center, the~~**THE** commission shall review, modify if
13 necessary, and approve the ~~the~~**APPROPRIATE** text, and review and approve
14 the location for each ~~requested historical~~ marker. The commission
15 shall exercise its judgment and discretion in revising and
16 approving proposed marker text and may advise the department on
17 matters pertaining to applications and related decisions. The
18 department shall issue an official site number for each historic
19 resource or site designated for placement of an official Michigan
20 historical marker.

21 (2) An official Michigan historical marker shall not include
22 or mention the name of a living commissioner or any other living
23 state official.

24 (3) An official Michigan historical marker shall include the
25 words "Michigan ~~historical~~**HISTORY** center , ~~department of history,~~
26 ~~arts, and libraries~~". **AND MICHIGAN HISTORICAL COMMISSION**". ~~The~~**TO**
27 **COMPLY WITH THIS SUBSECTION, THE** department may ~~retrofit~~**ALTER** a

1 marker that does not include these words.

2 (4) An official Michigan historical marker ~~shall have~~ **MAY**
3 **REFERENCE MICHIGAN AS THE "GREAT LAKES STATE" AND SHALL MEET ALL OF**
4 **THE FOLLOWING REQUIREMENTS:**

5 (A) **BE DARK GREEN WITH GOLD LETTERING.**

6 (B) **HAVE** a logo or seal with a wolverine emblem in its upper
7 area or crest. ~~and include~~

8 (C) **INCLUDE** the words "registered Michigan historic site".

9 (5) The department may enter into a written agreement with
10 another state, local, or federal agency regarding the placement of
11 an official Michigan historical marker on property under the
12 jurisdiction of the agency. The agreement may address security,
13 payment for the marker, and other appropriate matters.

14 Sec. 7. (1) An official Michigan historical marker approved by
15 the department and the commission is the property of the state of
16 Michigan and is subject to the exclusive control of the department,
17 whether erected on public or private property. In addition to other
18 text on the marker, each marker shall include the conspicuous
19 statement "property of the state of Michigan".

20 (2) The department shall not abandon an official Michigan
21 historical marker. In all legal proceedings, in this state or
22 elsewhere, there ~~shall be~~ **IS** an irrebuttable presumption against
23 abandonment of the state of Michigan's ownership of an official
24 Michigan historical marker.

25 (3) ~~A-EXCEPT PURSUANT TO WRITTEN PERMISSION OF THE DEPARTMENT,~~
26 **A** person or agency in possession of a historic resource ~~or site~~
27 where an official Michigan historical marker is displayed shall not

1 attempt to convey, sell, or otherwise transfer the marker, ~~—A AND~~
2 **A** conveyance, sale, or transfer **OF THE MARKER** is void. ~~unless made~~
3 ~~pursuant to written permission from the department.~~

4 (4) Upon discovering that an official Michigan historical
5 marker may have been stolen or otherwise improperly or unlawfully
6 removed from the historic resource or site where it was placed, the
7 department, with advice and assistance from the attorney general,
8 may commence an action, in this state or elsewhere, to recover the
9 marker.

10 (5) Upon discovering that an official Michigan historical
11 marker has been marred, vandalized, or otherwise damaged, the
12 department, with advice and assistance from the attorney general,
13 may commence an action, in this state or elsewhere, to recover the
14 actual replacement cost of the marker, plus taxable costs,
15 reasonable attorney fees, and interest calculated under section
16 6013 of the revised judicature act of 1961, 1961 PA 236, MCL
17 600.6013. ~~Revenue~~ **MONEY** received under this subsection shall be
18 ~~deposited in~~ **FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO** the
19 ~~historical marker fund. created in section 9.~~

20 (6) **A PERSON OR AGENCY IN POSSESSION OF A RESOURCE OR SITE**
21 **WHERE A MARKER IS DISPLAYED SHALL MAINTAIN THE MARKER IN ACCORDANCE**
22 **WITH STANDARDS PRESCRIBED BY THE DEPARTMENT UPON CONSULTATION WITH**
23 **THE COMMISSION. FAILURE TO PROPERLY MAINTAIN A MARKER MAY RESULT IN**
24 **ITS REMOVAL BY THE DEPARTMENT.**

25 Sec. 8. ~~(1) A person or agency shall not exhibit, display, or~~
26 ~~use an official Michigan historical marker's distinctive design,~~
27 ~~configuration, pattern, or color combination, including a facsimile~~

~~of an official Michigan historical marker, for any purpose without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.~~

(1) ~~(2)~~—A person or agency shall not use for advertising, retail sales, or any other commercial purpose without the department's written permission any portion of the seal, emblem, and logo that appear in the crest of an official Michigan historical marker. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$5,000.00, or both.

(2) ~~(3)~~—A person or agency shall not exhibit, display, or use a marker's seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, to represent his or her property as a registered Michigan historic site. A person or agency shall not exhibit, display, or use the seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, in a manner designed to lead another person to believe that the person's property is an official state historic site. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than \$2,000.00 or more than \$10,000.00, or both. If a person allegedly in violation of this subsection receives written notice from the department that the person is in

1 apparent violation of the subsection and the person within 60 days
2 of mailing of the notice ceases the violation by removing or no
3 longer using the seal, pattern, design, or color combination, or
4 facsimile, prosecution under this subsection is barred.

5 (3) ~~(4)~~—A person or agency shall not damage, destroy, deface,
6 remove, tamper with, alter, or possess an official Michigan
7 historical marker displayed at a historic resource or site without
8 the department's written permission. A person or agency that
9 violates this subsection is guilty of a misdemeanor punishable by
10 imprisonment for not more than 93 days or a fine of not less than
11 \$500.00 or more than \$5,000.00, or both. ~~A—IN ADDITION, A~~ person
12 who pleads guilty or nolo contendere or is determined guilty under
13 this subsection is liable to this state **FOR A CIVIL FINE** in an
14 amount double the cost of repair, replacement, and restoration of
15 the official state historic site and official Michigan historical
16 marker.

17 (4) ~~(5)~~—A person, including a salvage company, commercial
18 business, or a collector, shall not knowingly accept in trade or
19 possess an official Michigan historical marker. A person that
20 violates this subsection is guilty of a misdemeanor punishable by
21 imprisonment for not more than 6 months or a fine of not less than
22 \$1,000.00 or more than \$10,000.00, or both. ~~A—IN ADDITION, A~~ person
23 that pleads guilty or nolo contendere or is determined guilty under
24 this subsection is liable to this state **FOR A CIVIL FINE** in an
25 amount 3 times the cost of the repair, restoration, or replacement
26 of the official Michigan historical marker.

27 (5) ~~(6)~~—Within ~~the first 90 days~~ **1 YEAR** after the effective

1 date of the amendatory act that ~~added~~ **AMENDED** this subsection, a
2 person possessing an official Michigan historical marker may return
3 the marker to the department or to the sheriff of the person's
4 county of residence without penalty for larceny or violating this
5 act. However, this immunity ~~shall~~ **DOES** not apply to a person that
6 removed the marker if the removal of the marker resulted in death
7 or personal injury. A sheriff shall hold a returned marker and
8 shall notify the department that a marker has been returned. The
9 department, **WITH THE CONCURRENCE OF THE COMMISSION**, shall determine
10 the disposition of the returned marker.

11 **(6)** ~~(7)~~ The amounts **CIVIL FINES** received under ~~the liability~~
12 ~~provisions of subsections (4) (3) and (5) (4)~~ shall be deposited in
13 **FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO** the historical
14 ~~marker fund. created in section 9.~~

15 Sec. 9. (1) The department may accept gifts, grants, bequests,
16 and appropriations for the purpose of administering the Michigan
17 historical marker program, including, but not limited to, the
18 manufacture and placement of an official Michigan historical
19 marker, repair and maintenance of a marker, program administration,
20 application reviews, marker restoration, marker recovery, **TOURISM**
21 **AND EDUCATION PROGRAMS**, and enforcement of this act. **MONEY RECEIVED**
22 **UNDER THIS SUBSECTION SHALL BE FORWARDED TO THE STATE TREASURER FOR**
23 **DEPOSIT INTO THE FUND.**

24 ~~(2) The amounts received under subsection (1) shall be~~
25 ~~credited to a fund, which is created and shall be known as the~~
26 ~~historical marker fund. The state treasurer shall direct the~~
27 ~~investment of the historical marker fund and shall credit to the~~

~~fund all interest and earnings earned from fund investments. Money in the historical marker fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS SECTION, ANY MONEY IN THE HISTORICAL MARKER FUND IS TRANSFERRED TO THE FUND.~~

(3) Notwithstanding any balance in the ~~historical marker fund,~~ nothing in this subsection shall ~~shall~~ **DOES NOT** obligate the department to pay for the maintenance, repair, or replacement of an official Michigan historical marker.

(4) ~~(3)~~ The department ~~may copyright the text on an official Michigan historical marker and may register as a trademark or service mark the logo, seal, and emblem associated with official Michigan historical markers. The department may license or sell rights to publish or otherwise use copyrighted marker text and to use the registered logo, seal, or emblem and shall deposit~~ **FORWARD** amounts received from sales and licensing ~~in~~ **TO THE STATE TREASURER FOR DEPOSIT INTO** the ~~historical marker fund. created in subsection (2).~~

Sec. 10. (1) An official Michigan historical marker placed to recognize a particular historic resource may be moved to and placed at another nearby site if the commission has been asked to give, and has given, written permission for the move.

(2) When **DEVELOPING PLANS FOR AND** making alterations to the exterior of a historic resource which has been commemorated by an official Michigan historical marker, the owner or other person in possession of the historic resource shall follow the United States ~~secretary~~ **SECRETARY** of the ~~interior's~~ **INTERIOR'S** standards for

1 rehabilitation and guidelines for rehabilitating historic
2 buildings, as set forth in 36 ~~C.F.R.~~ **CFR** part 67. ~~, when developing~~
3 ~~plans for and performing work on this historic resource.~~ The owner
4 or other person in possession of the historic resource may ask the
5 center to review work plans prior to commencement of work.

6 (3) The center may withdraw a marker designation and may
7 request the return of or may repossess an official Michigan
8 historical marker from a historic resource or site if the ~~center~~
9 **COMMISSION** determines that the historic resource or site has lost
10 its historic significance or integrity.

11 (4) If the center withdraws a marker designation, the person
12 or agency in possession of the historic resource or site shall
13 immediately return the marker to the center **OR DISPOSE OF IT IN A**
14 **MANNER PRESCRIBED BY THE CENTER AND DOCUMENTED IN WRITING.**

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

17 Enacting section 2. This amendatory act does not take effect
18 unless all of the following bills of the 99th Legislature are
19 enacted into law:

20 (a) Senate Bill No. 564.

21 (b) Senate Bill No. 565.