

SUBSTITUTE FOR
HOUSE BILL NO. 4298

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 2123 and 2124 (MCL 324.2123 and 324.2124), 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 **WHO REQUESTS IT, BUT** only if all of the following
5 conditions are met:

6 **(A) THE REQUEST IS MADE ON A FORM PROVIDED 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**

1 FOLLOWING:

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

4 (ii) A local ordinance.

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

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

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

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

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

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

21 (i) PAYS THE COST OF A SURVEY.

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

26 (iii) PAYS ALL COSTS INCURRED BY THE DEPARTMENT IN GRANTING THE
27 EASEMENT, INCLUDING THE COSTS OF PUBLIC NOTICE AND DEPARTMENT

1 REVIEW.

2 (2) IF THE DEPARTMENT DENIES A REQUEST FOR AN EASEMENT UNDER
3 THIS SECTION, THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE
4 INDIVIDUAL WHO REQUESTED THE EASEMENT OF THE DENIAL AND THE REASONS
5 FOR THE DENIAL.

6 SEC. 2123A. (1) SUBJECT TO SECTION 2124 AND NOTWITHSTANDING
7 SECTION 2123, THE DEPARTMENT SHALL GRANT OR OTHERWISE PROVIDE FOR
8 AN EASEMENT FOR A ROAD OVER STATE-OWNED LAND UNDER THE JURISDICTION
9 OF THE DEPARTMENT TO AN INDIVIDUAL WHO REQUESTS IT, BUT ONLY IF ALL
10 OF THE FOLLOWING CONDITIONS ARE MET:

11 (A) THE REQUEST IS MADE ON A FORM PROVIDED BY THE DEPARTMENT.

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

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

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

17 (ii) IF THE LAND WAS ACQUIRED USING REVENUE FROM HUNTING AND
18 FISHING LICENSE FEES, FEDERAL FUNDS FROM A WILDLIFE OR SPORT FISH
19 RESTORATION PROGRAM, OR OTHER STATE OR FEDERAL PROGRAM FUNDS, WITH
20 STATE OR FEDERAL LAWS GOVERNING THE USE OF LANDS ACQUIRED THROUGH
21 THE RESPECTIVE PROGRAM.

22 (iii) WITH A LOCAL ORDINANCE.

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

26 (E) THE INDIVIDUAL OFFERS A SIMILAR ROAD EASEMENT TO THE
27 DEPARTMENT TO PROVIDE PUBLIC ACCESS TO STATE-OWNED LAND ACROSS THE

1 INDIVIDUAL'S LAND TO WHICH THE EASEMENT IS GRANTED BY THE
 2 DEPARTMENT, WHERE APPLICABLE. THE DEPARTMENT SHALL NOT ACCEPT A
 3 ROAD EASEMENT UNDER THIS SUBDIVISION IF THE ROAD EASEMENT WOULD END
 4 AT A BODY OF WATER.

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

6 (i) PAYS THE COST OF A SURVEY.

7 (ii) PAYS TO THE DEPARTMENT THE FAIR MARKET VALUE OF THE
 8 EASEMENT. THE FAIR MARKET VALUE OF THE EASEMENT GRANTED BY THE
 9 DEPARTMENT SHALL BE OFFSET BY THE FAIR MARKET VALUE OF ANY EASEMENT
 10 GRANTED TO THE DEPARTMENT UNDER SUBDIVISION (E).

11 (iii) PAYS TO THE DEPARTMENT ALL COSTS INCURRED BY THE
 12 DEPARTMENT IN GRANTING THE EASEMENT, INCLUDING THE COSTS OF PUBLIC
 13 NOTICE AND DEPARTMENT REVIEW.

14 (2) THE DEPARTMENT MAY IMPOSE CONDITIONS ON AN EASEMENT
 15 GRANTED UNDER THIS SECTION.

16 (3) IF THE DEPARTMENT DENIES A REQUEST FOR AN EASEMENT UNDER
 17 THIS SECTION, THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE
 18 INDIVIDUAL WHO REQUESTED THE EASEMENT OF THE DENIAL AND THE REASONS
 19 FOR THE DENIAL.

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

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

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

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