

SENATE BILL No. 808

March 18, 1992, Introduced by Senators FAUST, DINGELL,
BARCIA and EHLERS and referred to the Committee on
Natural Resources and Environmental Affairs.

A bill to amend the title and sections 2, 3, 4, 5, 6, 7, 8,
and 9 of Act No. 323 of the Public Acts of 1976, entitled
"Recreational trespass act,"
being sections 317.172, 317.173, 317.174, 317.175, 317.176,
317.177, 317.178, and 317.179 of the Michigan Compiled Laws; and
to add section 1a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 3, 4, 5, 6, 7, 8, and
2 9 of Act No. 323 of the Public Acts of 1976, being sections
3 317.172, 317.173, 317.174, 317.175, 317.176, 317.177, 317.178,
4 and 317.179 of the Michigan Compiled Laws, are amended and sec-
5 tion 1a is added to read as follows:

1

TITLE

2

An act to regulate ~~certain~~ trespass upon ~~any lands~~

3

CERTAIN PROPERTY; to prohibit the possession of a loaded firearm

4

or discharge of a firearm within the limits of the right of way

5

of any public highway adjoining certain ~~lands~~ PROPERTY; to pro-

6

hibit ~~the~~ posting or enclosing ~~of lands except by~~ PROPERTY

7

WITHOUT THE PERMISSION OF the owner or lessee of ~~lands~~ THAT

8

PROPERTY, or by his OR HER authorized agent; TO PROVIDE FOR LIMI-

9

TATIONS ON CERTAIN CRIMINAL PROSECUTIONS; TO PROVIDE FOR FORFEI-

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TURE OF CERTAIN PROPERTY UNDER CERTAIN CIRCUMSTANCES; to provide

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for penalties; and to repeal certain acts. ~~and parts of acts.~~

12

SEC. 1A. AS USED IN THIS ACT:

13

(A) "FARM PRODUCT" MEANS THAT TERM AS DEFINED IN SECTION 2

14

OF THE MICHIGAN RIGHT TO FARM ACT, ACT NO. 93 OF THE PUBLIC ACTS

15

OF 1981, BEING SECTION 286.472 OF THE MICHIGAN COMPILED LAWS.

16

(B) "FARM PROPERTY" MEANS LAND THAT IS USED OR INTENDED TO

17

BE USED IN THE COMMERCIAL PRODUCTION OF A FARM PRODUCT.

18

Sec. 2. (1) Except as provided in subsection (4), a person

19

shall not enter ~~in~~ or remain upon the ~~lands~~ PROPERTY of

20

another PERSON, other than farm ~~lands or connected farm wood~~

21

~~lots, for the purpose of hunting, fishing in a private lake, pond~~

22

~~or stream, operating a snowmobile, off-road recreational vehicle,~~

23

~~or other motorized vehicle without the written~~ PROPERTY OR A

24

WOODED AREA CONNECTED TO FARM PROPERTY TO ENGAGE IN ANY RECREA-

25

TIONAL ACTIVITY ON THAT PROPERTY WITHOUT THE consent of the owner

26

~~—~~ OR his OR HER lessee or agent, ~~under any~~ IF EITHER of the

27

following ~~conditions~~ CIRCUMSTANCES EXISTS:

1 (a) The ~~lands are~~ PROPERTY IS fenced or enclosed, and THE
2 PROPERTY IS maintained in SUCH a manner AS to exclude intruders.

3 (b) The ~~lands are~~ PROPERTY IS posted in a conspicuous
4 manner against entry. The minimum letter height on the posting
5 signs shall be 2 inches and the signs shall be ~~so~~ spaced ~~as~~
6 ~~will~~ TO enable a person to observe not less than 1 sign at any
7 point of entry upon the ~~lands~~ PROPERTY.

8 (2) Except as provided in subsection (4), a person shall not
9 enter OR REMAIN upon farm ~~lands or connected farm wood lots for~~
10 ~~any of the purposes cited in subsection (1) without written~~
11 PROPERTY OR A WOODED AREA CONNECTED TO FARM PROPERTY FOR ANY REC-
12 REATIONAL ACTIVITY WITHOUT THE consent of the owner ~~,~~ OR his OR
13 HER lessee or agent, whether or not the farm ~~lands or connected~~
14 ~~wood lots are~~ PROPERTY OR WOODED AREA CONNECTED TO FARM PROPERTY
15 IS fenced, enclosed, or posted.

16 (3) On fenced or posted ~~lands~~ PROPERTY or farm ~~lands~~
17 PROPERTY, a fisherman wading or floating a navigable ~~,~~ public
18 stream ~~of a length greater~~ MORE than 15 miles LONG may, without
19 written or ~~verbal~~ ORAL consent, enter upon ~~the upland~~
20 PROPERTY within the clearly defined banks of the stream or walk a
21 route as closely proximate to the clearly defined bank as possi-
22 ble when necessary to avoid a natural or artificial hazard or
23 obstruction ~~,~~ ~~such as~~ INCLUDING, BUT NOT LIMITED TO, a dam,
24 deep hole, ~~a~~ fence, or ~~some~~ other exercise of ownership by
25 the riparian owner.

26 (4) A person other than a person ~~in possession of~~
27 POSSESSING a firearm, ~~unless priorly prohibited in writing or~~

1 ~~verbally by the landowner or his agent,~~ may, UNLESS PREVIOUSLY
 2 PROHIBITED IN WRITING OR ORALLY BY THE PROPERTY OWNER OR HIS OR
 3 HER LESSEE OR AGENT, enter on foot ~~only~~ upon the ~~lands~~
 4 PROPERTY of another PERSON for the sole purpose of retrieving a
 5 hunting dog. The person shall not remain on the ~~lands~~ PROPERTY
 6 beyond ~~a~~ THE reasonable ~~period which~~ TIME THAT is necessary
 7 to retrieve the dog.

8 (5) As used in this section ~~:- (a) "Off road vehicle" means~~
 9 ~~an ORV as defined in Section 1(j) of Act No. 319 of the Public~~
 10 ~~Acts of 1975, being section 257.1601 of the Michigan Compiled~~
 11 ~~Laws. (b) "Snowmobile" means a snowmobile as defined in section~~
 12 ~~1(e) of Act No. 74 of the Public Acts of 1968, as amended, being~~
 13 ~~section 257.1501 of the Michigan Compiled Laws. (c) "Hunting~~
 14 ~~dog" means a dog which is engaged or aiding~~ ALLOWED TO RANGE
 15 FREELY TO ENGAGE IN OR AID in hunting on the day ~~when~~ the dog
 16 enters the ~~lands~~ PROPERTY of another PERSON.

17 Sec. 3. (1) A person shall not discharge a firearm within
 18 the right of way of a public highway adjoining or abutting any
 19 platted property, ~~or~~ fenced, enclosed, or posted ~~lands, or farm~~
 20 ~~lands or connected farm wood lots~~ PROPERTY, FARM PROPERTY, OR A
 21 WOODED AREA CONNECTED TO FARM PROPERTY without the ~~written~~ con-
 22 sent of the owner ~~, his lessee or agent,~~ of the abutting
 23 ~~lands~~ PROPERTY, OR HIS OR HER LESSEE OR AGENT.

24 (2) As used in this section, "public highway" means a road
 25 or highway under the jurisdiction of the STATE TRANSPORTATION
 26 department ~~of state highways and transportation~~ or the road
 27 commission of a county.

1 Sec. 4. A person shall not ~~, without due authority for~~
2 ~~posting or enclosing lands from the owner, his lessee or agent,~~
3 ~~erect posters~~ POST A SIGN ON PROPERTY OWNED BY ANOTHER PERSON,
4 or enclose ~~lands so as~~ THE PROPERTY OF ANOTHER PERSON to pro-
5 hibit ~~the public enjoyment of~~ hunting, fishing, trapping, or
6 other recreational activities on ~~the lands~~ THAT PROPERTY WITH-
7 OUT THE WRITTEN OR ORAL PERMISSION OF THE OWNER OF THAT PROPERTY,
8 OR HIS OR HER LESSEE OR AGENT.

9 Sec. 5. (1) A prosecution under this act shall be in the
10 name of the people of the state, ~~and~~ shall be brought before a
11 district court of competent jurisdiction in the county in which
12 the offense was committed, and SHALL BE BROUGHT within 1 year
13 from the time the offense charged was committed.

