

Act No. 34
Public Acts of 2010
Approved by the Governor
March 31, 2010
Filed with the Secretary of State
March 31, 2010
EFFECTIVE DATE: October 1, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

**Introduced by Reps. Warren, Meekhof, Espinoza, Bennett, Young, Scripps, Miller, Lipton, Roberts, Smith,
Bauer, Robert Jones, Valentine, Leland and Cushingberry**

ENROLLED HOUSE BILL No. 4677

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 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 78101, 78105, and 83106 (MCL 324.78101, 324.78105, and 324.83106), section 78101 as amended by 2006 PA 466 and sections 78105 and 83106 as amended by 2004 PA 587, and by adding section 78119.

The People of the State of Michigan enact:

Sec. 78101. As used in this part:

- (a) "Commercial motor vehicle" means that term as defined in section 74101.
- (b) "Commission" means the Michigan state waterways commission.
- (c) "Department" means the department of natural resources.
- (d) "Designated state-operated public boating access site" means a state-operated public boating access site designated under section 78105(2).
- (e) "Director" means the administrative director of the commission.
- (f) "Diesel motor fuel" means any liquid fuel used in the operation of engines of the diesel type in motor vehicles or watercraft.
- (g) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine, and naphtha. Gasoline also means any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any 1 or more products of petroleum, regardless of their original names or characteristics, with or without other products, unless the resultant product obtained is entirely incapable of use for the generation of power for the propulsion of motor vehicles or watercraft. Gasoline does not include diesel fuel, liquefied petroleum gas, or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold, or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.

(h) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for watercraft, including contrivances used or designed for navigation on water and used or owned by the United States.

(i) "Harbor facilities" means the structures at a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and ashore for the mooring and servicing of watercraft and the servicing of crews and passengers.

(j) "Inland lake or stream" means that term as defined in section 30101.

(k) "Liquefied petroleum gas" means gases derived from petroleum or natural gases that are in the gaseous state at normal atmospheric temperature and pressure, but that may be maintained in the liquid state at normal atmospheric temperature by suitable pressure.

(l) "Marina" means a site that contains harbor facilities.

(m) "Motor vehicle" means that term as defined in section 74101.

(n) "Navigable water" means any waterway navigable by vessels, or capable of being made navigable by vessels through artificial improvements, and includes the structures and facilities created to facilitate navigation.

(o) "Nonresident motor vehicle" means that term as defined in section 74101.

(p) "Person" includes any individual, partnership, corporation, association, or body politic, except the United States and this state, and includes any trustee, receiver, assignee, or other similar representative of those entities.

(q) "Public boating access site" means a publicly owned site for the launching of recreational watercraft.

(r) "Recreation passport fee" means that term as defined in section 2001.

(s) "Resident motor vehicle" means that term as defined in section 74101.

(t) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within this state.

(u) "Secretary of state" means the secretary of state of this state, acting directly or through a duly authorized deputy, investigators, agents, and employees.

(v) "Vessel" means all watercraft except the following:

(i) Watercraft used for commercial fishing.

(ii) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(iii) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(iv) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(w) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include contrivances used or owned by the United States.

(x) "Waterway" means any body of water.

(y) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

Sec. 78105. (1) The department shall have the following powers and duties:

(a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters lying within the boundaries of this state.

(b) To acquire, by purchase, lease, gift, or condemnation the lands, rights of way, and easements necessary for harbors and channels. For the purposes of this subdivision, the department shall be considered a state agency under 1911 PA 149, MCL 213.21 to 213.25.

(c) To acquire, by purchase, lease, gift, or condemnation suitable areas on shore for disposal of the material from dredging.

(d) To enter into any contracts or agreements that may be necessary in carrying out this part, including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of those works that the United States undertakes.

(e) To provide for the granting of concessions within the boundaries of harbors, so as to furnish the public gas, oil, food, and other facilities.

(f) To represent this state and the governor in dealings with the chief of engineers of the United States army and his or her authorized agents for the purposes set forth in this part.

