

Act No. 323  
Public Acts of 2011  
Approved by the Governor  
December 27, 2011  
Filed with the Secretary of State  
December 27, 2011  
EFFECTIVE DATE: December 27, 2011

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2011**

Introduced by Reps. Lindberg, McBroom, Huuki and Foster

# **ENROLLED HOUSE BILL No. 4298**

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 2123, 2124, and 2126 (MCL 324.2123, 324.2124, and 324.2126), as added by 1995 PA 60, and by adding section 2123a.

*The People of the State of Michigan enact:*

Sec. 2123. (1) Subject to sections 2123a and 2124, the department may grant or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:

- (a) The individual applies for the easement on a form provided by the department.
- (b) The individual does not have other legal access to the individual's land.
- (c) The easement does not conflict with any of the following:
  - (i) An existing program or management as described in an existing plan of the department.
  - (ii) A local ordinance.
- (d) The road for which the easement is granted is open to public access and not for the exclusive use of the grantee.
- (e) The easement provides the logical and most feasible access to the individual's land.
- (f) The width of the road is restricted to the minimum consistent with the quality of the road required.
- (g) The individual agrees to construct, if necessary, and maintain the road.

(h) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.

- (i) The individual does all of the following:
  - (i) Pays the cost of a survey.

(ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).

(2) Effective 30 days after the department receives an application for an easement, the application shall be considered to be complete unless the department proceeds as provided under subsection (3).

(3) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant, in writing, that the request is not complete, specifying the information necessary to make the request complete, the running of the 30-day period under subsection (2) is tolled until the applicant submits to the department the specified information, at which time the request shall be considered to be complete.

(4) Within 90 days after the application is considered to be complete, the department shall grant or deny the application for the easement and notify the applicant in writing. If the department denies the application, the notice shall set forth the reasons for the denial.

Sec. 2123a. (1) Subject to section 2124 and notwithstanding section 2123, the department shall grant or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:

(a) The individual applies for the easement on a form provided by the department.

(b) The individual does not have other legal access to the individual's land.

(c) The easement does not conflict with any of the following:

(i) With an existing program or management as described in an existing plan of the department.

(ii) If the land was acquired using revenue from hunting and fishing license fees, federal funds from a wildlife or sport fish restoration program, or other state or federal program funds, with state or federal laws governing the use of lands acquired through the respective program.

(iii) With a local ordinance.

(d) The easement does not cross an environmentally sensitive area, including, but not limited to, a wetland as defined in section 30301 or a critical dune area as defined in section 35301.

(e) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.

(f) The individual does all of the following:

(i) Pays the cost of a survey.

(ii) Pays to the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (e).

(2) Effective 30 days after the department receives an application for an easement, the application shall be considered to be complete unless the department proceeds as provided under subsection (3).

(3) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant, in writing, that the request is not complete, specifying the information necessary to make the request complete, the running of the 30-day period under subsection (2) is tolled until the applicant submits to the department the specified information, at which time the request shall be considered to be complete.

(4) Within 90 days after the application is considered to be complete, the department shall grant or deny the application for the easement and notify the applicant in writing. If the department denies the application, the notice shall set forth the reasons for the denial.

(5) The department may impose conditions on an easement granted under this section.

Sec. 2124. The department shall not grant an easement over state-owned land under the jurisdiction of the department if any of the following apply:

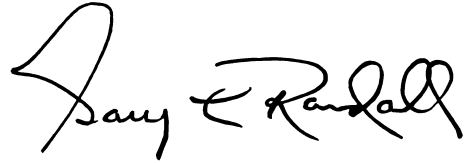
(a) The proposed easement is over land designated as a wilderness area, wild area, or natural area under part 351.

(b) The proposed easement is over land in an area closed to vehicular traffic pursuant to management as described in an existing plan of the department.

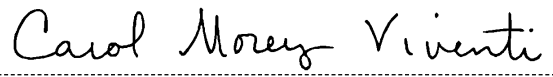
(c) The construction or use of the new or existing road will result in unreasonable damage to or destruction of the surface, soil, animal life, fish or other aquatic life, or property.

Sec. 2126. Before the department grants an easement under this subpart, the individual applying for the easement shall pay charges as required by the department. The charges shall be the same as those charges required for the granting of an easement under section 2129.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor