

HOUSE BILL No. 4684

May 26, 2011, Introduced by Reps. MacMaster 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 504, 72101, 72102, 72110a, 72114, and 72115 (MCL 324.504, 324.72101, 324.72102, 324.72110a, 324.72114, and 324.72115), section 504 as amended by 2009 PA 47, sections 72101 and 72102 as amended and section 72110a as added by 2010 PA 46, and sections 72114 and 72115 as added by 2010 PA 45.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 504. (1) The department shall promulgate rules to protect
2 and preserve lands and other property under its control from
3 depredation, damage, or destruction or wrongful or improper use or
4 occupancy.

5 (2) Subject to subsection (4), the department shall do all of

1 the following:

2 (a) Keep land under its control open to hunting unless the
3 department determines that the land should be closed to hunting
4 because of public safety, fish or wildlife management, or homeland
5 security concerns or as otherwise required by law.

6 (b) Manage land under its control to support and promote
7 hunting opportunities to the extent authorized by law.

8 (c) Manage land under its control to prevent any net decrease
9 in the acreage of such land that is open to hunting.

10 (3) Subject to subsection (4), by April 1 ~~7, 2010 and~~ each
11 year, ~~thereafter,~~ the department shall submit to the legislature a
12 report that includes all of the following:

13 (a) The location and acreage of land under its control
14 previously open to hunting that the department closed to hunting
15 during the 1-year period ending the preceding March 1, together
16 with the reasons for the closure.

17 (b) The location and acreage of land under its control
18 previously closed to hunting that the department opened to hunting
19 during the 1-year period ending the preceding March 1 to compensate
20 for land closed to hunting under subdivision (a).

21 (4) Subsections (2) and (3) do not apply to commercial
22 forestland as defined in section 51101.

23 (5) This section does not authorize the department to
24 promulgate a rule that applies to commercial fishing except as
25 otherwise provided by law.

26 (6) The department shall not promulgate or enforce a rule that
27 prohibits an individual who is licensed or exempt from licensure

1 under 1927 PA 372, MCL 28.421 to 28.435, from carrying a pistol in
2 compliance with that act, whether concealed or otherwise, on
3 property under the control of the department.

4 (7) The department shall issue orders necessary to implement
5 rules promulgated under this section. These orders shall be
6 effective upon posting. **HOWEVER, THE DEPARTMENT SHALL NOT ISSUE OR**
7 **ENFORCE AN ORDER UNDER THIS SECTION THAT RESTRICTS THE USE OF PACK**
8 **AND SADDLE ANIMALS ON PACK AND SADDLE TRAILWAYS AS DEFINED IN**
9 **SECTION 72101.**

10 (8) A person who violates a rule promulgated under this
11 section or an order issued under this section is responsible for a
12 state civil infraction and may be ordered to pay a civil fine of
13 not more than \$500.00.

14 Sec. 72101. As used in this part:

15 (a) "Advisory council" means the Michigan snowmobile and
16 trails advisory council created in section 72110.

17 (b) "Council" means a Michigan trailway management council
18 established pursuant to section 72106.

19 (c) "Department" means the department of natural resources.
20 ~~and environment.~~

21 (d) "Equine access locations" means open access roads,
22 management roads, forestry access roads, 2-track and single-track
23 trails that are not wildlife paths, staging areas for pack and
24 saddle animals to be dropped off or picked up, and associated
25 wilderness campsites.

26 (e) "Fund" means the Michigan trailways fund created in
27 section 72109.

1 (f) "Governmental agency" means the federal government, a
2 county, city, village, or township, or a combination of any of
3 these entities.

4 (g) "Michigan trailway" means a trailway designated by the
5 commission pursuant to section 72103.

6 (h) "Pack and saddle trailways" means ~~trailways~~**TRAILS** and
7 equine access locations that ~~may be~~**CURRENTLY ARE OR AT ANY TIME**
8 **PREVIOUSLY WERE** used by pack and saddle animals.

9 (i) "Rail-trail" means a former railroad bed that is in public
10 ownership and used as a trailway **AT ANY TIME**.

11 (j) "Trail" means a right-of-way adapted to foot, horseback,
12 motorized, or other nonmotorized travel.

13 (k) "Trailway" means a trail or other land corridor that
14 features a broad trail capable of accommodating a variety of public
15 recreation uses.