14 ~~(2) In a proceeding for a violation of this act, the pres-~~
15 ~~ence of a person on the enclosed, fenced, or conspicuously posted~~
16 ~~premises of another, or upon any farm lands or farm wood lots~~
17 ~~connected therewith without written consent of the owner, his~~
18 ~~lessee or agent shall constitute prima facie evidence of unlawful~~
19 ~~entry.~~

20 (2) ~~(3)~~ A peace officer or conservation officer may SEIZE
21 PROPERTY AND OTHERWISE enforce this act upon complaint of the
22 landowner, OR his OR HER lessee or agent.

23 Sec. 6. ~~No cause of action shall arise for injuries to~~
24 ~~any person who is on the lands of another, including farm lands~~
25 ~~and connected wood lots, without paying to such other person a~~
26 ~~valuable consideration for the purpose of hunting, fishing,~~
27 ~~trapping, camping, hiking, sightseeing, motorcycling,~~

~~1 snowmobiling, or any other outdoor recreational use, with or~~
~~2 without permission, against the owner, his lessee or agent of the~~
~~3 premises unless the injuries were caused by the gross negligence~~
~~4 or wilful and wanton misconduct of the owner, his lessee or~~
5 agent.— A PROPERTY OWNER OR HIS OR HER LESSEE OR AGENT IS NOT
6 LIABLE FOR INJURIES TO A PERSON WHO IS ON THE PROPERTY OF THE
7 OWNER FOR RECREATIONAL PURPOSES BUT WHO HAS NOT PAID VALUABLE
8 CONSIDERATION FOR USE OF THAT PROPERTY ON THAT OCCASION FOR REC-
9 REATIONAL PURPOSES, UNLESS THE INJURIES WERE CAUSED BY THE GROSS
10 NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT OF THE OWNER, OR HIS
11 OR HER LESSEE OR AGENT.

12 Sec. 7. ~~—A~~ THE prosecuting attorney FOR A COUNTY shall
13 enforce this act and prosecute all persons charged with violating
14 this act IN THAT COUNTY. THE ATTORNEY REPRESENTING A CITY, VIL-
15 LAGE, OR TOWNSHIP SHALL ENFORCE THIS ACT IN THAT CITY, VILLAGE,
16 OR TOWNSHIP, AND PROSECUTE ALL PERSONS CHARGED WITH VIOLATING
17 THIS ACT IN THAT CITY, VILLAGE, OR TOWNSHIP.

18 Sec. 8. A person shall not resist or obstruct a peace
19 officer, ~~—or~~ INCLUDING, BUT NOT LIMITED TO, a conservation
20 officer, enforcing ~~the provisions of~~ this act.

21 Sec. 9. (1) ~~—A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A
22 person who violates this act is guilty of a misdemeanor
23 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF
24 NOT MORE THAN \$100.00, OR BOTH.

25 (2) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION
26 OF THIS ACT OCCURRING WITHIN 5 YEARS OF A PREVIOUS VIOLATION OF
27 THIS ACT SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 90

1 DAYS, A FINE OF NOT LESS THAN \$100.00 OR MORE THAN \$1,000.00, OR
2 BOTH.

3 (3) IF A PERSON IS SENTENCED UNDER SUBSECTION (2) AND THE
4 PERSON IS LICENSED TO HUNT OR FISH IN THIS STATE, THE COURT MAY
5 ORDER THE PERSON'S HUNTING OR FISHING LICENSE REVOKED FOR THE
6 REMAINDER OF THE CALENDAR YEAR AND ORDER THE PERSON NOT TO SEEK
7 OR POSSESS A HUNTING OR FISHING LICENSE OF ANY KIND FOR NOT MORE
8 THAN 5 SUCCEEDING CALENDAR YEARS.

9 (4) THE COURT MAY ORDER A PERSON CONVICTED OF VIOLATING THIS
10 ACT TO PAY THE COSTS OF PROSECUTION.

11 (5) PROPERTY USED IN VIOLATION OF THIS ACT MAY BE SEIZED AND
12 FORFEITED AS PROVIDED IN CHAPTER 47 OF THE REVISED JUDICATURE ACT
13 OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS
14 600.4701 TO 600.4709 OF THE MICHIGAN COMPILED LAWS.

15 Section 2. This amendatory act shall not take effect unless
16 Senate Bill No. 809

17 of the 86th Legislature is enacted into law.