

**SENATE BILL NO. 767**

October 22, 1997, Introduced by Senators DUNASKISS, BENNETT, GEAKE, STILLE, MC MANUS, NORTH, BULLARD, HOFFMAN, KOIVISTO, BYRUM, DE BEAUSSAERT, HART and DINGELL and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 73101, 73102, 73109, and 73110 (MCL 324.73101, 324.73102, 324.73109, and 324.73110), as added by 1995 PA 58.

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

1       Sec. 73101. As used in this part:

2       (A) "ANIMAL" MEANS FUR-BEARING ANIMALS AS DEFINED IN  
3 SECTION 43503, OR GAME OR A PROTECTED ANIMAL AS DEFINED IN  
4 SECTION 40103.

5       (B) ~~-(a)-~~ "Farm product" means that term as defined in sec-  
6 tion 2 of the Michigan right to farm act, ~~Act No. 93 of the~~  
7 ~~Public Acts of 1981, being section 286.472 of the Michigan~~  
8 ~~Compiled Laws~~ 1981 PA 93, MCL 286.472.

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1       (C) ~~-(b)-~~ "Farm property" means land used in the production  
2 of a farm product and all lands contained within the farm.

3 (D) "FISH" MEANS GAME FISH OR NONGAME FISH AS THOSE TERMS  
4 ARE DEFINED IN SECTION 48701.

5 (E) "NAVIGABLE PUBLIC STREAM" MEANS A NATURALLY OCCURRING  
6 RIVER, STREAM, OR CREEK, WHICH MAY OR MAY NOT BE SERVING AS A  
7 DRAIN AS DEFINED IN THE DRAIN CODE OF 1956, 1956 PA 40, MCL 280.1  
8 TO 280.630, AND ON WHICH A PERSON CAN FLOAT IN A VESSEL OF THE  
9 LIGHTEST NATURE DURING ANY PERIOD THAT ORDINARILY RECURS FROM  
10 YEAR TO YEAR.

11 Sec. 73102. (1) Except as provided in subsection (4), a  
12 person shall not enter or remain upon the property of another  
13 person, other than farm property or a wooded area connected to  
14 farm property, to engage in any recreational activity or trapping  
15 on that property without the consent of the owner or his or her  
16 lessee or agent, if either of the following circumstances  
17 exists:

18 (a) The property is fenced or enclosed and is maintained in  
19 such a manner as to exclude intruders.

20 (b) The property is posted in a conspicuous manner against  
21 entry. The minimum letter height on the posting signs shall be 1  
22 inch. Each posting sign shall be not less than 50 square inches,  
23 and the signs shall be spaced to enable a person to observe not  
24 less than 1 sign at any point of entry upon the property.

25 (2) Except as provided in subsection (4), a person shall not  
26 enter or remain upon farm property or a wooded area connected to  
27 farm property for any recreational activity or trapping without

1 the consent of the owner or his or her lessee or agent, whether  
2 or not the farm property or wooded area connected to farm prop-  
3 erty is fenced, enclosed, or posted.

4 (3) On fenced or posted property or farm property, a  
5 ~~fisherman~~ PERSON wading or floating a navigable public stream  
6 FOR RECREATIONAL ACTIVITY OR TRAPPING may, without written or  
7 oral consent, enter upon property within the clearly defined  
8 banks of the stream or walk a route as closely proximate to the  
9 clearly defined bank as possible when necessary to avoid a natu-  
10 ral or artificial hazard or obstruction, including, but not  
11 limited to, a dam, deep hole, fence, or other exercise of owner-  
12 ship by the riparian owner.

13 (4) A person other than a person possessing a firearm may,  
14 unless previously prohibited in writing or orally by the property  
15 owner or his or her lessee or agent, enter on foot upon the prop-  
16 erty of another person for the sole purpose of retrieving a hunt-  
17 ing dog. The person shall not remain on the property beyond the  
18 reasonable time necessary to retrieve the dog.

19 (5) Consent to enter or remain upon the property of another  
20 person pursuant to this section may be given orally or in  
21 writing. The consent may establish conditions for entering or  
22 remaining upon that property. Unless prohibited in the written  
23 consent, a written consent may be amended or revoked orally. If  
24 the owner or his or her lessee or agent requires all persons  
25 entering or remaining upon the property to have written consent,  
26 the presence of the person on the property without written  
27 consent is prima facie evidence of unlawful entry.

1 (6) As used in this section, "hunting dog" means a dog  
2 allowed to range freely to engage in or aid in hunting on the day  
3 the dog enters the property of another person.

