

Act No. 120
Public Acts of 1994
Approved by the Governor
May 12, 1994
Filed with the Secretary of State
May 12, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Hoffman Ehlers Wartner Gast and Dingell

ENROLLED SENATE BILL No. 970

AN ACT to amend the title and sections 1 2 3 3a 4 5 6 7 8 9 10 11 12 13 and 14 of Act No 149 of the Public Acts of 1960 entitled An act to authorize the state conservation commission to acquire land and undertake an improvement program at certain state parks to provide for financing through the issuance of revenue bonds to provide the terms conditions and limitations on such bonds to prescribe the powers and duties of certain state officers to authorize the imposition of certain charges and fees for the payment and security of such bonds and for other purposes to authorize the refunding of such bonds and to prescribe penalties for violations of this act sections 3 and 10 as amended and section 3a as added by Act No 177 of the Public Acts of 1989 and section 6 as amended by Act No 66 of the Public Acts of 1983 being sections 318 301 318 302 318 303 318 303a 318 304 318 305 318 306 318 307 318 308 318 309 318 310 318 311 318 312 318 313 and 318 314 of the Michigan Compiled Laws to add sections 1a 1b 1c 2a 7a 12a 13a and 13b to repeal certain acts and parts of acts and to repeal certain parts of the act

The People of the State of Michigan enact

Section 1 The title and sections 1 2 3 3a 4 5 6 7 8 9 10 11 12 13 and 14 of Act No 149 of the Public Acts of 1960 sections 3 and 10 as amended and section 3a as added by Act No 177 of the Public Acts of 1989 and section 6 as amended by Act No 66 of the Public Acts of 1983 being sections 318 301 318 302 318 303 318 303a 318 304 318 305 318 306 318 307 318 308 318 309 318 310 318 311 318 312 318 313 and 318 314 of the Michigan Compiled Laws are amended and sections 1a 1b 1c 2a 7a 12a 13a and 13b are added to read as follows

TITLE

An act to provide for the operation of Michigan state parks to regulate certain activities at state parks to authorize the department of natural resources to acquire land for state parks and to undertake an improvement program at certain state parks to provide for financing through the issuance of revenue bonds to provide the terms conditions and limitations on bonds to prescribe the powers and duties of certain state agencies and officers to authorize the imposition of certain charges and fees for the payment and security of bonds and for other purposes to authorize the refunding of bonds to limit the liability of volunteers in state parks and to prescribe penalties and provide remedies for violation of this act

Sec 1 This act shall be known and may be cited as the Michigan state parks system act

Sec 1a (1) The legislature finds

(a) Michigan state parks preserve and protect Michigan's significant natural and historic resources

(b) Michigan state parks are appropriate and uniquely suited to provide opportunities to learn about protection and management of Michigan's natural resources

(c) Michigan state parks are an important component of Michigan's tourism industry and vital to local economies

(2) The department shall create, maintain, operate, promote, and make available for public use and enjoyment a system of state parks to preserve and protect Michigan's significant natural resources and areas of natural beauty or historic significance, to provide open space for public recreation, and to provide an opportunity to understand Michigan's natural resources and need to protect and manage those resources

Sec 1b As used in this act

(a) Commission means the commission of natural resources

(b) Department means the director of the department of natural resources or his or her designee

(c) Director means the director of the department of natural resources

(d) Fund means the state park improvement fund created in section 3

(e) Improvement program means the construction, reconstruction, development, improvement, bettering, operating, maintaining, and extending a facility at a state park, including a site improvement, impoundment, road, and parking lot, toilet building, concession building, shelter building, bathhouse, utility, outdoor center, visitor service facility, ski area, ski tow, ski shelter, and administration unit

(f) Motor vehicle means a vehicle that is self-propelled

(g) Person means an individual, partnership, corporation, association, governmental entity, or other legal entity

(h) State park means a state park or state recreation area designated by the director

