

Act No. 237  
Public Acts of 2018  
Approved by the Governor  
June 27, 2018  
Filed with the Secretary of State  
June 27, 2018  
EFFECTIVE DATE: September 25, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Senator Stamas

# **ENROLLED SENATE BILL No. 1000**

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 504, 506, 511, 705, 4113, 8206, 43540a, 47102, 48735, 71507, 72118, 80205, and 81129 (MCL 324.504, 324.506, 324.511, 324.705, 324.4113, 324.8206, 324.43540a, 324.47102, 324.48735, 324.71507, 324.72118, 324.80205, and 324.81129), section 504 as amended by 2009 PA 47, section 705 as added by 1995 PA 60, section 4113 as amended by 2010 PA 302, section 8206 as added by 2001 PA 176, section 43540a as added by 2005 PA 116, section 47102 as added by 1995 PA 57, section 48735 as amended by 2003 PA 270, section 71507 as added by 1995 PA 58, section 72118 as added by 2016 PA 288, section 80205 as amended by 2012 PA 61, and section 81129 as amended by 2013 PA 249; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 504. (1) The department shall promulgate rules to protect and preserve lands and other property under its control from depredation, damage, or destruction or wrongful or improper use or occupancy.

(2) Subject to subsection (3), the department shall do all of the following:

(a) Keep land under its control open to hunting unless the department determines that the land should be closed to hunting because of public safety, fish or wildlife management, or homeland security concerns or as otherwise required by law.

(b) Manage land under its control to support and promote hunting opportunities to the extent authorized by law.

(c) Manage land under its control to prevent any net decrease in the acreage of such land that is open to hunting.

(3) Subsection (2) does not apply to commercial forestland as defined in section 51101.

(4) This section does not authorize the department to promulgate a rule that applies to commercial fishing except as otherwise provided by law.

(5) The department shall not promulgate or enforce a rule that prohibits an individual who is licensed or exempt from licensure under 1927 PA 372, MCL 28.421 to 28.435, from carrying a pistol in compliance with that act, whether concealed or otherwise, on property under the control of the department.

(6) The department shall issue orders necessary to implement rules promulgated under this section. The orders shall be effective upon posting.

(7) A person who violates a rule promulgated under this section or an order issued under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Sec. 506. A writing prepared, owned, used, in the possession of, or retained by the department or the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 511. The department may establish and collect fees for the department of natural resources magazine, publications, and related materials. Fees collected shall be credited to a separate fund of the state treasury and shall be available for appropriation to the department and used to pay all direct and indirect operating costs of the magazine and for the purchase of other related publications and materials. The retained earnings balance of the magazine at the end of the fiscal year shall not fall below the retained earnings balance at the end of the prior fiscal year. Any unexpended fees collected pursuant to this section, along with any excess collections from prior fiscal years, shall be carried over into subsequent fiscal years and shall be available for appropriation for the purposes described in this section. The magazine account shall receive an annual allocation of interest earned by the state treasurer's common cash fund on cash balances of the magazine pursuant to procedures established by the state treasurer. Accounting records of the magazine shall be maintained on an accrual basis consistent with generally accepted accounting principles, including the establishment of separate asset, liability, and equity accounts for the magazine.

Sec. 705. An application for a grant or loan made under this part shall be reviewed and prioritized by the department each fiscal year.

Sec. 4113. (1) The infrastructure construction fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes.

(4) The department shall expend money from the fund, upon appropriation, only to administer this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, including all of the following:

(a) Maintenance of program data.

(b) Development of program-related databases and software.

(c) Compliance assistance, education, and training directly related to this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(d) Program administration activities.

Sec. 8206. (1) The agriculture pollution prevention fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including state and federal revenues, gifts, bequests, and other donations. The state treasurer shall direct the investment of the fund and shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund or in any account within the fund at the close of the fiscal year shall remain in the fund or account and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes.

(4) Money in the fund shall be expended, upon appropriation, only for 1 or more of the following:

(a) For payments, financial incentives, or reimbursement for rental payments for the implementation of conservation practices.

(b) For payments required under contracts entered into under this part.

- (c) For the purchase of conservation easements.
- (d) For monitoring and enforcement of conservation easements.
- (e) For awards to participants in conservation programs established by the department under this part.
- (f) For the promotion of conservation programs established by the department under this part.
- (g) Not more than 20% of the annual appropriations from the fund for the administrative costs of the department in implementing this part. As used in this subdivision, administrative costs include, but are not limited to, costs incurred in doing 1 or more of the following:
  - (i) Developing and implementing conservation programs.
  - (ii) Managing payments and financial incentives.
  - (iii) Monitoring and verifying the implementation of conservation practices and enforcing contracts or agreements concerning conservation practices.
  - (iv) Coordinating conservation programs with the United States department of agriculture and other state agencies with jurisdiction over conservation programs.

Sec. 43540a. (1) Subject to subsection (4), by January 1, 2007, the department shall implement a program to distribute wild game to people in need. The program shall be known as the sportsmen against hunger program.

(2) Under the program, the department shall do all of the following:

- (a) Collect donations of legally taken game that complies with all state and federal game laws, including any requirement that the parts of the game be intact.
- (b) Contract for processing the donated game.
- (c) Distribute the processed game to food banks, soup kitchens, and other charitable organizations that provide meals or food to people free of charge.
- (d) Promote the program through the license distribution system and other means that will further the mission of the program.

(3) Under the program, the department may request financial donations to offset the cost of processing donated game. The financial donations are tax deductible.

(4) The department may contract for the administration of the program by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC 501, if the department determines that it is more efficient to do so. Subject to section 43540c(9), payments under the contract shall be adequate to cover the nonprofit organization's costs in administering the program. Before entering such a contract, the department shall issue a request for proposals. If the request for proposals does not yield a bid that meets the requirements of this section, the department is not required to implement the sportsmen against hunger program.

(5) To qualify to enter a contract under subsection (4), a nonprofit organization must have demonstrated a commitment to the goals of the program and have at least 5 years of experience in providing wild game or other food to people free of charge. The contract shall require that the contracting nonprofit organization do all of the following:

- (a) Maintain a license under the charitable organizations and solicitations act, 1975 PA 169, MCL 400.271 to 400.294.
- (b) Maintain adequate staff to perform the tasks outlined in the contract.
- (c) Annually undergo an independent financial audit and provide the audit information and report to the department.
- (6) As used in this section, "program" means the sportsmen against hunger program created under subsection (1).

Sec. 47102. The department shall keep proper books of accounts and records of its transactions, and also of all operations and experiments in the discharge of the duties under this part.

Sec. 48735. (1) Subject to subsection (2), a person shall not take from any of the inland waters of this state any fish in any manner for the purpose of fish culture or scientific investigation without first obtaining a permit from the department, except that a person who is operating a private fish pond may take fish from his or her own pond for the purpose of propagation, scientific investigation, or sale under part 459.

(2) The department may issue permits to possess live game fish in public or private ponds, pools, or aquariums under rules and regulations as the department prescribes. This subsection is subject to subsection (5).

(3) The department may cause to be taken from the inland waters of this state any species of fish for the purpose of obtaining spawn for fish culture or scientific investigation or for the protection of the inland waters from ecological damage or imbalance. In addition, the department may cause to be taken from the inland waters of this state species of fish that are not required to maintain the fishery resources of the inland waters. All fish taken under this subsection shall be taken under the supervision of a deputy of the department appointed for that purpose and in a manner consistent with the regulations of the department of agriculture and rural development, and the fish may be sold or transferred by the department.

(4) A person shall not import or bring any live game fish, including viable eggs of any game fish, from outside of this state except under a permit from the department or under part 459 and the rules promulgated under that part. A person shall not plant any spawn, fry, or fish of any kind in any of the public waters of this state or any other waters under the jurisdiction of this state without first obtaining a permit from the department that states the species, number, and approximate size or age of the spawn, fry, or fish to be planted and the name and location of the waters where the spawn, fry, or fish shall be planted. A permit is not required to plant spawn, fry, or fish furnished by the federal or state government. This subsection is subject to subsection (5).

(5) A permit under subsection (2) or (4) does not include a genetically engineered variant of a fish species identified in the permit unless the genetically engineered variant is specifically identified in the permit. A permit under subsection (2) or (4) may be limited to a genetically engineered fish.

(6) A permittee under this section shall exhibit the permit upon the request of any law enforcement officer.

