GOVERNOR JOHN B. SWAINSON MICHIGAN HISTORICAL MARKERS ACT

Act 10 of 1955

AN ACT to provide for the registration of historic sites; to authorize certain fees; to prescribe powers, duties, and responsibilities for certain state officers; and to prescribe penalties and civil remedies for violations of this act.

History: 1955, Act 10, Eff. Oct. 14, 1955 ;-- Am. 2002, Act 488, Imd. Eff. June 28, 2002

The People of the State of Michigan enact:

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399.151 Short title.

Sec. 1.

This act shall be known and may be cited as the "Governor John B. Swainson Michigan historical markers act".

History: 1955, Act 10, Eff. Oct. 14, 1955 ;-- Am. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018

Compiler's Notes: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.152 Definitions.

Sec. 2.

As used in this act:

(a) "Application" means a request for the placement of an official Michigan historical marker at the location of a historic resource or site and for the resource's or site's listing in the state register of historic sites.

(b) "Center" means the Michigan history center established in the Michigan history center act, 2016 PA 470, MCL 399.801 to 399.812.

(c) "Commission" means the Michigan historical commission created in section 3 of the Michigan historical commission act, 2016 PA 469, MCL 399.833.

(d) "Department" means the department of natural resources.

(e) "Fund" means the Michigan history center operations fund created in section 8 of the Michigan history center act, 2016 PA 470, MCL 399.808.

(f) "Historic resource" means a publicly or privately owned building, structure, site, object, or open space of historic significance to this state, including places associated with a significant individual, group, or event in this state.

(g) "Historic significance" means value in relation to historical, architectural, archaeological, engineering, technological, or cultural disciplines.

(h) "Marker" or "official Michigan historical marker" means Michigan historical marker signage as approved by the commission under this act.

(i) "Michigander" means a resident of the state of Michigan.

(j) "Person" means an individual, partnership, corporation, association, or other private legal entity.

(k) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

History: 1955, Act 10, Eff. Oct. 14, 1955 ;-- Am. 1964, Act 249, Imd. Eff. May 28, 1964 ;-- Am. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
Compiler's Notes: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.153 Preservation of history, culture, and related public education as public purpose; administration of Michigan historical marker program; agreement; goals.

Sec. 3.

The preservation of history, culture, and related public education are declared to be public purposes. In fulfillment of these purposes, the department may administer a Michigan historical marker program. After formal consultation with the commission, the department may enter into an agreement to assist with administration of the Michigan historical marker program. Using modern professional practices, the center shall ensure that the Michigan historical marker program meets the following goals:

(a) Identify and locate historic sites, events, objects, subjects, and persons having historic significance to this state.

(b) Educate the public about significant people, places, events, and things in Michigan history and thereby develop the public's knowledge of the importance of Michigan history.

(c) Encourage the public to preserve historic resources and to develop a sense of identity as Michiganders.

(d) Enhance cultural tourism in this state by encouraging residents and visitors to investigate historic resources and this state's heritage sites.

(e) Unite people from various regions of this state through improved dissemination of information about historic resources and this state's heritage and cultural resources.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
Compiler's Notes: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.154 State register of historic sites; addition of markers and locations; information provided by department through online, printed, or other media.

Sec. 4.

The department shall maintain the state register of historic sites. Markers and locations approved by the commission shall be added to the state register of historic sites. The department shall provide information to the public regarding the state register of historic sites, the marker database, and the Michigan historical marker program through online, printed, or other media.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
Compiler's Notes: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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399.155 Application; filing; form; attachments; fee; review; approval or denial of application; preparation of marker; preference.

Sec. 5.

(1) An application may be filed by 1 of the following persons or agencies:

(a) A person owning or in possession of a historic resource or a person having written consent from the owner or person in possession of a historic resource.

(b) A department or agency of this state or of a political subdivision of this state owning, controlling, or in possession of a historic resource.

(c) The commission on its own motion with consent from the landowner.

(2) A person or agency may submit an application for a marker to the center only on a form prescribed by the center in consultation with the commission. The form shall include all requested information and be accompanied by the following attachments:

(a) Current and, if available, historic images.

(b) Documentation supporting representations in the application from recognized and authoritative sources, supporting the historic significance of the historic resource.

(c) Any additional documents requested.

(3) An application and all attachments submitted to the center under subsection (2) become the property of this state.

(4) An applicant shall pay the center an application fee of $250.00 at the time an application is submitted. The center may not process an application without this fee. The center shall forward the fee to the state treasurer for deposit into the fund. The center shall refund the fee if the center decides the historic resource is not eligible for a marker.

(5) The center shall review each application for completeness and accuracy. The center's review may include verification of the accuracy of furnished information and the location of the historic resource or site. The center may request the applicant to furnish additional information considered necessary to complete the center's review of the application and attachments.

(6) Submission of an application does not guarantee that a historic resource or site will receive an official Michigan historical marker. If the commission concludes that the application meets the criteria for the placement of an official Michigan historical marker, the commission shall approve the application and the center shall work with the sponsor to prepare marker text for presentation to the commission. However, if the commission concludes that the application fails to meet a criterion or another requirement for placement of a marker, the center shall notify the applicant of that decision in writing and shall specify the reason or reasons why the application is denied.

(7) If the commission approves an application for a marker, the center shall arrange for a marker to be prepared. The center shall give a preference to a qualified Michigan-based company for the preparation of the marker. Before a marker is ordered, the applicant shall pay the full actual cost of the marker.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
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399.156 Marker; review, modification, and approval of text; location; site number; inclusion of certain names prohibited; words; reference as "Great Lakes State"; agreement.

Sec. 6.

(1) The commission shall review, modify if necessary, and approve appropriate text, and review and approve the location for each marker. The commission shall exercise its judgment and discretion in revising and approving proposed marker text and may advise the department on matters pertaining to applications and related decisions. The department shall issue an official site number for each historic resource or site designated for placement of an official Michigan historical marker.

(2) An official Michigan historical marker shall not include or mention the name of a living commissioner or any other living state official.

(3) An official Michigan historical marker shall include the words "Michigan history center and Michigan historical commission". To comply with this subsection, the department may alter a marker that does not include these words.

(4) An official Michigan historical marker may reference Michigan as the "Great Lakes State" and shall meet all of the following requirements:

(a) Be dark green with gold lettering.

(b) Have a logo or seal with a wolverine emblem in its upper area or crest.

(c) Include the words "registered Michigan historic site".

(5) The department may enter into a written agreement with another state, local, or federal agency regarding the placement of an official Michigan historical marker on property under the jurisdiction of the agency. The agreement may address security, payment for the marker, and other appropriate matters.

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History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
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399.157 Official Michigan historical marker; property; control; ownership; transfer prohibited; stolen or damaged marker; recovery; proper maintenance.

Sec. 7.

(1) An official Michigan historical marker approved by the department and the commission is the property of the state of Michigan and is subject to the exclusive control of the department, whether erected on public or private property. In addition to other text on the marker, each marker shall include the conspicuous statement "property of the state of Michigan".

(2) The department shall not abandon an official Michigan historical marker. In all legal proceedings, in this state or elsewhere, there is an irrebuttable presumption against abandonment of the state of Michigan's ownership of an official Michigan historical marker.

(3) Except pursuant to written permission of the department, a person or agency in possession of a historic resource where an official Michigan historical marker is displayed shall not attempt to convey, sell, or otherwise transfer the marker, and a conveyance, sale, or transfer of the marker is void.

(4) Upon discovering that an official Michigan historical marker may have been stolen or otherwise improperly or unlawfully removed from the historic resource or site where it was

placed, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the marker.

(5) Upon discovering that an official Michigan historical marker has been marred, vandalized, or otherwise damaged, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the actual replacement cost of the marker, plus taxable costs, reasonable attorney fees, and interest calculated under section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013. Money received under this subsection shall be forwarded to the state treasurer for deposit into the fund.

(6) A person or agency in possession of a resource or site where a marker is displayed shall maintain the marker in accordance with standards prescribed by the department upon consultation with the commission. Failure to properly maintain a marker may result in its removal by the department.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
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399.158 Official Michigan historical marker; certain uses prohibited; violations as misdemeanor; penalty; return of marker without penalty; exception; deposit of civil fines into fund.

Sec. 8.

(1) A person or agency shall not use for advertising, retail sales, or any other commercial purpose without the department's written permission any portion of the seal, emblem, and logo that appear in the crest of an official Michigan historical marker. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $5,000.00, or both.

(2) A person or agency shall not exhibit, display, or use a marker's seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, to represent his or her property as a registered Michigan historic site. A person or agency shall not exhibit, display, or use the seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, in a manner designed to lead another person to believe that the person's property is an official state historic site. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $2,000.00 or more than $10,000.00, or both. If a person allegedly in violation of this subsection receives written notice from the department that the person is in apparent violation of the subsection and the person within 60 days of mailing of the notice ceases the violation by removing or no longer using the seal, pattern, design, or color combination, or facsimile, prosecution under this subsection is barred.

(3) A person or agency shall not damage, destroy, deface, remove, tamper with, alter, or possess an official Michigan historical marker displayed at a historic resource or site without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than $500.00 or more than $5,000.00, or both. In addition, a person who pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state for a civil fine in

an amount double the cost of repair, replacement, and restoration of the official state historic site and official Michigan historical marker.

(4) A person, including a salvage company, commercial business, or a collector, shall not knowingly accept in trade or possess an official Michigan historical marker. A person that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $1,000.00 or more than $10,000.00, or both. In addition, a person that pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state for a civil fine in an amount 3 times the cost of the repair, restoration, or replacement of the official Michigan historical marker.

(5) Within 1 year after the effective date of the amendatory act that amended this subsection, a person possessing an official Michigan historical marker may return the marker to the department or to the sheriff of the person's county of residence without penalty for larceny or violating this act. However, this immunity does not apply to a person that removed the marker if the removal of the marker resulted in death or personal injury. A sheriff shall hold a returned marker and shall notify the department that a marker has been returned. The department, with the concurrence of the commission, shall determine the disposition of the returned marker.

(6) The civil fines received under subsections (3) and (4) shall be forwarded to the state treasurer for deposit into the fund.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
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399.159 Administration of program; gifts, grants, bequests, and appropriations; transfer of money to fund; trademark or service mark provisions.

Sec. 9.

(1) The department may accept gifts, grants, bequests, and appropriations for the purpose of administering the Michigan historical marker program, including, but not limited to, the manufacture and placement of an official Michigan historical marker, repair and maintenance of a marker, program administration, application reviews, marker restoration, marker recovery, tourism and education programs, and enforcement of this act. Money received under this subsection shall be forwarded to the state treasurer for deposit into the fund.

(2) On the effective date of the amendatory act that amended this section, any money in the historical marker fund is transferred to the fund.

(3) Notwithstanding any balance in the fund, this subsection does not obligate the department to pay for the maintenance, repair, or replacement of an official Michigan historical marker.

(4) The department may register as a trademark or service mark the logo, seal, and emblem associated with official Michigan historical markers. The department may license or sell rights to publish or otherwise use the registered logo, seal, or emblem and shall forward amounts received from sales and licensing to the state treasurer for deposit into the fund.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
Compiler's Notes: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.160 Moving or altering marker; withdrawal of marker designation.

Sec. 10.

(1) An official Michigan historical marker placed to recognize a particular historic resource may be moved to and placed at another nearby site if the commission has been asked to give, and has given, written permission for the move.

(2) When developing plans for and making alterations to the exterior of a historic resource which has been commemorated by an official Michigan historical marker, the owner or other person in possession of the historic resource shall follow the United States Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 CFR part 67. The owner or other person in possession of the historic resource may ask the center to review work plans prior to commencement of work.

(3) The center may withdraw a marker designation and may request the return of or may repossess an official Michigan historical marker from a historic resource or site if the commission determines that the historic resource or site has lost its historic significance or integrity.

(4) If the center withdraws a marker designation, the person or agency in possession of the historic resource or site shall immediately return the marker to the center or dispose of it in a manner prescribed by the center and documented in writing.

History: Add. 2002, Act 488, Imd. Eff. June 28, 2002 ;-- Am. 2017, Act 185, Eff. Feb. 19, 2018
Compiler's Notes: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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