(g) To charge fees for both seasonal and daily moorage at state-operated small craft mooring facilities. All revenues derived from this source shall be deposited in the waterways account.

(h) To collect the proceeds from the sale of marine fuel at harbors operated by the department. The proceeds from the sales shall be credited to the waterways account and used for the purchase of marine fuel supplies as may be needed. Any remaining revenue from this source not needed for the purchase of marine fuel supplies may be expended in the same manner as other funds within the waterways account.

(2) The director shall designate state-operated public boating access sites that shall not be entered by a resident motor vehicle unless the recreation passport fee has been paid or by a nonresident or commercial motor vehicle unless a pass purchased under subsection (3) is affixed to the motor vehicle as described in section 78119.

(3) The department shall charge fees for passes authorizing seasonal or daily entry by nonresident motor vehicles or commercial motor vehicles at designated state-operated public boating access sites. Fee revenue under this subsection shall be deposited in the waterways account.

Sec. 78119. (1) Subject to subsection (4), a person shall not enter, in a nonresident motor vehicle or commercial motor vehicle, a designated state-operated public boating access site without a valid pass affixed to the lower right-hand corner of the windshield. A seasonal pass shall be affixed permanently for the season.

(2) Subject to subsection (4), the operator of a resident motor vehicle shall not enter a designated state-operated public boating access site with the resident motor vehicle unless the recreation passport fee has been paid for that motor vehicle.

(3) Subject to subsection (4), if the secretary of state issues registration tabs or stickers as described in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805, the operator of a resident motor vehicle shall not enter a designated state-operated public boating access site with the resident motor vehicle unless the resident motor vehicle has a registration tab or sticker or temporary registration plate marked as provided under that section to show that the recreation passport fee has been paid.

(4) The requirements of subsections (1) to (3) do not apply under any of the following circumstances:

(a) If the motor vehicle is used in the operation or maintenance of the public boating access site, is an emergency motor vehicle, is a state-owned or law enforcement motor vehicle, or is a private motor vehicle being operated on official state business.

(b) If and to the extent the department waives the requirements for department-sponsored events or other circumstances as determined by the director or the director's designee.

(5) A person who violates subsection (1), (2), or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. A person shall not be cited for a violation of both subsections (2) and (3) for the same incident.

(6) In any proceeding for the violation of this part or a rule promulgated under this part, if a motor vehicle is found parked in a designated state-operated public boating access site, the registration plate displayed on the motor vehicle constitutes prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where it was found.

Sec. 83106. (1) The department may require a person to obtain a permit for camping in designated state forest campgrounds and may establish and collect a fee for the camping permit. However, at least 6 months before increasing a camping permit fee, the department shall provide written notice of its intent to do so to the standing committees of the senate and the house of representatives that have primary jurisdiction over legislation pertaining to natural resources and the environment.

(2) The department may require a person to obtain a permit, except as otherwise provided by law, for the use of lands and facilities within the state forest as designated by the department for recreation use. The department shall not require a permit or payment of a fee for use of a state forest nonmotorized trail or pathway or state forest campground facility except as provided in subsection (1) or otherwise provided in this act.

(3) Money collected under this section shall be deposited into the forest recreation account.

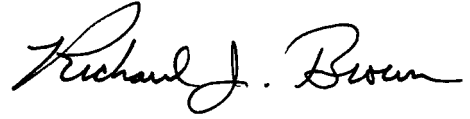
Enacting section 1. This amendatory act takes effect October 1, 2010.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

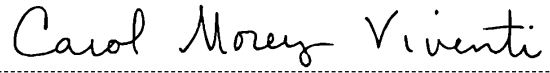
(a) Senate Bill No. 388.

(b) Senate Bill No. 389.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: Senate Bill No. 388, referred to in enacting section 2, was filed with the Secretary of State December 28, 2009, and became 2009 PA 197, Imd. Eff. Dec. 28, 2009.

Senate Bill No. 389, also referred to in enacting section 2, was filed with the Secretary of State March 31, 2010, and became 2010 PA 35, Eff. Oct 1, 2010.