Sec. 71507. (1) The proceeds of the bonds issued under part 713 shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program provided in this part shall be credited to the appropriate restricted subaccounts of the fund and used for the purposes authorized for the use of bond proceeds deposited in that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(5) The department shall annually submit to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the appropriations committees of the house of representatives and the senate a list of all projects that are recommended to be funded under this part. This list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the department. The estimated cost of eligible local public recreation projects on the list for each year in which there is a limitation on borrowing under section 71503(7) shall not exceed 1/3 of the amount authorized for local public recreation projects under section 71508(1)(b).

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

Sec. 72118. (1) The department shall make a comprehensive inventory of forest roads that are state roads. The department shall divide the state into 5 regions and complete the inventory in regional phases. The Upper Peninsula shall be a separate region or regions. The department shall inventory the 2 most northerly regions in the Lower Peninsula by December 31, 2017. The department shall inventory the remaining regions by December 31, 2018. The inventory shall meet both of the following requirements:

(a) Identify the location, condition, and development level of the forest roads.

(b) Determine types of motorized and nonmotorized use currently restricted on each forest road segment and the seasons during which those uses are currently restricted.

(2) Beginning when the inventory for a region is completed or required to be completed, whichever occurs first, all of the following apply:

(a) The forest roads within that region shall be open to motorized use by the public unless designated otherwise by the department by order issued under section 504. However, beginning on the effective date of the amendatory act that added this section, forest roads in the Upper Peninsula shall be open to motorized use by the public unless designated otherwise by order issued under section 504.

(b) If a timber harvest is planned for a particular area in that region, the department shall evaluate whether the timber harvest activity offers the opportunity to connect existing forest roads and trails in that area.

(c) The department shall not newly restrict a road or trail in that region from being used to access public land unless the department has provided each local unit of government in which the public land is located written notice that includes the reason for the restriction. This subdivision does not apply to a restriction imposed to protect public health or safety in an emergency situation.

(3) The department shall annually post to its website the total miles of forest roads open to motorized use in all inventoried regions and a map or maps of those forest roads.

Sec. 80205. (1) A person shall not operate a personal watercraft on the waters of this state unless each person riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan Administrative Code.

(2) A person shall not operate a personal watercraft on the waters of this state unless each person on board the personal watercraft is wearing a personal flotation device that is not inflatable.

(3) A person shall not operate a personal watercraft on the waters of this state if a child who is under 7 years of age is on board or being towed behind the personal watercraft unless the child is in the company of his or her parent or guardian or a designee of the parent or guardian.

(4) While operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch on the waters of this state, a person shall have the lanyard attached to his or her person, clothing, or personal flotation device as is appropriate for the personal watercraft.

(5) A person shall not operate a personal watercraft on the waters of this state during the period that begins at sunset and ends at 8 a.m. As used in this subsection, "sunset" means that time as determined by the National Weather Service.

(6) A person operating a personal watercraft on the waters of this state shall not cross within 150 feet behind another vessel, other than a personal watercraft, unless the person is operating the personal watercraft at slow—no wake speed. A person who violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(7) A person shall not operate a personal watercraft on the waters of this state where the water depth is less than 2 feet, as determined by vertical measurement, unless 1 or both of the following circumstances exist:

(a) The personal watercraft is being operated at slow—no wake speed.

(b) The personal watercraft is being docked or launched.

(8) A person who violates subsection (7) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(9) A person shall operate a personal watercraft in a reasonable and prudent manner. A maneuver that unreasonably or unnecessarily endangers life, limb, or property, including, but not limited to, all of the following, constitutes reckless operation of a personal watercraft under section 80208:

(a) Weaving through congested vessel traffic.

(b) Jumping the wake of another vessel unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is obstructed.

(c) Waiting until the last possible moment before swerving to avoid a collision.

(10) A person shall not operate a personal watercraft on the waters of this state carrying more persons than the personal watercraft is designed to carry.

(11) A violation of subsection (10) is prima facie evidence of reckless operation of a watercraft under section 80208.

(12) A person operating a personal watercraft in excess of the speeds established under part 801 is guilty of reckless operation of a personal watercraft under section 80208.

(13) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with section 80164 under a permit issued by the department and at the time and place specified in the permit.

Sec. 81129. (1) Subject to subsection (17), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has an ORV safety certificate in his or her immediate possession.

