

SUBSTITUTE FOR
HOUSE BILL NO. 4677

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
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:

1 Sec. 78101. As used in this part:

2 **(A) "COMMERCIAL MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN**
3 **SECTION 74101.**

4 **(B) ~~(a)~~**"Commission" means the Michigan state waterways
5 commission.

6 **(C) ~~(b)~~**"Department" means the department of natural

1 resources.

2 (D) "DESIGNATED STATE-OPERATED PUBLIC BOATING ACCESS SITE"
3 MEANS A STATE-OPERATED PUBLIC BOATING ACCESS SITE DESIGNATED UNDER
4 SECTION 78105 (2) .

5 (E) ~~(e)~~"Director" means the administrative director of the
6 commission.

7 (F) ~~(d)~~"Diesel motor fuel" means any liquid fuel used in the
8 operation of engines of the diesel type in motor vehicles or
9 watercraft.

10 (G) ~~(e)~~"Gasoline" means gasoline, casing head or natural
11 gasoline, benzole, benzine, and naphtha. ~~, also,~~ **GASOLINE ALSO**
12 **MEANS** any liquid prepared, advertised, offered for sale, sold for
13 use as, or used for, the generation of power for the propulsion of
14 motor vehicles or watercraft, including any product obtained by
15 blending together any 1 or more products of petroleum, **REGARDLESS**
16 **OF THEIR ORIGINAL NAMES OR CHARACTERISTICS**, with or without other
17 products, ~~and regardless of the original character of the petroleum~~
18 ~~products blended, if~~ **UNLESS** the resultant product obtained is
19 ~~capable~~ **ENTIRELY INCAPABLE** of use for the generation of power for
20 the propulsion of motor vehicles or watercraft. ~~, it being the~~
21 ~~intention that the blending of the products, regardless of name or~~
22 ~~characteristics, shall conclusively be presumed to produce motor~~
23 ~~fuel, unless the resultant product is entirely incapable for use as~~
24 ~~motor fuel.~~ Gasoline does not include diesel fuel, liquefied
25 petroleum gas, or commercial or industrial naphthas or solvents
26 manufactured, imported, received, stored, distributed, sold, or
27 used exclusively for purposes other than as a fuel for motor

1 vehicles or watercraft.

2 (H) ~~(f)~~—"Harbor" means a portion of a lake or other body of
3 water either naturally or artificially protected so as to be a
4 place of safety for watercraft, including contrivances used or
5 designed for navigation on water and used or owned by the United
6 States.

7 (I) ~~(g)~~—"Harbor facilities" means the structures at a harbor
8 constructed to protect the lake or body of water and the facilities
9 provided within the harbor and ashore for the mooring and servicing
10 of watercraft and the servicing of crews and passengers.

11 (J) ~~(h)~~—"Inland lake or stream" means that term as defined in
12 section 30101.

13 (K) ~~(i)~~—"Liquefied petroleum gas" means gases derived from
14 petroleum or natural gases that are in the gaseous state at normal
15 atmospheric temperature and pressure, but that may be maintained in
16 the liquid state at normal atmospheric temperature by suitable
17 pressure.

18 (L) ~~(j)~~—"Marina" means a site that contains harbor facilities.

19 (M) **"MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION**
20 **74101.**

21 (N) ~~(k)~~—"Navigable water" means any waterway navigable by
22 vessels, or capable of being made navigable by vessels through
23 artificial improvements, and includes the structures and facilities
24 created to facilitate navigation.

25 (O) **"NONRESIDENT MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN**
26 **SECTION 74101.**

27 (P) ~~(l)~~—"Person" includes any individual, partnership,

1 corporation, association, or body politic, except the United States
2 and this state, and includes any trustee, receiver, assignee, or
3 other similar representative of those entities.

4 (Q) ~~(m)~~—"Public boating access site" means a publicly owned
5 site for the launching of recreational watercraft.

6 (R) "RECREATION PASSPORT FEE" MEANS THAT TERM AS DEFINED IN
7 SECTION 2001.

8 (S) "RESIDENT MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN
9 SECTION 74101.

10 (T) ~~(n)~~—"Retail fuel dealer" includes any person or persons,
11 both private and municipal, who engage in the business of selling
12 or distributing fuel within this state.