(i) State park revenues means all revenues collected for state parks, including but not limited to motor vehicle permits, concession fees, nonmotorized trail permits, fees, leases, camping fees, sale of farm animals from Maybury state park, donations, and gifts

Sec 1c In implementing the responsibilities under this act, the department may do 1 or more of the following

(a) Enter into contracts or agreements that may be necessary to implement this act

(b) Lease state park property to a person

(c) Accept gifts, grants, or bequests from any public or private source to be used for a purpose consistent with this act

(d) Acquire property for designation as a state park

(e) Provide the granting of concessions to a person within the boundaries of a state park. In granting a concession, the department shall provide that each concession is awarded at least every 7 years based on extension, renegotiation, or competitive bidding.

(2) The department may acquire land and undertake an improvement program for state parks pursuant to the powers, rights, and privileges conferred by this act, but land acquisition or an improvement program shall not be undertaken until approved by the legislature in the annual capital outlay appropriation act.

Sec 2 For the purpose of providing a park improvement program, the commission may issue revenue bonds as provided in this act. The commission may issue revenue bonds payable from state park revenues. The aggregate principal amount of the revenue bonds shall not exceed \$100,000,000.00. The department shall provide notice to the appropriations committee of the senate and the house of representatives at least 30 days before bonds are offered for sale. There may be included in the cost for which bonds are to be issued a reasonable allowance for legal, engineering, architectural, and consultant services, traffic studies, cost of printing and issuing of the bonds, interest on the bonds becoming due before collection of the first available state park revenues, and for a period of 1 year thereafter, and other incidental expenses. The bonds shall be authorized by a resolution adopted by a majority vote of a quorum of the commission and may be issued in 1 or more series as shall be determined by the commission.

Sec 2a The commission may authorize the department, but only within limitation which shall be contained in the commission's authorizing resolution, to do 1 or more of the following

(a) Sell and deliver and receive payment for bonds

(b) Approve interest rates, purchase prices, discounts, premiums, maturities, principal amounts, interest payment dates, redemption rights at the option of the commission or the holder, and the place and time of delivery and payment for the bonds

(c) Deliver bonds to refund prior bonds or partly to refund bonds and partly for other authorized purposes

(d) Select which outstanding bonds will be refunded, if any, by the new issue of bonds

(e) Any other matters and procedures necessary to complete the issuance and delivery of the bonds

Sec 3 A resolution adopted by the commission authorizing the issuance of bonds shall contain all of the following

(a) A description in reasonable detail of the improvement program as approved by the legislature for which the bonds are to be issued

(b) The form of the bonds and all of the following

(i) The maturity date or dates for the bonds with no maturity later than 30 years after the issuance of the bonds

(ii) The principal amount of and principal payment dates for the bonds

(iii) The interest rate or rates for the bonds or that bonds shall not bear any interest

(iv) The redemption provisions with or without premium for the bonds if any

(v) The authorized denominations for the bonds

(vi) Whether the bonds may be sold at a discount or for a premium

(vii) The manner in which the bonds will be executed

(viii) Any other provision concerning the bonds or the security for the bonds the commission considers appropriate

(c) A provision that the state park revenues shall be pledged for the payment of the bonds. However, the pledge of state park revenues shall be on a parity with pledges of the revenues previously or subsequently made by the commission pursuant to any other resolution authorizing the issuance of bonds under this act and the resolution shall state that the pledge complies with this subdivision

(d) A covenant that the park permit fees and penalties provided in section 10 shall be revised from time to time within the limits permitted by law when necessary to insure that the revenues to be derived from the fees shall be sufficient to pay the principal of and interest on bonds issued pursuant to this act and other obligations of the commission in connection with the issuance of bonds

(e) A provision requiring the fiscal agent to set aside money from the state park revenue bond receiving fund into a fund to be designated as the state park debt service fund in a sum proportionately sufficient to provide for the payment of the principal of and interest upon all bonds payable from the fund as and when the principal and interest becomes due and payable in the manner prescribed by the commission. In addition, the resolution shall authorize the commission to provide that a reasonable excess amount may be set aside by the fiscal agent from time to time as directed by the commission in the state park debt service fund to produce and provide a reserve to meet a possible future deficiency in the fund. The resolution shall further provide that out of the revenues remaining each quarter after having first met the requirements of the state park debt service fund including the reserve for the fund, the commission may by direction to the fiscal agent next set aside additional money in the state park debt service fund for the purpose of calling bonds for redemption subject to approval by the state administrative board. The resolution shall also contain a provision for the investment of funds held by the fiscal agent.

