

# HOUSE BILL No. 4244

February 25, 2015, Introduced by Reps. Pettalia, Kelly, Franz, Graves, McBroom, Kivela, Dianda, Hooker, Rendon and Tedder and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 73301 (MCL 324.73301), as amended by 2007 PA 174.

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

1           Sec. 73301. (1) Except as otherwise provided in this section,  
2 a cause of action ~~shall~~ **DOES** not arise for injuries to a person who  
3 is on the land of another without paying to the owner, tenant, or  
4 lessee of the land a valuable consideration for the purpose of  
5 fishing, hunting, trapping, camping, hiking, sightseeing,  
6 motorcycling, snowmobiling, **AVIATION ACTIVITIES**, or any other  
7 outdoor recreational use or trail use, with or without permission,  
8 against the owner, tenant, or lessee of the land unless the  
9 injuries were caused by the gross negligence or willful and wanton  
10 misconduct of the owner, tenant, or lessee.

1           (2) A cause of action ~~shall~~**DOES** not arise for injuries to a  
2 person who is on the land of another without paying to the owner,  
3 tenant, or lessee of the land a valuable consideration for the  
4 purpose of entering or exiting from or using a Michigan trailway as  
5 designated under part 721 or other public trail, with or without  
6 permission, against the owner, tenant, or lessee of the land unless  
7 the injuries were caused by the gross negligence or willful and  
8 wanton misconduct of the owner, tenant, or lessee. For purposes of  
9 this subsection, a Michigan trailway or public trail may be located  
10 on land of any size including, but not limited to, urban, suburban,  
11 subdivided, and rural land.

12           (3) A cause of action ~~shall~~**DOES** not arise against the owner,  
13 tenant, or lessee of land or premises for injuries to a person who  
14 is on that land or premises for the purpose of gleaning  
15 agricultural or farm products, unless that person's injuries were  
16 caused by the gross negligence or willful and wanton misconduct of  
17 the owner, tenant, or lessee.

18           (4) A cause of action ~~shall~~**DOES** not arise against the owner,  
19 tenant, or lessee of a farm used in the production of agricultural  
20 goods as defined by section 35(1)(h) of the former single business  
21 tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan  
22 business tax act, 2007 PA 36, MCL 208.1207, for injuries to a  
23 person who is on that farm and has paid the owner, tenant, or  
24 lessee valuable consideration for the purpose of fishing or  
25 hunting, unless that person's injuries were caused by a condition  
26 ~~which~~**THAT** involved an unreasonable risk of harm and all of the  
27 following apply:

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1 (a) The owner, tenant, or lessee knew or had reason to know of  
2 the condition or risk.

3 (b) The owner, tenant, or lessee failed to exercise reasonable  
4 care to make the condition safe, or to warn the person of the  
5 condition or risk.

6 (c) The person injured did not know or did not have reason to  
7 know of the condition or risk.

8 (5) A cause of action ~~shall~~**DOES** not arise against the owner,  
9 tenant, or lessee of land or premises for injuries to a person,  
10 other than an employee or contractor of the owner, tenant, or  
11 lessee, who is on the land or premises for the purpose of picking  
12 and purchasing agricultural or farm products at a farm or "u-pick"  
13 operation, unless the person's injuries were caused by a condition  
14 that involved an unreasonable risk of harm and all of the following  
15 apply:

16 (a) The owner, tenant, or lessee knew or had reason to know of  
17 the condition or risk.

18 (b) The owner, tenant, or lessee failed to exercise reasonable  
19 care to make the condition safe, or to warn the person of the  
20 condition or risk.

21 (c) The person injured did not know or did not have reason to  
22 know of the condition or risk.

**[(6) THIS SECTION DOES NOT LIMIT THE LIABILITY THAT WOULD OTHERWISE  
EXIST FOR AVIATION ACTIVITIES IF THE LIABILITY ARISES FROM A FAILURE TO  
GUARD OR WARN AGAINST A KNOWN DANGEROUS CONDITION, USE, STRUCTURE, OR  
ACTIVITY.**

23 ~~(6)-(7)]~~ As used in this section: ~~,"agricultural"~~

24 (A) "AGRICULTURAL or farm products" means the natural products  
25 of the farm, nursery, grove, orchard, vineyard, garden, and apiary,  
26 including, but not limited to, trees and firewood.

27 (B) "AVIATION ACTIVITIES" MEANS THE NONCOMMERCIAL OPERATION,

1 AND RELATED ACTS IN THE AIR AND ON THE GROUND, OF AN AIRCRAFT,  
2 INCLUDING, BUT NOT LIMITED TO, A MOTORIZED OR NONMOTORIZED FIXED  
3 WING AIRCRAFT, HELICOPTER, BALLOON, HANG GLIDER, OR PARASAIL.  
4 AVIATION ACTIVITIES INCLUDE PARTICIPATION IN THE OPERATION OR  
5 RELATED ACTS DESCRIBED IN THIS SUBDIVISION AS A PASSENGER OR  
6 SPECTATOR.

7 Enacting section 1. This amendatory act takes effect 90 days  
8 after the date it is enacted into law.