13 (U) ~~(o)~~—"Secretary of state" means the secretary of state of
14 this state, acting directly or through a duly authorized deputy,
15 investigators, agents, and employees.

16 (V) ~~(p)~~—"Vessel" means all watercraft except the following:

17 (i) Watercraft used for commercial fishing.

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

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

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

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

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

7 (X) ~~(r)~~ "Waterway" means any body of water.

8 (Y) ~~(s)~~ "Waterways account" means the waterways account of the
9 Michigan conservation and recreation legacy fund provided for in
10 section 2035. ~~This subdivision does not apply unless 2004 PA 587~~
11 ~~takes effect, as a result of Joint Resolution Z of the 92nd~~
12 ~~Legislature becoming a part of the state constitution of 1963 as~~
13 ~~provided in section 1 of article XII of the state constitution of~~
14 ~~1963.~~

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

17 (a) To acquire, construct, and maintain harbors, channels, and
18 facilities for vessels in the navigable waters lying within the
19 boundaries of ~~the~~ **THIS** state. ~~of Michigan.~~

20 (b) To acquire, by purchase, lease, gift, or condemnation the
21 lands, rights of way, and easements necessary for harbors and
22 channels. ~~The~~ **FOR THE PURPOSES OF THIS SUBDIVISION, THE** department
23 shall be considered a state agency under 1911 PA 149, MCL 213.21 to
24 213.25. ~~, relative to condemnation by state agencies.~~

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

27 (d) To enter into any contracts or agreements that may be

1 necessary in carrying out this part, including agreements to hold
2 and save the United States free from damages due to the
3 construction and maintenance by the United States of those works
4 that the United States undertakes.

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

8 (f) To represent ~~the~~ **THIS** ~~state of Michigan~~ and the governor
9 ~~of Michigan~~ in dealings with the chief of engineers of the United
10 States army and his or her authorized agents for the purposes set
11 forth in this part.

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

15 ~~—— (h) To charge fees for both daily and seasonal use of state-~~
16 ~~operated public access sites, if the cost of collecting the fees~~
17 ~~will not exceed the revenue derived from the fees for daily and~~
18 ~~seasonal passes. All revenues derived from this source shall be~~
19 ~~deposited in the waterways account. A seasonal pass shall grant the~~
20 ~~permittee the right to enter any state-operated public access site~~
21 ~~without payment of an additional fee.~~

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

1 the waterways account.

2 (2) THE DIRECTOR SHALL DESIGNATE STATE-OPERATED PUBLIC BOATING
3 ACCESS SITES THAT SHALL NOT BE ENTERED BY A RESIDENT MOTOR VEHICLE
4 UNLESS THE RECREATION PASSPORT FEE HAS BEEN PAID OR BY A
5 NONRESIDENT OR COMMERCIAL MOTOR VEHICLE UNLESS A PASS PURCHASED
6 UNDER SUBSECTION (3) IS AFFIXED TO THE MOTOR VEHICLE AS DESCRIBED
7 IN SECTION 78119.

8 (3) THE DEPARTMENT SHALL CHARGE FEES FOR PASSES AUTHORIZING
9 SEASONAL OR DAILY ENTRY BY NONRESIDENT MOTOR VEHICLES OR COMMERCIAL
10 MOTOR VEHICLES AT DESIGNATED STATE-OPERATED PUBLIC BOATING ACCESS
11 SITES. FEE REVENUE UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE
12 WATERWAYS ACCOUNT.

13 SEC. 78119. (1) SUBJECT TO SUBSECTION (4), A PERSON SHALL NOT
14 ENTER, IN A NONRESIDENT MOTOR VEHICLE OR COMMERCIAL MOTOR VEHICLE,
15 A DESIGNATED STATE-OPERATED PUBLIC BOATING ACCESS SITE WITHOUT A
16 VALID PASS AFFIXED TO THE LOWER RIGHT-HAND CORNER OF THE
17 WINDSHIELD. A SEASONAL PASS SHALL BE AFFIXED PERMANENTLY FOR THE
18 SEASON.

19 (2) SUBJECT TO SUBSECTION (4), THE OPERATOR OF A RESIDENT
20 MOTOR VEHICLE SHALL NOT ENTER A DESIGNATED STATE-OPERATED PUBLIC
21 BOATING ACCESS SITE WITH THE RESIDENT MOTOR VEHICLE UNLESS THE
22 RECREATION PASSPORT FEE HAS BEEN PAID FOR THAT MOTOR VEHICLE.

