

SENATE BILL No. 1036

September 6, 2016, Introduced by Senator HANSEN and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 72108 and 73301 (MCL 324.72108 and 324.73301),
section 72108 as amended by 2014 PA 215 and section 73301 as
amended by 2007 PA 174, and by adding section 73302.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 72108. (1) The department may do any of the following:

2 (a) Grant easements or, pursuant to part 13, use permits or
3 lease land owned by ~~the~~ **THIS** state that is being used for a Pure
4 Michigan Trail for a use that is compatible with the use of the
5 Pure Michigan Trail.

6 (b) Enter into contracts for concessions along a state owned
7 Pure Michigan Trail.

8 (c) Lease land adjacent to a state owned Pure Michigan Trail

1 for the operation of concessions.

2 (2) If the department acquires land, the director may state
3 that the specified land is acquired for use as a Pure Michigan
4 Trail. Following acquisition of land that the director states is
5 acquired for use as a Pure Michigan Trail, any revenue derived from
6 ~~that THE land pursuant to UNDER~~ subsection (1), except as otherwise
7 provided by law, ~~shall MUST~~ be deposited into the fund.

8 (3) IF THE DEPARTMENT ENTERS INTO NEGOTIATIONS WITH A RAILROAD
9 FOR THE DEPARTMENT TO BECOME A TRAIL SPONSOR UNDER 16 USC 1247(D) ,
10 THE DEPARTMENT SHALL COMPLY WITH 49 CFR 1152.29(A) (2) (II) . THE
11 DEPARTMENT SHALL ASSUME FULL RESPONSIBILITY FOR ANY POTENTIAL LEGAL
12 LIABILITY ARISING OUT OF THE TRANSFER OR USE OF THE RAILROAD RIGHT-
13 OF-WAY. IN EXCHANGE FOR THE DEPARTMENT'S ASSUMPTION OF LIABILITY,
14 THE RAILROAD SHALL PROVIDE THE DEPARTMENT WITH THE FAIR VALUE OF
15 THE DEPARTMENT'S ASSUMPTION OF LIABILITY. AS USED IN THIS
16 SUBSECTION, "FAIR VALUE" MEANS THE VALUE THAT THE DEPARTMENT AND
17 THE RAILROAD MUTUALLY AGREE ACCURATELY REFLECTS THE RISK OF
18 LIABILITY ASSUMED BY THE DEPARTMENT.

19 Sec. 73301. (1) Except as otherwise provided in this section,
20 a cause of action ~~shall DOES~~ not arise for injuries to a person who
21 is on the land of another without paying to the owner, tenant, or
22 lessee of the land a valuable consideration for the purpose of
23 fishing, hunting, trapping, camping, hiking, sightseeing,
24 motorcycling, snowmobiling, or any other outdoor recreational use
25 or trail use, with or without permission, against the owner,
26 tenant, or lessee of the land unless the injuries were caused by
27 the gross negligence or willful and wanton misconduct of the owner,

1 tenant, or lessee.

2 (2) A cause of action ~~shall~~**DOES** not arise for injuries to a
3 person who is on the land of another without paying to the owner,
4 tenant, or lessee of the land a valuable consideration for the
5 purpose of entering or exiting from or using a Michigan trailway as
6 designated under part 721 or other public trail, with or without
7 permission, against the owner, tenant, or lessee of the land unless
8 the injuries were caused by the gross negligence or willful and
9 wanton misconduct of the owner, tenant, or lessee. For purposes of
10 this subsection, a Michigan trailway or public trail may be located
11 on land of any size including, but not limited to, urban, suburban,
12 subdivided, and rural land.

13 (3) **A CAUSE OF ACTION DOES NOT ARISE, FOR INJURIES TO A**
14 **PERSON, AGAINST A PERSON WITH WHOM THE OWNER, TENANT, OR LESSEE OF**
15 **LAND CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE A TRAIL OR OTHER**
16 **LAND IMPROVEMENT USED BY THE INJURED PERSON AS DESCRIBED IN**
17 **SUBSECTIONS (1) AND (2), UNLESS THE INJURIES WERE CAUSED BY THE**
18 **GROSS NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT OF THE PERSON**
19 **WITH WHOM THE OWNER, TENANT, OR LESSEE CONTRACTS.**

20 (4) ~~(3)~~A cause of action ~~shall~~**DOES** not arise against the
21 owner, tenant, or lessee of land or premises for injuries to a
22 person who is on that land or premises for the purpose of gleaning
23 agricultural or farm products, unless that person's injuries were
24 caused by the gross negligence or willful and wanton misconduct of
25 the owner, tenant, or lessee.