(f) A provision that money on deposit in the state park revenue bond receiving fund after setting aside the amounts in the state park debt service fund is surplus money and shall be deposited quarterly by the fiscal agent upon the order of the commission in the state treasury in a fund to be designated as the state park improvement fund. This fund shall be subject to appropriation by the legislature for the improvement, operation, and maintenance of state parks and recreation areas. Any unexpended revenue in the fund along with excess revenue from prior fiscal years shall be carried over into subsequent fiscal years. Interest and earnings of the fund shall remain in the fund. Not less than \$10.00 of each annual permit and not less than \$2.00 of each daily permit projected to be sold in a fiscal year may be appropriated for the maintenance and operation of state parks and recreation areas in that fiscal year.

(g) The terms and conditions under which additional bonds payable from the state park revenues of equal standing with a prior issue of bonds may be issued.

(h) A provision for deposit and expenditure of the proceeds of sale of the bonds and for investment of the proceeds of sale of the bonds and of other funds of the commission relating to bonds authorized by this act.

(i) A provision that in the event of a default in the payment of principal of or interest on the bonds or in the performance of an agreement or covenant contained in the resolution, the holders of a specified percentage of the outstanding bonds may institute 1 or more of the following for the equal benefit of the holders of all of the bonds:

(i) An action of mandamus or any other suit, action, or proceeding to enforce the rights of the holders of the bonds.

(ii) An action upon the defaulted bonds or coupons.

(iii) Any other action as may be provided by law.

Sec 3a The increased fee revenue as a result of Act No. 177 of the Public Acts of 1989 shall not be used to reduce the state general fund/general purpose support for state park operations. If the state general fund/general purpose support for state park operations does not equal or exceed the amount appropriated in fiscal year 1993-94 as this amount is annually adjusted pursuant to the Detroit consumer price index—all items, then Act No. 177 of the Public Acts of 1989 shall be repealed.

Sec 4 Any bond issued under this act shall state that it is not a general obligation of the state of Michigan but is a revenue bond payable only from state park revenues Nothing in this act authorizes the state to incur debt contrary to the constitution or laws of the state The holders of the bonds shall not have the right to compel a sale of any real estate or personal property of the state parks nor shall the holders of the bonds have any lien mortgage or other encumbrances upon any property of the state of Michigan real personal or mixed Bonds shall be fully negotiable within the meaning of the negotiable instruments law of this state

Sec 5 The commission may issue bonds for the purpose of refunding any obligations issued under this act or may authorize a single issue of bonds in part for the purpose of refunding such obligations and in part for the purpose of financing any additional cost of land or improvement program Bonds issued under this section are payable only from state park revenues and may be sold in the manner provided for the sale of bonds in this act If sold that portion of the proceeds representing the refunding portion may be either applied to the payment of the obligations refunded or deposited in escrow for their retirement

Sec 6 The maximum rate of interest on bonds issued under this act shall be that set forth for bonds in the municipal finance act Act No 202 of the Public Acts of 1943 being sections 131 1 to 139 2 of the Michigan Compiled Laws but bonds issued under this act shall not in any other way be subject to Act No 202 of the Public Acts of 1943 The sale and award of bonds shall be conducted and made by the commission at a public or private sale If a public sale is held the bonds shall be advertised for sale once not less than 7 days before sale in a publication with statewide circulation which carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications The notice of sale shall be in the form as designated by the commission

Sec 7 All state park revenues shall be deposited with the state treasurer who shall act as the fiscal agent for the department The state treasurer shall establish a special depository account to be designated state park revenue bond receiving fund The necessary expenses of the fiscal agent incurred by reason of his or her duties under this act shall be paid from the state park revenue bond receiving fund The commission may designate banks or trust companies to act as paying agents for bonds issued pursuant to the act The paying agent shall be paid from the state park debt service fund

Sec 7a The department may establish fees and collect fees for activities in state parks except those activities in which fees are established under this act All fees collected under this section shall be deposited into the fund

Sec 8 Except as otherwise provided in this act free entry of a motor vehicle shall not be permitted into any state park or portion of a state park posted in accordance with this act

Sec 9 The department shall designate the state parks in which a park permit is required for lawful entry by motor vehicle The department shall designate only those parks in which state facilities and services are provided for the public The department may designate portions of state parks where a park permit is not necessary The department shall post signs at designated parks or designated portions of parks that state that a motor vehicle park permit is required A person shall not enter any state park or portion of a state park in which a motor vehicle park permit is required without a valid motor vehicle permit affixed to the vehicle A valid park permit procured pursuant to section 10 shall be permanently affixed to the lower right hand corner of the windshield of any motor vehicle entering a state park or portion of a state park in which a motor vehicle park permit is required except that a park permit is not required to be affixed to a motor vehicle while the motor vehicle is being driven or parked within an established federal state or county highway within a state park The requirement to obtain a motor vehicle park permit does not apply to motor vehicles used in the operation or maintenance of state parks to emergency vehicles or to state owned or law enforcement motor vehicles or private motor vehicles being operated on official state business

Sec 10 (1) The department may require park permits and collect park permit fees for entry into a state park or portion of a state park posted in the manner prescribed by this act The department shall prepare and distribute park permits to implement this act

(2) Except as otherwise provided in this section an annual park permit shall be issued and shall authorize the entry of the motor vehicle to which it is originally attached within the confines of any state park or recreation area during the calendar year in which issued The fee for the annual park permit is \$18 00 in 1994 and \$20 00 in 1995 and thereafter except that an owner of a resident motor vehicle who is 65 years of age or older shall be issued a special annual park permit for 1/4 the amount of the annual park permit

(3) A daily park permit valid for 1 day only shall be issued for a fee to be fixed by the department but in an amount not to exceed \$4 00 for resident motor vehicles and \$6 00 for nonresident motor vehicles The fee for nonresident motor vehicles may be \$4 00 in all parks except where nonresident day use is extremely high The department shall identify parks where nonresident day use is extremely high and set the nonresident fee at \$6 00 The daily permit shall authorize

the entry of the motor vehicle to which it is originally attached within the confines of a state park during the day in which issued

(4) A resident motor vehicle is a vehicle that is registered as a motor vehicle in this state

(5) This act applies only to the entry of motor vehicles into the state parks and to the park permits authorized in this act and does not obviate the necessity of obtaining additional permits for special services or park privileges as previously or subsequently may be required by law or by rules promulgated by the department. The department shall designate each person in the state authorized to sell park permits and shall require as a condition of the designation that a surety bond be furnished in an amount and in a form and with the surety as is acceptable to the department. A person designated by the department after being designated may issue park permits in accordance with this act.

(6) Commercial motor coaches or vans are not eligible to enter a state park with an annual park permit. The department may establish a daily fee not to exceed \$15.00 to allow commercial motor coaches or vans with a capacity of over 12 passengers daily entry into a state park.

(7) The department may add to the cost of a reservation or for payment for a motor vehicle entrance or camping fee the charges that the state incurs because of the use of a credit card.

Sec 11 On or before the tenth day of every month all persons authorized to sell park permits shall pay to the department all money received from the sale of park permits for the preceding month. Any person who refuses or neglects to pay the money as provided in this section in addition to other penalties provided by law forfeits the right to sell park permits. All persons authorized to sell park permits except employees of the department who receive a regular salary from the state may charge the purchaser as compensation 15 cents additional for each annual park permit and 10 cents additional for each daily park permit issued. On or before February 15 of each year a complete report of all permits sold during the previous calendar year shall be filed with the department by each person authorized to sell park permits and all unsold park permits for the previous year shall be returned to the department.