4 Sec. 73109. ~~A person shall not resist or obstruct a peace~~  
5 ~~officer enforcing this part.~~ THE OWNER OF PROPERTY ON WHICH A  
6 VIOLATION OF THIS PART IS COMMITTED, OR HIS OR HER LESSEE, MAY  
7 BRING A CAUSE OF ACTION AGAINST A PERSON WHO VIOLATES THIS PART  
8 FOR \$250.00 OR ACTUAL DAMAGES, WHICHEVER IS GREATER.

9 Sec. 73110. (1) Except as provided in subsection (2), a  
10 person who violates this part is guilty of a misdemeanor punish-  
11 able by imprisonment for not more than 90 days or a fine of not  
12 ~~more~~ LESS than \$100.00 OR MORE THAN \$500.00, or both.

13 (2) A person convicted of a second or subsequent violation  
14 of this part occurring within 3 years of a previous violation of  
15 this part shall be punished by imprisonment for not more than 90  
16 days or a fine of not less than ~~\$100.00~~ \$250.00 or more than  
17 \$1,000.00, or both. ~~(3) Except as provided in subsection (4),~~  
18 ~~if a person is sentenced under subsection (2) and the person is~~  
19 ~~licensed to hunt or fish in this state, the court may~~ IN ADDI-  
20 TION, THE COURT SHALL order the person's ~~hunting or fishing~~  
21 license revoked ~~for the remainder of the calendar year~~ IF THE  
22 PERSON IS LICENSED TO HUNT, FISH, OR TRAP IN THIS STATE, and  
23 SHALL order the person not to seek or possess a ~~hunting or~~  
24 ~~fishing~~ license of any kind for ~~not~~ THE REMAINDER OF THE CAL-  
25 ENDAR YEAR IN WHICH THE PERSON IS CONVICTED AND DURING NOT LESS  
26 THAN 1 OR more than 3 succeeding calendar years.

1 (3) AS USED IN SUBSECTION (2), "LICENSE" MEANS A HUNTING,  
2 FISHING, OR FUR HARVESTER'S LICENSE OR, IN THE DISCRETION OF THE  
3 COURT, ANY COMBINATION OF SUCH LICENSES. LICENSE DOES NOT MEAN A  
4 CERTIFICATE, LICENSE, OR PERMIT UNDER PART 445 OR 473.

5 ~~(4) If a person is sentenced under subsection (2), if the~~  
6 ~~second or subsequent violation occurred on a private shooting~~  
7 ~~preserve licensed pursuant to part 417, if the person possessed a~~  
8 ~~firearm or bow including, but not limited to, a crossbow, at the~~  
9 ~~time the violation occurred, and if the person is licensed to~~  
10 ~~hunt or fish in this state, then the court shall order the~~  
11 ~~person's license revoked for the remainder of the calendar year~~  
12 ~~and shall order the person not to seek or possess a hunting or~~  
13 ~~fishing license of any kind for not more than 3 succeeding calen-~~  
14 ~~dar years.~~

15 (4) ~~(5)~~ The court may order a person convicted of violat-  
16 ing this part to pay the costs of prosecution.

17 (5) ~~(6)~~ Property brought onto the property of another  
18 person while committing a second or subsequent violation of this  
19 part THE FOLLOWING may be seized and forfeited as provided in  
20 chapter 47 of the revised judicature act of 1961, ~~Act No. 236~~ of  
21 the Public Acts of 1961, being sections 600.4701 to 600.4709 of  
22 the Michigan Compiled Laws. 1961 PA 236, MCL 600.4701 TO  
23 600.4709:

24 (A) PROPERTY OTHER THAN FISH OR ANIMALS BROUGHT ONTO THE  
25 PROPERTY OF ANOTHER PERSON WHILE COMMITTING A VIOLATION OF THIS  
26 PART.

1 (B) AN ANIMAL OR FISH TAKEN WHILE VIOLATING THIS PART.

2 (6) ~~-(7)-~~ The court shall order a person convicted of  
3 violating this part to make restitution for any damage arising  
4 out of the violation INCLUDING REIMBURSING THIS STATE FOR THE  
5 VALUE OF ANY ANIMAL OR FISH TAKEN WHILE VIOLATING THIS PART AS  
6 PROVIDED IN SECTION 40119. HOWEVER, THE VALUE OF FISH SHALL BE  
7 DETERMINED AS PROVIDED IN SECTION 48740.

8 Enacting section 1. This amendatory act does not take  
9 effect unless Senate Bill No. 768  
10 of the 89th Legislature is enacted into  
11 law.