16 Sec. 72102. The legislature finds and declares: ~~that a~~

17 **(A) A** statewide system of trails, trailways, and pack and
18 saddle trailways will provide for public enjoyment, health, and
19 fitness; encourage constructive leisure-time activities; protect
20 open space, cultural and historical resources, and habitat for
21 wildlife and plants; enhance the local and state economies; link
22 communities, parks, and natural resources; create opportunities for
23 rural-urban exchange, agricultural education, and the marketing of
24 farm products; and preserve corridors for possible future use for
25 other public purposes. Therefore, the planning, acquisition,
26 development, operation, and maintenance of trails, trailways, and
27 pack and saddle trailways are in the best interest of the state and

1 are declared to be a public purpose.

2 (B) IN PROVIDING AND DEVELOPING FACILITIES FOR OUTDOOR
3 RECREATION UNDER SECTIONS 503 AND 70301, THE USE OF TRAILS,
4 TRAILWAYS, AND PACK AND SADDLE TRAILWAYS BY PACK AND SADDLE ANIMALS
5 AND OTHER NONMOTORIZED USERS IS AN ALLOWED RECREATIONAL USE AND IS
6 PERMITTED UNDER CHAPTER 21 OF PART 522 OF THE SERVICES MANUAL OF
7 THE FEDERAL FISH AND WILDLIFE SERVICE.

8 Sec. 72110a. (1) The equine trailways subcommittee is created
9 as a subcommittee of the advisory council. The department may
10 provide staffing and administrative support to the equine trailways
11 subcommittee. The equine trailways subcommittee may also be staffed
12 and funded by user groups and other interested persons.

13 (2) Subject to subsection (3), the equine trailways
14 subcommittee shall consist of the following members appointed by
15 the director of the department:

16 (a) One individual representing the state's tourism industry.

17 (b) Five individuals representing the equine industry as
18 follows:

19 (i) One individual from the Upper Peninsula.

20 (ii) One individual from the northern Lower Peninsula.

21 (iii) One individual from the central Lower Peninsula.

22 (iv) One individual from the southeastern Lower Peninsula.

23 (v) One individual from the southwestern Lower Peninsula.

24 (3) The senate majority leader and the speaker of the house of
25 representatives shall each submit a list of 3 persons to the
26 director of the department. The director shall appoint at least 1
27 person from each of those lists to the equine trailways

1 subcommittee. ~~The members first appointed to the equine trailways~~
2 ~~subcommittee shall be appointed within 60 days after the effective~~
3 ~~date of the amendatory act that added this section.~~

4 (4) Members of the equine trailways subcommittee shall serve
5 for terms of 4 years or until a successor is appointed, whichever
6 is later, except that of the members first appointed 2 shall serve
7 for 2 years, 2 shall serve for 3 years, and 2 shall serve for 4
8 years.

9 (5) If a vacancy occurs on the equine trailways subcommittee,
10 an appointment for the unexpired term shall be made in the same
11 manner as the original appointment.

12 (6) A member of the equine trailways subcommittee may be
13 removed for ~~incompetency~~ **INCOMPETENCE**, dereliction of duty,
14 malfeasance, misfeasance, or nonfeasance in office, or any other
15 good cause.

16 (7) The first meeting of the equine trailways subcommittee
17 shall be called by the department within 30 days after the
18 appointments have been made. At the first meeting, the equine
19 trailways subcommittee shall elect from among its members a
20 chairperson and other officers as it considers necessary or
21 appropriate. After the first meeting, the equine trailways
22 subcommittee shall meet at least quarterly, or more frequently at
23 the call of the chairperson or if requested by 3 or more members.

24 (8) A majority of the members of the equine trailways
25 subcommittee constitute a quorum for the transaction of business at
26 a meeting of the equine trailways subcommittee. A majority of the
27 members present and serving are required for official action of the

1 equine trailways subcommittee.

2 (9) The business that the equine trailways subcommittee may
3 perform shall be conducted at a public meeting of the equine
4 trailways subcommittee held in compliance with the open meetings
5 act, 1976 PA 267, MCL 15.261 to 15.275.

6 (10) A writing prepared, owned, used, in the possession of, or
7 retained by the equine trailways subcommittee in the performance of
8 an official function is subject to the freedom of information act,
9 1976 PA 442, MCL 15.231 to 15.246.

