

Act No. 39
Public Acts of 2017
Approved by the Governor
May 23, 2017
Filed with the Secretary of State
May 23, 2017
EFFECTIVE DATE: August 21, 2017

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Senator Hansen

ENROLLED SENATE BILL No. 118

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," 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:

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

(a) Grant easements or, pursuant to part 13, use permits or lease land owned by this state that is being used for a Pure Michigan Trail for a use that is compatible with the use of the Pure Michigan Trail.

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

(c) Lease land adjacent to a state owned Pure Michigan Trail for the operation of concessions.

(2) If the department acquires land, the director may state that the specified land is acquired for use as a Pure Michigan Trail. Following acquisition of land that the director states is acquired for use as a Pure Michigan Trail, any revenue derived from the land under subsection (1), except as otherwise provided by law, must be deposited into the fund.

(3) If the department enters into negotiations with a railroad for the department to become a trail sponsor under 16 USC 1247(d), the department shall comply with 49 CFR 1152.29(a)(2)(ii). The department shall assume full responsibility for any potential legal liability arising out of the transfer or use of the railroad right-of-way. In exchange for the department's assumption of liability, the railroad shall provide the department with the fair value of the department's assumption of liability. As used in this subsection, "fair value" means the value that the department and the railroad mutually agree accurately reflects the risk of liability assumed by the department.

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

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

(3) A cause of action does not arise, for injuries to a person, against a person, other than a for-profit legal entity, with whom the owner, tenant, or lessee of land contracts to construct, maintain, or operate a trail or other land improvement used by the injured person as described in subsections (1) and (2), unless the injuries were caused by the gross negligence or willful and wanton misconduct of the person, other than a for-profit legal entity, with whom the owner, tenant, or lessee contracts.

(4) A cause of action does not arise against the owner, tenant, or lessee of land or premises for injuries to a person who is on that land or premises for the purpose of gleaning agricultural or farm products, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(5) A cause of action does not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who is on that farm and has paid the owner, tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

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

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

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

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

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

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

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

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

Sec. 73302. (1) A cause of action does not arise against a railroad that owns or formerly owned or operated a right-of-way of a rail line that has been dedicated for interim trail use and rail banking under 16 USC 1247(d) for injuries to a person who is on the right-of-way that occur after the Surface Transportation Board approves the dedication of the right-of-way under 16 USC 1247(d) and before the right-of-way is reactivated for return to rail service.

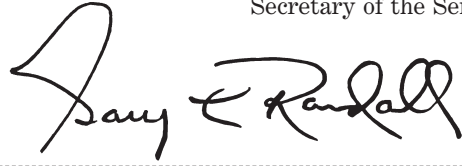
(2) A cause of action does not arise against a railroad that owns or formerly owned or operated a right-of-way of a rail line that has been set apart for interim trail use and rail banking under the state transportation preservation act of 1976, 1976 PA 295, MCL 474.51 to 474.70, for injuries to a person who is on the right-of-way that occur after the dedication of the right-of-way under the state transportation preservation act of 1976, 1976 PA 295, MCL 474.51 to 474.70, and before the right-of-way is reactivated for return to rail service.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor