

# HOUSE BILL No. 4298

February 17, 2011, Introduced by Reps. Lindberg, McBroom, Huuki and Foster and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

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, and by adding section 2123a.

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

1           Sec. 2123. (1) ~~The~~**SUBJECT TO SECTION 2124, THE** department may  
2 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, **BUT** only if all of the following conditions are met:

5           **(A) THE INDIVIDUAL SUBMITS A REQUEST FOR THE EASEMENT ON A**  
6 **FORM PROVIDED BY THE DEPARTMENT.**

7           **(B) ~~(a)~~**The individual does not have other **LEGAL** access to the  
8 individual's land.

9           **(C) ~~(b)~~**The easement does not conflict with ~~an~~**ANY OF THE**  
10 **FOLLOWING:**

1 (i) **AN** existing program or management plan of the department.

2 ~~or a~~

3 (ii) **A** local ordinance.

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

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

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

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

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

18 (2) **IF THE DEPARTMENT DENIES A REQUEST FOR AN EASEMENT UNDER**  
19 **THIS SECTION, THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE**  
20 **INDIVIDUAL WHO REQUESTED THE EASEMENT OF THE DENIAL AND THE REASONS**  
21 **FOR THE DENIAL.**

22 **SEC. 2123A. (1) SUBJECT TO SECTION 2124 AND NOTWITHSTANDING**  
23 **SECTION 2123, THE DEPARTMENT SHALL GRANT OR OTHERWISE PROVIDE FOR**  
24 **AN EASEMENT FOR A ROADWAY OVER STATE-OWNED LAND UNDER THE**  
25 **JURISDICTION OF THE DEPARTMENT TO AN INDIVIDUAL, BUT ONLY IF ALL OF**  
26 **THE FOLLOWING CONDITIONS ARE MET:**

27 (A) **THE INDIVIDUAL SUBMITS A REQUEST FOR THE EASEMENT ON A**

1 FORM PROVIDED BY THE DEPARTMENT.

2 (B) THE INDIVIDUAL DOES NOT HAVE OTHER LEGAL ACCESS TO THE  
3 INDIVIDUAL'S LAND, AS CONFIRMED BY A POLICY OF TITLE INSURANCE OR  
4 THE WRITTEN OPINION OF AN ATTORNEY AND BY THE DEPARTMENT.

5 (C) THE EASEMENT DOES NOT CONFLICT WITH ANY OF THE FOLLOWING:

6 (i) WITH AN EXISTING PROGRAM OR MANAGEMENT PLAN OF THE  
7 DEPARTMENT.

8 (ii) WITH APPLICABLE STATE OR FEDERAL LAWS GOVERNING THE USE OF  
9 LANDS ACQUIRED USING REVENUE FROM HUNTING AND FISHING LICENSE FEES,  
10 FEDERAL FUNDS FROM A WILDLIFE OR SPORT FISH RESTORATION PROGRAM, OR  
11 OTHER STATE OR FEDERAL PROGRAM FUNDS, IF THE LAND WAS ACQUIRED  
12 THROUGH SUCH A PROGRAM.

13 (iii) WITH A LOCAL ORDINANCE.

14 (D) THE EASEMENT DOES NOT CROSS AN ENVIRONMENTALLY SENSITIVE  
15 AREA, INCLUDING, BUT NOT LIMITED TO, A WETLAND AS DEFINED IN  
16 SECTION 30301 OR A CRITICAL DUNE AREA AS DEFINED IN SECTION 35301.

17 (E) THE INDIVIDUAL OFFERS A SIMILAR ROADWAY EASEMENT TO THE  
18 DEPARTMENT ACROSS THE LAND TO WHICH THE EASEMENT GRANTED BY THE  
19 DEPARTMENT IS TO PROVIDE ACCESS. THE DEPARTMENT SHALL NOT ACCEPT A  
20 ROADWAY EASEMENT UNDER THIS SUBDIVISION IF THE ROADWAY EASEMENT  
21 WOULD END AT A BODY OF WATER.

22 (2) THE DEPARTMENT MAY IMPOSE CONDITIONS ON AN EASEMENT  
23 GRANTED UNDER THIS SECTION.

24 (3) IF THE DEPARTMENT DENIES A REQUEST FOR AN EASEMENT UNDER  
25 THIS SECTION, THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE  
26 INDIVIDUAL WHO REQUESTED THE EASEMENT OF THE DENIAL AND THE REASONS  
27 FOR THE DENIAL.

1           Sec. 2124. The department shall not grant an easement over  
2 state-owned land under the jurisdiction of the department if any of  
3 the following ~~occur~~**APPLY**:

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

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

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