

# HOUSE BILL No. 4201

February 5, 2009, Introduced by Reps. Lindberg, Roberts, McDowell, Sheltroun, Terry Brown, Polidori, Lahti and Ball and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 2123 and 2124 (MCL 324.2123 and 324.2124), as added by 1995 PA 60.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2123. (1) ~~The~~ **SUBJECT TO SECTION 2124, THE** department ~~may~~  
2 **SHALL** grant **OR OTHERWISE PROVIDE FOR** an easement **FOR A ROADWAY** over  
3 state owned land under the jurisdiction of the department to an  
4 individual **WHO REQUESTS IT, BUT** only if all of the following  
5 conditions are met:

6           **(A) THE REQUEST IS MADE ON A FORM PROVIDED BY THE DEPARTMENT.**

7           **(B) ~~(a)~~**The individual does not have other **LEGAL** access to the  
8 individual's land, **AS CONFIRMED BY A POLICY OF TITLE INSURANCE OR**  
9 **THE WRITTEN OPINION OF AN ATTORNEY.**

1 (C) ~~(b)~~—The easement does not conflict with an existing  
2 program or management plan of the department or a local ordinance.

3 (D) ~~(c)~~—The roadway for which the easement is granted is open  
4 to public access and ~~is not a roadway~~ for the exclusive use of the  
5 grantee.

6 (E) ~~(d)~~—The easement provides the logical and most feasible  
7 access to the individual's land.

8 (F) ~~(e)~~—The width of the roadway is restricted to the minimum  
9 consistent with the quality of the road required.

10 (G) ~~(f)~~—The individual agrees to construct, if necessary, and  
11 maintain the road.

12 (H) ~~(g)~~—The individual offers a similar roadway easement to  
13 the department across the land to which the easement **GRANTED BY THE**  
14 **DEPARTMENT** is to provide access. **THE DEPARTMENT SHALL NOT ACCEPT**  
15 **UNDER THIS SUBDIVISION A ROADWAY EASEMENT THAT WOULD END AT A BODY**  
16 **OF WATER.**

17 (2) **A DOCUMENT BY WHICH THE DEPARTMENT GRANTS AN EASEMENT**  
18 **UNDER SUBSECTION (1) MAY PROVIDE THAT THE PARCEL THAT IS BENEFITED**  
19 **BY THE EASEMENT SHALL NOT BE PARTITIONED OR SPLIT INTO 1 OR MORE**  
20 **PARCELS THAT ARE LESS THAN 40 ACRES IN SIZE.**

21 (3) **IF A REQUEST FOR AN EASEMENT IS DENIED UNDER THIS SUBPART,**  
22 **THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE PERSON WHO REQUESTED**  
23 **THE EASEMENT OF THE DENIAL AND THE REASONS FOR THE DENIAL.**

24 Sec. 2124. The department shall not grant an easement over  
25 state owned land under the jurisdiction of the department if any of  
26 the following ~~occur~~ **APPLY:**

27 (a) The proposed easement is over land designated as a

1 wilderness area, wild area, or natural area under part 351.

2 (b) The proposed easement is over land in an area closed to  
3 vehicular traffic pursuant to a management plan approved by the  
4 department.

5 (c) The construction or use of the new or existing roadway  
6 will result in ~~unnecessary~~**UNREASONABLE** damage to or destruction of  
7 the surface, soil, animal life, fish or **OTHER** aquatic life, or  
8 property.