Sec 12 The department may promulgate rules pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws to implement this act.

Sec 12a A person shall not do the following in a state park:

(a) Destroy damage or remove any tree shrub wildflower or other vegetation or property without the permission of the department.

(b) Operate a motor vehicle except in a designated area.

(c) Violate this act or rules promulgated under this act.

Sec 13 (1) A person who violates this act or a rule promulgated under this act is guilty of a misdemeanor. In any proceeding for the violation of this act or a rule promulgated under this act where a motor vehicle without the required park permit affixed is found parked in any state park the registration plate displayed on the motor vehicle shall constitute prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where found.

(2) In addition to the penalties provided for in subsection (1) a person convicted of an act of vandalism shall reimburse the department up to 3 times the amount of the damage as determined by the court. All money collected pursuant to this subsection shall be credited to the fund.

Sec 13a The department may establish a fine for failure to purchase a park permit which shall be twice the cost of a motor vehicle entrance permit or daily permit as established by this act or by the department.

Sec 13b (1) To ensure compliance with this act and the rules promulgated under this act the director may commission park and recreation enforcement officers with limited arrest powers to enforce this act rules promulgated under this act and any laws of this state specified in those rules as enforceable by commissioned park and recreation enforcement officers upon properties administered by the department under this act. In performing these duties park and recreation enforcement officers shall be vested with the powers privileges prerogatives and immunities conferred upon peace officers by the general laws of this state.

(2) In addition to the limited arrest authority granted in subsection (1) a park and recreation enforcement officer may arrest a person without a warrant if 1 or more of the following exist:

(a) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 81 and 750 81a of the Michigan Compiled Laws against the park and recreation enforcement officers or against another person while in the presence of the park and recreation enforcement officers.

(b) The park and recreation enforcement officers have reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person has committed it

(c) The park and recreation enforcement officers have positive information by written telegraphic teletypic telephonic radio or other authoritative source that a peace officer holds a warrant for the person's arrest

(d) The person commits a civil infraction or misdemeanor in violation of the following sections of the Michigan vehicle code Act No 300 of the Public Acts of 1949

(i) Section 625 or 625b being sections 257 625 and 257 625b of the Michigan Compiled Laws

(ii) Section 611 being section 257 611 of the Michigan Compiled Laws

(iii) Sections 626 and 626b being sections 257 626 and 257 626b of the Michigan Compiled Laws

(iv) Section 627 being section 257 627 of the Michigan Compiled Laws

(e) The person violates Act No 319 of the Public Acts of 1975 being sections 257 1601 to 257 1626 of the Michigan Compiled Laws

(f) The person violates sections 63(6) and 192(2) of the marine safety act Act No 303 of the Public Acts of 1967 being sections 281 1063 and 281 1192 of the Michigan Compiled Laws

Sec 14 All bonds issued pursuant to this act and the interest on those bonds is exempt from taxation by the state or by any municipality corporation county or other political subdivision or taxing district of the state

Section 2 Sections 15 and 16 of Act No 149 of the Public Acts of 1960 being sections 318 315 and 318 316 of the Michigan Compiled Laws are repealed

Section 3 The following acts are repealed

(a) Act No 218 of the Public Acts of 1919 being sections 318 3 to 318 8 of the Michigan Compiled Laws

(b) Act No 212 of the Public Acts of 1915 being section 318 41 of the Michigan Compiled Laws

(c) Act No 4 of the Public Acts of the Second Extra Session of 1921 being sections 318 51 to 318 54 of the Michigan Compiled Laws

(d) Act No 51 of the Public Acts of 1970 being sections 318 221 to 318 222 of the Michigan Compiled Laws

(e) Act No 280 of the Public Acts of 1969 being sections 318 251 to 318 255 of the Michigan Compiled Laws

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor