

SENATE BILL No. 1304

September 20, 2012, Introduced by Senator SCHUITMAKER 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:

SENATE BILL No. 1304

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, or **PARTICIPATING IN** any other outdoor
7 recreational use or trail use, **OR WHO IS A SPECTATOR OF ANY OF**
8 **THESE ACTIVITIES**, with or without permission, against the owner,
9 tenant, or lessee of the land unless the injuries were caused by
10 the gross negligence or willful and wanton misconduct of the owner,
11 tenant, or lessee.

1 (2) A CAUSE OF ACTION DOES NOT ARISE FOR INJURIES TO THE
2 PERSON OR PROPERTY OF A PERSON PARTICIPATING IN AVIATION-RELATED
3 ACTIVITIES ON A PRIVATE, NONCOMMERCIAL LANDING FIELD UNLESS THE
4 INJURIES WERE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL AND WANTON
5 MISCONDUCT OF THE DEFENDANT.

6 (3) A CAUSE OF ACTION DOES NOT ARISE AGAINST THE OWNER,
7 LESSEE, OR OCCUPANT ON WHOSE PROPERTY A PRIVATE, NONCOMMERCIAL
8 LANDING FIELD IS LOCATED FOR INJURIES TO THE PERSON OR PROPERTY OF
9 A PERSON THAT RESULTS FROM THE PERSON'S PARTICIPATION IN AVIATION-
10 RELATED ACTIVITIES ON THE PRIVATE, NONCOMMERCIAL LANDING FIELD.
11 THIS SUBSECTION DOES NOT APPLY IF THE INJURIES WERE CAUSED BY THE
12 GROSS NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT OF THE OWNER,
13 LESSEE, OR OCCUPANT.

14 (4) AN OWNER, LESSEE, OR OCCUPANT OF PREMISES ON WHICH A
15 PRIVATE, NONCOMMERCIAL LANDING FIELD IS LOCATED DOES NOT OWE A DUTY
16 OF CARE TO KEEP THE PREMISES SAFE FOR USE BY OTHERS OR TO GIVE ANY
17 WARNING TO USERS OF THE PREMISES OF HAZARDOUS CONDITIONS.

18 (5) ~~(2)~~A cause of action ~~shall~~DOES not arise for injuries to
19 a person who is on the land of another without paying to the owner,
20 tenant, or lessee of the land a valuable consideration for the
21 purpose of entering or exiting from or using a Michigan trailway as
22 designated under part 721 or other public trail, with or without
23 permission, against the owner, tenant, or lessee of the land unless
24 the injuries were caused by the gross negligence or willful and
25 wanton misconduct of the owner, tenant, or lessee. For purposes of
26 this subsection, a Michigan trailway or public trail may be located
27 on land of any size including, but not limited to, urban, suburban,

1 subdivided, and rural land.

2 (6) ~~(3)~~—A cause of action ~~shall~~**DOES** not arise against the
3 owner, tenant, or lessee of land or premises for injuries to a
4 person who is on that land or premises for the purpose of gleaning
5 agricultural or farm products, unless that person's injuries were
6 caused by the gross negligence or willful and wanton misconduct of
7 the owner, tenant, or lessee.

8 (7) ~~(4)~~—A cause of action ~~shall~~**DOES** not arise against the
9 owner, tenant, or lessee of a farm used in the production of
10 agricultural goods as defined by section 35(1)(h) of the former
11 single business tax act, 1975 PA 228, or by section 207(1)(d) of
12 the Michigan business tax act, 2007 PA 36, MCL 208.1207, for
13 injuries to a person who is on that farm and has paid the owner,
14 tenant, or lessee valuable consideration for the purpose of fishing
15 or hunting, unless that person's injuries were caused by a
16 condition ~~which~~**THAT** involved an unreasonable risk of harm and all
17 of the following apply:

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

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

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

25 (8) ~~(5)~~—A cause of action ~~shall~~**DOES** not arise against the
26 owner, tenant, or lessee of land or premises for injuries to a
27 person, other than an employee or contractor of the owner, tenant,

1 or lessee, who is on the land or premises for the purpose of
2 picking and purchasing agricultural or farm products at a farm or
3 "u-pick" operation, unless the person's injuries were caused by a
4 condition that involved an unreasonable risk of harm and all of the
5 following apply:

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

8 (b) The owner, tenant, or lessee failed to exercise reasonable
9 care to make the condition safe, or to warn the person of the
10 condition or risk.

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

13 (9) ~~(6)~~ As used in this section: ~~"agricultural~~

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

17 (B) "AVIATION-RELATED ACTIVITY" MEANS THE NONCOMMERCIAL
18 OPERATION, AND RELATED ACTS IN THE AIR AND ON THE GROUND, OF AN
19 AIRCRAFT, INCLUDING, BUT NOT LIMITED TO, MOTORIZED AND NONMOTORIZED
20 FIXED WING AIRCRAFT, HELICOPTERS, BALLOONS, HANG GLIDERS, AND
21 PARASAILS. AVIATION-RELATED ACTIVITY INCLUDES PARTICIPATION IN THE
22 OPERATION OR RELATED ACTS DESCRIBED IN THIS SUBDIVISION AS A
23 PASSENGER OR SPECTATOR.

24 (C) "LANDING FIELD" MEANS THAT TERM AS DEFINED IN SECTION 6 OF
25 THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, 1945 PA 327, MCL
26 259.6.