23 (3) SUBJECT TO SUBSECTION (4), IF THE SECRETARY OF STATE
24 ISSUES REGISTRATION TABS OR STICKERS AS DESCRIBED IN SECTION 805 OF
25 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.805, THE OPERATOR
26 OF A RESIDENT MOTOR VEHICLE SHALL NOT ENTER A DESIGNATED STATE-
27 OPERATED PUBLIC BOATING ACCESS SITE WITH THE RESIDENT MOTOR VEHICLE

House Bill No. 4677 (H-3) as amended December 10, 2009

1 UNLESS THE RESIDENT MOTOR VEHICLE HAS A REGISTRATION TAB OR STICKER
2 OR TEMPORARY REGISTRATION PLATE MARKED AS PROVIDED UNDER THAT
3 SECTION TO SHOW THAT THE RECREATION PASSPORT FEE HAS BEEN PAID.

4 (4) THE REQUIREMENTS OF SUBSECTIONS (1) TO (3) DO NOT APPLY
5 UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

6 (A) IF THE MOTOR VEHICLE IS USED IN THE OPERATION OR
7 MAINTENANCE OF THE PUBLIC BOATING ACCESS SITE, IS AN EMERGENCY
8 MOTOR VEHICLE, [IS A STATE-OWNED OR LAW ENFORCEMENT MOTOR VEHICLE,] OR IS
9 A PRIVATE MOTOR VEHICLE BEING OPERATED ON
OFFICIAL STATE BUSINESS.

10 (B) IF AND TO THE EXTENT THE DEPARTMENT WAIVES THE
11 REQUIREMENTS FOR DEPARTMENT-SPONSORED EVENTS OR OTHER CIRCUMSTANCES
12 AS DETERMINED BY THE DIRECTOR OR THE DIRECTOR'S DESIGNEE.

13 (5) A PERSON WHO VIOLATES SUBSECTION (1), (2), OR (3) IS
14 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY
15 A CIVIL FINE OF NOT MORE THAN \$100.00. A PERSON SHALL NOT BE CITED
16 FOR A VIOLATION OF BOTH SUBSECTIONS (2) AND (3) FOR THE SAME
17 INCIDENT.

18 (6) IN ANY PROCEEDING FOR THE VIOLATION OF THIS PART OR A RULE
19 PROMULGATED UNDER THIS PART, IF A MOTOR VEHICLE IS FOUND PARKED IN
20 A DESIGNATED STATE-OPERATED PUBLIC BOATING ACCESS SITE, THE
21 REGISTRATION PLATE DISPLAYED ON THE MOTOR VEHICLE CONSTITUTES PRIMA
22 FACIE EVIDENCE THAT THE OWNER OF THE MOTOR VEHICLE WAS THE PERSON
23 WHO PARKED OR PLACED IT AT THE LOCATION WHERE IT WAS FOUND.

24 Sec. 83106. (1) The department may require a person to obtain
25 a permit for camping in designated state forest campgrounds and may
26 establish and collect a fee for the camping permit. However, at
27 least 6 months before increasing a camping permit fee, the

1 department shall provide written notice of its intent to do so to
2 the standing committees of the senate and the house of
3 representatives that have primary jurisdiction over legislation
4 pertaining to natural resources and the environment.

5 (2) The department may require a person to obtain a permit,
6 except as otherwise provided by law, for the use of lands and
7 facilities within the state forest as designated by the department
8 for recreation use. **THE DEPARTMENT SHALL NOT REQUIRE A PERMIT OR**
9 **PAYMENT OF A FEE FOR USE OF A STATE FOREST NONMOTORIZED TRAIL OR**
10 **PATHWAY OR STATE FOREST CAMPGROUND FACILITY EXCEPT AS PROVIDED IN**
11 **SUBSECTION (1) OR OTHERWISE PROVIDED IN THIS ACT.**

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

14 Enacting section 1. This amendatory act takes effect October
15 1, 2010.

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

19 (a) Senate Bill No. 388.

20 (b) Senate Bill No. 389.

21 (c) House Bill No. 4678.