(2) Subject to subsection (17), a parent or legal guardian of a child less than 12 years of age shall not permit the child to operate an ATV with 4 or more wheels unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(3) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a 3-wheeled ATV.

(4) Subject to subsection (17), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has an ORV safety certificate in his or her immediate possession.

(5) Subject to subsection (17), the owner or person in charge of an ATV with 4 or more wheels shall not knowingly permit the vehicle to be operated by a child less than 12 years of age unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(6) The owner or person in charge of a 3-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(7) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by an individual who is incompetent to operate the vehicle because of mental or physical disability.

(8) The department shall implement a comprehensive program for the training of ORV operators and the preparation and dissemination of ORV information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training and may include separate instruction for each type of ORV.

(9) In implementing a program under subsection (8), the department shall cooperate with private organizations and associations, private and public corporations, the department of education, the department of state, and local governmental units. The department shall consult with ORV and environmental organizations and associations in regard to the subject matter of a training program and performance testing that leads to certification of ORV operators.

(10) The department may designate a qualified individual to provide course instruction and to award ORV safety certificates.

(11) The department may promulgate rules to implement subsections (8) to (10) and (17).

(12) Subject to subsection (17), a child who is less than 16 years of age shall not operate an ORV unless the child is under the direct visual supervision of an adult and the child has an ORV safety certificate in his or her immediate possession.

(13) Subject to subsection (17), a child who is less than 12 years of age shall not operate an ATV with 4 or more wheels unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV in agricultural operations.

(14) A child who is less than 16 years of age shall not operate a 3-wheeled ATV.

(15) Subject to subsection (17), when operating an ORV, a child who is less than 16 years of age shall present the ORV safety certificate to a peace officer upon demand.

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a street, county road, or highway. An operator who is not less than 12 years of age but less than 16 years of age may cross a street, county road, or highway or operate an ORV pursuant to section 81131(9) if the operator has an ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(17) The requirement that a child possess an ORV safety certificate to operate an ORV, and the requirement that a child who is less than 12 years of age not operate an ATV with 4 or more wheels unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child, do not apply if all of the following requirements are met:

(a) The child is participating in an organized ORV riding or racing event held on land not owned by this state.

(b) The child's parent or legal guardian has provided the event organizer with written permission for the child to participate in the event.

(c) The event organizer has not less than \$500,000.00 liability insurance coverage for the event.

(d) A physician or physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a paramedic or emergency medical technician licensed under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979, is present at the site of the event or available on call.

(e) The event is at all times under the direct visual supervision of adult staff of the event organizer and a staff member serves as a flagger to warn participants if another participant is injured or an ORV is inoperable in the ORV operating area.

(f) Fencing or another means of crowd control is used to keep spectators out of the ORV operating area.

(g) If the event is on a closed course, dust is controlled in the ORV operating area and the riding surface in the ORV operating area is otherwise properly prepared.

(h) Three-wheeled ATVs are not used by participants.

(i) Any ATVs used by participants are equipped with a side step bar or comparable safety equipment and with a tether kill switch, and the tether is used by all participants.

(j) Each participant in the event wears a crash helmet approved by the United States department of transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.

(k) Any other applicable requirements of this part or rules promulgated under this part are met.

(18) If a child less than 16 years of age participates and is injured in an organized ORV riding or racing event, the organizer of the event shall, within 30 days after the event, submit to the department a report on a form developed by the department. The report shall include all of the following information, as applicable:

(a) Whether any participant less than 16 years of age was killed or suffered an injury resulting in transportation to a hospital as a result of an ORV accident at the event.

(b) The age of the child.

(c) Whether the child had been issued an ORV safety certificate.

(d) The type of ORV operated.

(e) A description of the accident and injury.

(19) The requirements of this section are in addition to any applicable requirements of section 81131(13).

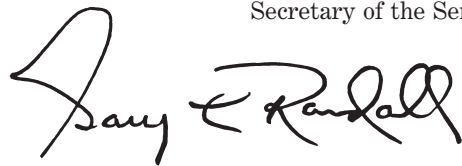
Enacting section 1. Sections 2521, 20112b, 32614, and 81149 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2521, 324.20112b, 324.32614, and 324.81149, are repealed.

Enacting section 2. 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