10 (11) Members of the equine trailways subcommittee shall serve
11 without compensation. However, subject to the availability of
12 funding, members of the equine trailways subcommittee may be
13 reimbursed for their actual and necessary expenses incurred in the
14 performance of their official duties as members of the equine
15 trailways subcommittee.

16 (12) The equine trailways subcommittee shall do all of the
17 following:

18 (a) Within 1 year after the appointment of its **INITIAL**
19 members, prepare and submit to the advisory council a recommended
20 plan for a statewide network of pack and saddle trailways. The
21 recommended plan for a statewide pack and saddle trailways network
22 shall include both of the following:

23 (i) All pack and saddle trailways on state-owned land that have
24 previously been open for use by pack and saddle animals at any time
25 and that the equine trailways subcommittee determines are
26 appropriate for pack and saddle trailways.

27 (ii) All additional state lands that the equine trailways

1 subcommittee determines would be appropriate for pack and saddle
2 animals and would contribute to a statewide network of pack and
3 saddle trailways.

4 (b) Advise the advisory council and the department on the
5 development and use of the pack and saddle trailways network.

6 (c) Advise the advisory council and the department on other
7 matters related to the promotion of the state's equine industry.

8 (d) Advise the advisory council and the department on ~~funding~~
9 ~~to conduct pack and saddle trailway reviews under section 72115 and~~
10 ~~to provide for the reopening of previously closed pack and saddle~~
11 ~~trailways, the preservation of existing pack and saddle trailways,~~
12 ~~and the development of new pack and saddle trailways across the~~
13 ~~state.~~

14 (13) If the equine trailways subcommittee is not appointed as
15 provided for in this section, the department shall, ~~within 2 years~~
16 ~~after the effective date of the amendatory act that added this~~
17 ~~section~~ **NOT LATER THAN APRIL 2, 2012**, work with the equine industry
18 to develop a plan for a statewide network of pack and saddle
19 trailways.

20 Sec. 72114. (1) Within 1 year after receiving recommendations
21 from the advisory council under subsection (4), the department
22 shall establish a plan for a statewide trail network that includes
23 Michigan trailways, pack and saddle trailways, and other
24 recreational use trails **AND TRAILWAYS**. The plan for a statewide
25 trail network shall be designed to accommodate a variety of public
26 recreation uses and shall specify the types of uses that are
27 allowed on each trail segment. The plan for a statewide trail

1 network shall be in conformance with section 72115. ~~and the~~
2 ~~determinations made under section 72115.~~ Prior to the department
3 establishing the plan for a statewide trail network, the commission
4 shall hold a public meeting to receive testimony from the general
5 public.

6 (2) After the plan for a statewide trail network is
7 established under subsection (1), if the department is informed
8 that additional trails should be added to the plan or that uses on
9 particular trail segments should be modified, the department may
10 modify the plan to include additional trails or to modify the uses
11 on particular trails. However, any modifications shall be in
12 conformance with section 72115. ~~and determinations made under~~
13 ~~section 72115.~~

14 (3) Upon establishment of a plan for a statewide trail network
15 under subsection (1), the department shall make the plan available
16 on the department's website. If the department modifies the plan
17 for a statewide trail network, the department shall make the
18 updated plan available on the department's website.

19 (4) Within 1 year after receiving recommendations from the
20 equine trailways subcommittee under section 72110a, the advisory
21 council shall review recommendations from the equine trailways
22 subcommittee as well as other interested ~~trailway~~ **TRAIL** users and
23 shall make recommendations to the department for the establishment
24 of a plan for a statewide trail network. If the advisory council
25 does not submit recommendations to the department as provided for
26 in this subsection, ~~within 2 years after the effective date of the~~
27 ~~amendatory act that added this section~~ **NOT LATER THAN APRIL 2,**

1 2012, the department shall review the recommendations of the equine
2 trailways subcommittee under section 72110a and recommendations of
3 other interested trail users and shall establish a plan for a
4 statewide trail network as provided for in subsection (1).

5 Sec. 72115. (1) ~~Subject to subsections (2) and (3), pack~~ **PACK**
6 and saddle animals shall be allowed to access pack and saddle
7 trailways on public land managed by the department. ~~as follows:~~

8 ~~—— (a) Access on land of the state forest system is allowed~~
9 ~~unless restricted by statute, deed restriction, land use order, or~~
10 ~~other legal mechanism, in effect on the effective date of the~~
11 ~~amendatory act that added this section.~~

12 ~~—— (b) Access on land of the state park system or state game area~~
13 ~~system is prohibited unless authorized by land use order or other~~
14 ~~legal mechanism in effect on the effective date of the amendatory~~
15 ~~act that added this section.~~

16 ~~—— (c) Access on other land managed by the department is allowed~~
17 ~~according to the specific authorization or restriction applicable~~
18 ~~to the land.~~

19 ~~—— (2) Access by pack and saddle animals may only be restricted~~
20 ~~on lands described in subsection (1) after the effective date of~~
21 ~~the amendatory act that added this section if conditions are not~~
22 ~~suitable for pack and saddle animals because of public safety~~
23 ~~concerns, necessary maintenance, or for reasons related to the~~
24 ~~mission of the department. Restrictions related to the mission of~~
25 ~~the department shall be supported, to the greatest extent~~
26 ~~practicable, by a written science based rationale that is supported~~
27 ~~with documentation that is made available to the public. Prior to~~

1 ~~determining that access by pack and saddle animals be restricted,~~
2 ~~the department shall make every effort to resolve any public safety~~
3 ~~or maintenance concerns. Subject to subsection (3), the department~~
4 ~~shall not restrict pack and saddle animals from lands described in~~
5 ~~subsection (1) unless all of the following conditions are met:~~

6 ~~—— (a) The commission, upon request of the department, holds a~~
7 ~~public meeting on a proposal to restrict access by pack and saddle~~
8 ~~animals on pack and saddle trailways to receive testimony from the~~
9 ~~general public. The commission shall invite the advisory council,~~
10 ~~the equine trailways subcommittee created in section 72110a, and~~
11 ~~the Michigan horse council to attend the meeting.~~

12 ~~—— (b) The department, after considering testimony at the~~
13 ~~commission meeting under subdivision (a), provides a specific~~
14 ~~rationale for its determination to restrict access by pack and~~
15 ~~saddle animals.~~

16 ~~—— (c) Any decision by the department to restrict access by pack~~
17 ~~and saddle animals shall not take effect for a period of time set~~
18 ~~by the department, but not less than 60 days. However, if the~~
19 ~~director determines that a restriction must be imposed because of~~
20 ~~user conflicts or due to an imminent threat to public health,~~
21 ~~safety, welfare, or to natural resources or the environment, the~~
22 ~~director may issue a temporary order restricting access by pack and~~
23 ~~saddle animals for 30 days or until the threat or user conflict is~~
24 ~~abated. A temporary order under this subdivision may be reissued if~~
25 ~~the threat or user conflict persists.~~

26 ~~—— (d) A written statement shall be posted at the trailhead in~~
27 ~~which the restriction is imposed stating the cause and estimated~~

1 ~~duration of the closure.~~

2 ~~—— (c) A list of pack and saddle trailways on which the~~
3 ~~department has restricted access for pack and saddle animals,~~
4 ~~including temporary orders, shall be posted on the department's~~
5 ~~website and notification shall be provided to the equine trailways~~
6 ~~subcommittee created in section 72110a.~~

7 ~~—— (3) Any restrictions described in subsection (1) on access by~~
8 ~~pack and saddle animals that were in effect on the effective date~~
9 ~~of the amendatory act that added this section shall remain in~~
10 ~~effect until those restrictions are reviewed using the process~~
11 ~~outlined in subsection (2). For the following areas, the department~~
12 ~~shall review the restrictions on access by pack and saddle animals~~
13 ~~previously imposed by the department according to the following~~
14 ~~timelines:~~

15 ~~—— (a) Not later than June 15, 2010, the Pigeon river country~~
16 ~~state forest.~~

17 ~~—— (b) Not later than January 1, 2011, the Lapeer state game area~~
18 ~~and the Gladwin field trial area.~~

19 ~~—— (c) Not later than January 1, 2012, the Lost Nation state game~~
20 ~~area and the Blueberry Ridge pathway.~~

21 (2) ~~(4)~~A person shall not use pack and saddle animals on
22 state-owned land except on pack and saddle trailways. ~~that are open~~
23 ~~for access by pack and saddle animals.~~