

SENATE BILL No. 415

April 24, 2001, Introduced by Senators HOFFMAN, GAST and BULLARD and referred to the Committee on Hunting, Fishing and Forestry.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 72101, 72103, 72107, and 72110 (MCL 324.72101, 324.72103, 324.72107, and 324.72110), section 72101 as amended by 1997 PA 129 and sections 72103, 72107, and 72110 as added by 1995 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 72101. As used in this part:

2 (a) "Advisory council" means the Michigan trailways advisory
3 council created in section 72110.

4 (b) "Council" means a Michigan trailway management council
5 established pursuant to section 72106.

6 (c) "Fund" means the Michigan trailways fund created in
7 section 72109.

1 (d) "Governmental agency" means the federal government, a
2 county, city, village, or township, or a combination of any of
3 these entities.

4 (e) "Michigan trailway" means a trailway designated by the
5 commission pursuant to section 72103.

6 (f) "Rail-trail" means a former railroad bed that is in
7 public ownership and used as a trailway.

8 (g) "Trailway" means a land corridor that features a broad
9 trail capable of accommodating a variety of public recreation
10 uses OR A BODY OF WATER CAPABLE OF ACCOMMODATING RECREATIONAL
11 WATERCRAFT.

12 Sec. 72103. (1) Upon petition by any person or on its own
13 motion, the commission may designate a trailway in this state as
14 a "Michigan trailway". The petition or motion shall propose per-
15 mitted uses of the trailway.

16 (2) The commission shall not designate a LAND-BASED trailway
17 as a Michigan trailway unless it meets, or will meet when com-
18 pleted, all of the following requirements:

19 (a) The land on which the trailway is located is owned by
20 the state or a governmental agency, or otherwise is under the
21 long-term control of the state or a governmental agency through a
22 lease, easement, or other arrangement. If the land is owned by a
23 governmental agency, the commission shall obtain the consent of
24 the governmental agency before designating the land as part of a
25 Michigan trailway.

1 (b) The design and maintenance of the trailway and its
2 related facilities meet generally accepted standards of public
3 safety.

4 (c) The trailway meets appropriate standards for its desig-
5 nated recreation uses.

6 (d) The trailway is available for designated recreation uses
7 on a nondiscriminatory basis.

8 (e) The trailway is a multiuse trail suitable for use by
9 pedestrians, by people with disabilities, and by other users, as
10 appropriate.

11 (f) The trailway is, or has potential to be, a segment of a
12 statewide network of trailways, or it attracts a substantial
13 share of its users from beyond the local area.

14 (g) The trailway is marked with an official Michigan trail-
15 way sign and logo at major access points.

16 (h) The trailway is not directly attached to a roadway,
17 except at roadway crossings.

18 (i) Where feasible, the trailway offers adequate support
19 facilities for the public, including parking, sanitary facili-
20 ties, and emergency telephones, that are accessible to people
21 with disabilities and are at reasonable frequency along the
22 trailway.

23 (j) Potential negative impacts of trailway development on
24 owners or residents of adjacent property are minimized through
25 all of the following:

26 (i) Adequate enforcement of trailway rules and regulations.

1 (ii) Continuation of access for railway crossings for
2 agricultural and other purposes.

3 (iii) Construction and maintenance of fencing, where neces-
4 sary, by the owner or operator of the railway.

5 (iv) Other means as considered appropriate by the
6 commission.

7 (k) Other conditions required by the commission.

8 (3) THE COMMISSION SHALL NOT DESIGNATE A WATER-BASED TRAIL-
9 WAY AS A MICHIGAN TRAILWAY UNLESS IT MEETS, OR WILL MEET WHEN
10 COMPLETED, ALL OF THE FOLLOWING REQUIREMENTS:

11 (A) THE MAINTENANCE OF THE TRAILWAY AND ITS RELATED FACILI-
12 TIES MEETS GENERALLY ACCEPTED STANDARDS OF PUBLIC SAFETY.

13 (B) THE TRAILWAY MEETS APPROPRIATE STANDARDS FOR ITS DESIG-
14 NATED RECREATIONAL USES.

15 (C) THE TRAILWAY IS AVAILABLE FOR DESIGNATED RECREATIONAL
16 USES ON A NONDISCRIMINATORY BASIS.

17 (D) THE TRAILWAY IS, OR HAS POTENTIAL TO BE, A SEGMENT OF A
18 STATEWIDE NETWORK OF TRAILWAYS, OR IT ATTRACTS A SUBSTANTIAL
19 SHARE OF ITS USERS FROM BEYOND THE LOCAL AREA.

20 (E) THE TRAILWAY IS MARKED WITH AN OFFICIAL MICHIGAN TRAIL-
21 WAY SIGN AND LOGO AT MAJOR ACCESS POINTS.

22 (F) WHERE FEASIBLE, THE TRAILWAY OFFERS ADEQUATE SUPPORT
23 FACILITIES FOR THE PUBLIC, INCLUDING PARKING, SANITARY FACILI-
24 TIES, AND EMERGENCY TELEPHONES, THAT ARE ACCESSIBLE TO PEOPLE
25 WITH DISABILITIES AND ARE AT REASONABLE FREQUENCY ALONG THE
26 TRAILWAY.

1 (G) POTENTIAL NEGATIVE IMPACTS OF TRAILWAY DEVELOPMENT ON
2 OWNERS OR RESIDENTS OF ADJACENT PROPERTY ARE MINIMIZED THROUGH
3 THE ADEQUATE ENFORCEMENT OF TRAILWAY RULES AND REGULATIONS AND
4 OTHER MEANS CONSIDERED APPROPRIATE BY THE COMMISSION.

5 (H) OTHER CONDITIONS REQUIRED BY THE COMMISSION.

6 (4) IN DEVELOPING AND MAINTAINING A WATER-BASED MICHIGAN
7 TRAILWAY, THE DEPARTMENT SHALL ENCOURAGE AND FACILITATE PARTNER-
8 SHIPS BETWEEN THE STATE AND LOCAL ORGANIZATIONS INCLUDING LOCAL
9 USER GROUPS, BUSINESS AND CIVIC ORGANIZATIONS, LOCAL UNITS OF
10 GOVERNMENT, AND TOURISM PROMOTION ORGANIZATIONS.

11 (5) ~~(2)~~ The commission shall not designate a trailway a
12 Michigan trailway under ~~subsection (1)~~ THIS SECTION unless a
13 public hearing has been held in the vicinity of the proposed
14 Michigan trailway to take testimony and gather public opinion on
15 the proposed designation including, but not limited to, the pro-
16 posed uses of the trailway and whether or not motorized uses are
17 appropriate for the trailway. The public hearing shall be held
18 at a location and at a time calculated to attract a fair repre-
19 sentation of opinions on the designation. A transcript or a sum-
20 mary of the testimony at the public hearing shall be forwarded to
21 the commission.

22 (6) ~~(3) At the time~~ WHEN a Michigan trailway is designated
23 under subsection (1), the commission shall, in consultation with
24 the governmental agencies in which the trailway is located,
25 establish uses to be permitted on the trailway. In establishing
26 permitted uses, the commission shall consider all of the
27 following:

1 (a) The safety and enjoyment of trailway users.

2 (b) Impacts on residents, landowners, and businesses adja-
3 cent to the trailway.

4 (c) Applicable local ordinances.

5 (D) FOR WATER-BASED TRAILWAYS, OTHER APPLICABLE LAW RELATED
6 TO THE USE OF THE WATERWAY.

7 (7) ~~(4)~~ A change in the permitted uses of a LAND-BASED
8 Michigan trailway established under subsection ~~(3)~~ (6) relating
9 to whether or not a motorized use is allowed on the trailway
10 shall not be made without approval of the commission after a
11 public hearing held in the same manner as provided in
12 subsection ~~(2)~~ (5).