26 (5) ~~(4)~~A cause of action ~~shall~~**DOES** not arise against the
27 owner, tenant, or lessee of a farm used in the production of

1 agricultural goods as defined by section 35(1)(h) of the former
2 single business tax act, 1975 PA 228, or by section 207(1)(d) of
3 the Michigan business tax act, 2007 PA 36, MCL 208.1207, for
4 injuries to a person who is on that farm and has paid the owner,
5 tenant, or lessee valuable consideration for the purpose of fishing
6 or hunting, unless that person's injuries were caused by a
7 condition ~~which~~ **THAT** involved an unreasonable risk of harm and all
8 of the following apply:

9 (a) The owner, tenant, or lessee knew or had reason to know of
10 the condition or risk.

11 (b) The owner, tenant, or lessee failed to exercise reasonable
12 care to make the condition safe, or to warn the person of the
13 condition or risk.

14 (c) The person injured did not know or did not have reason to
15 know of the condition or risk.

16 (6) ~~(5)~~ A cause of action ~~shall~~ **DOES** not arise against the
17 owner, tenant, or lessee of land or premises for injuries to a
18 person, other than an employee or contractor of the owner, tenant,
19 or lessee, who is on the land or premises for the purpose of
20 picking and purchasing agricultural or farm products at a farm or
21 "u-pick" operation, unless the person's injuries were caused by a
22 condition that involved an unreasonable risk of harm and all of the
23 following apply:

24 (a) The owner, tenant, or lessee knew or had reason to know of
25 the condition or risk.

26 (b) The owner, tenant, or lessee failed to exercise reasonable
27 care to make the condition safe, or to warn the person of the

1 condition or risk.

2 (c) The person injured did not know or did not have reason to
3 know of the condition or risk.

4 (7) ~~(6)~~As used in this section, "agricultural or farm
5 products" means the natural products of the farm, nursery, grove,
6 orchard, vineyard, garden, and apiary, including, but not limited
7 to, trees and firewood.

8 SEC. 73302. (1) A CAUSE OF ACTION DOES NOT ARISE AGAINST A
9 RAILROAD THAT OWNS OR FORMERLY OWNED OR OPERATED A RIGHT-OF-WAY OF
10 A RAIL LINE THAT HAS BEEN DEDICATED FOR INTERIM TRAIL USE AND RAIL
11 BANKING UNDER 16 USC 1247(D) FOR INJURIES TO A PERSON WHO IS ON THE
12 RIGHT-OF-WAY THAT OCCUR AFTER THE SURFACE TRANSPORTATION BOARD
13 APPROVES THE DEDICATION OF THE RIGHT-OF-WAY UNDER 16 USC 1247(D)
14 AND BEFORE THE RIGHT-OF-WAY IS REACTIVATED FOR RETURN TO RAIL
15 SERVICE.

16 (2) A CAUSE OF ACTION DOES NOT ARISE AGAINST A RAILROAD THAT
17 OWNS OR FORMERLY OWNED OR OPERATED A RIGHT-OF-WAY OF A RAIL LINE
18 THAT HAS BEEN SET APART FOR INTERIM TRAIL USE AND RAIL BANKING
19 UNDER THE STATE TRANSPORTATION PRESERVATION ACT OF 1976, 1976 PA
20 295, MCL 474.51 TO 474.70, FOR INJURIES TO A PERSON WHO IS ON THE
21 RIGHT-OF-WAY THAT OCCUR AFTER THE DEDICATION OF THE RIGHT-OF-WAY
22 UNDER THE STATE TRANSPORTATION PRESERVATION ACT OF 1976, 1976 PA
23 295, MCL 474.51 TO 474.70, AND BEFORE THE RIGHT-OF-WAY IS
24 REACTIVATED FOR RETURN TO RAIL SERVICE.

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