13 (8) ~~(5)~~ The commission may revoke a Michigan trailway des-
14 ignation if it determines that a trailway fails to meet the
15 requirements of this section. Before revoking a Michigan trail-
16 way designation, the commission shall provide notice to all enti-
17 ties involved in the management of the trailway. If the trailway
18 is brought into compliance with this section within 90 days after
19 providing this notice, the commission shall not revoke the
20 designation.

21 Sec. 72107. In agricultural areas, a LAND-BASED Michigan
22 trailway may be temporarily closed by the entity operating the
23 trailway to allow pesticide application on lands adjoining the
24 trailway. The entity operating the Michigan trailway shall post
25 the closure of the trailway or arrange with a landowner or other
26 person for the posting of signs and the closure of the trailway
27 during pesticide application and appropriate reentry periods.

1 Sec. 72110. (1) The Michigan trailways advisory council is
2 created within the department of natural resources.

3 (2) The advisory council shall consist of the following mem-
4 bers appointed by the commission:

5 (a) One individual who is involved with the establishment or
6 operation of a multiple use trailway.

7 (b) Two individuals who represent Michigan trailway user
8 groups.

9 (c) One local government official from a governmental agency
10 in which a multiple use trailway is located.

11 (D) ONE INDIVIDUAL WHO IS KNOWLEDGEABLE IN THE ESTABLISHMENT
12 AND OPERATION OF WATER TRAILS.

13 (E) ~~(d)~~ One member of the general public.

14 (F) ONE INDIVIDUAL REPRESENTING THE DEPARTMENT.

15 (3) The members first appointed to the commission shall be
16 appointed within 90 days after April 21, 1993.

17 (4) Members of the advisory council shall serve for terms of
18 4 years, or until a successor is appointed, whichever is later,
19 except that of the members first appointed, 2 shall serve for 1
20 year, 1 shall serve for 2 years, and 1 shall serve for 3 years.

21 (5) If a vacancy occurs on the advisory council, the commis-
22 sion shall make an appointment for the unexpired term in the same
23 manner as the original appointment.

24 (6) The commission may remove a member of the advisory coun-
25 cil for incompetency, dereliction of duty, malfeasance, misfeas-
26 ance, or nonfeasance in office, or any other good cause.

1 (7) The first meeting of the advisory council shall be
2 called by the commission. At the first meeting the advisory
3 council shall elect from among its members a chairperson and
4 other officers as it considers necessary or appropriate. After
5 the first meeting, the advisory council shall meet at least annu-
6 ally or more frequently at the call of the chairperson or if
7 requested by ~~3~~ 4 or more members.

8 (8) A majority of the members of the advisory council con-
9 stitutes a quorum for the transaction of business at a meeting of
10 the advisory council. A majority of the members present and
11 serving is required for official action of the advisory council.

12 (9) The business the advisory council may perform shall be
13 conducted at a public meeting of the advisory council held in
14 compliance with the open meetings act, ~~Act No. 267 of the Public~~
15 ~~Acts of 1976, being sections 15.261 to 15.275 of the Michigan~~
16 ~~Compiled Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.

17 (10) A writing prepared, owned, used, in possession of, or
18 retained by the advisory council in the performance of an offi-
19 cial function is subject to the freedom of information act, ~~Act~~
20 ~~No. 442 of the Public Acts of 1976, being sections 15.231 to~~
21 ~~15.246 of the Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO
22 15.246.

23 (11) Members of the advisory council shall serve without
24 compensation. However, members of the advisory council may be
25 reimbursed for their actual and necessary expenses incurred in
26 the performance of their official duties as members of the
27 advisory council.

1 (12) The advisory council shall do both of the following:

2 (a) Make recommendations to the commission and the depart-
3 ment on the expenditure of money in the fund.

4 (b) Advise the commission and the department on the imple-
5 mentation of this ~~act~~ PART and the establishment and operation
6 of Michigan trailways.