

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**

**Act 451 of 1994**

Subchapter 1

RECREATION

ADMINISTRATION

Part 701

RECREATION AND CULTURAL ARTS

**324.70101 Recreation and cultural arts section; establishment.**

Sec. 70101.

There is established a state recreation and cultural arts section in the department.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.70102 Head of section; qualifications.**

Sec. 70102.

The head of the state recreation and cultural arts section shall be a person widely experienced in community recreation and shall be directly responsible to a deputy director.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.70103 Technical advice and guidance; duty to collect and disseminate data and information; other duties.**

Sec. 70103.

The state recreation and cultural arts section shall provide technical advice and guidance to the political subdivisions of this state and other interested groups and agencies in the planning and development of recreation programs, areas, and facilities including but not limited to creative and cultural activities, and programs for senior citizens, persons with disabilities, and the culturally deprived. The section shall collect and disseminate necessary data and information relating to its duties and shall maintain a cooperative relationship with the tourist, resort, and educational extension services of the universities, the Michigan travel commission, Michigan's 4 regional tourist associations, and the various federal agencies.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 86, Imd. Eff. May 13, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.70104 Representation of citizen interest, need, and participation.**

Sec. 70104.

The department shall provide continual representation of citizen interest, need, and participation in a wide variety of leisure-time pursuits.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.70105 Existing employees; reassignment.**

Sec. 70105.

The department may reassign existing employees of the department of natural resources or employ staff necessary to implement this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.70106 Rules.**

Sec. 70106.

The department shall promulgate rules necessary for the establishment and implementation of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### Part 703 OUTDOOR RECREATION

#### **324.70301 Outdoor recreation; comprehensive plan.**

Sec. 70301.

The department is authorized to prepare, maintain, and keep up-to-date a comprehensive plan for the development of the outdoor recreation resources of the state.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.70302 Federal aid programs.**

Sec. 70302.

The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. The department may enter into contracts

and agreements with the United States or any appropriate agency of the United States, keep financial and other records relating to those contracts and agreements, and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable the officials and agencies to perform their duties under the programs. In connection with obtaining the benefits of any such program, the department shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development, and maintenance of outdoor recreation resources and facilities.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.70303 Federal aid programs; federal land and water conservation fund; disposition and apportionment of funds.**

Sec. 70303.

Grants-in-aid received from the land and water conservation fund act of 1965, Public Law 88-578, 78 Stat. 897, shall be deposited in the state treasury and disbursed to agencies and subdivisions of the state upon authorization of the department. In the apportionment of funds to subdivisions of the state, the department shall give special consideration to those subdivisions where population density and land and facility needs are greatest.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.70304 Federal land programs; appropriations; agreements on behalf of state subdivisions.**

Sec. 70304.

The department shall not make a commitment or enter into an agreement pursuant to an exercise of authority under this part until the legislature has appropriated sufficient funds to it for meeting the state's share, if any, of project costs. It is the legislative intent that, to the extent necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under this part, those areas and facilities shall be publicly maintained for outdoor recreation purposes. The department may enter into and administer agreements with the United States or any appropriate agency of the United States for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any subdivision of this state, if the subdivision gives necessary assurances to the department that it has available sufficient funds to meet its share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the subdivision's expense for public outdoor recreation use.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.70305 State assistance to subdivisions; guidelines and limits on state payments.**

Sec. 70305.

The department is authorized to disburse state appropriated grants-in-aid to political subdivisions of the state to be used in conjunction with the land and water conservation fund act of 1965, Public Law 88-578, 78 Stat. 897, which provides financial assistance for outdoor recreation. The criteria for project approval established for federal

cost-sharing under the various federal grants-in-aid programs shall be used as guidelines in allocating state grants-in-aid to political subdivisions of the state. The state's share of the cost of a particular project shall not exceed 25% of the total cost. Total state grants-in-aid under this part during any fiscal year shall not exceed the amount specifically appropriated for that purpose by the legislature.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

## PART 711 RECREATION IMPROVEMENT ACCOUNT

### **324.71101 Definitions.**

Sec. 71101.

As used in this part:

(a) "Associated facilities" means restrooms, shelters, campgrounds, and parking lots directly related to trails or waterways projects.

(b) "Off-road vehicle" means ORV as it is defined in part 811, which is required to be registered under part 811.

(c) "Off-road vehicle account" means the off-road vehicle account of the Michigan conservation and recreation legacy fund provided for in section 2015.

(d) "Recreation improvement account" means the recreation improvement account of the Michigan conservation and recreation legacy fund provided for in section 2020.

(e) "Recreational projects" means, in addition to the activities provided for in this part, the construction, maintenance, and operation of trails and associated facilities that may be used by off-road vehicles, cross-country skiers, horseback riders, and hikers, and inland lake cleanup grants as provided by part 309.

(f) "Snowmobile account" means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(g) "Vessel" means all watercraft except the following:

(i) Watercraft used for commercial fishing.

(ii) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(iii) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(iv) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(h) "Watercraft" means any contrivance that is used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include watercraft used or owned by the United States.

(i) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71102 Privilege tax; imposition; payment; inapplicable to liquefied petroleum gas.**

Sec. 71102.

(1) There is a privilege tax imposed on all gasoline and diesel fuel sold in this state that is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The privilege tax imposed on gasoline and undyed diesel fuel shall be paid to the department of treasury in the same manner, at the same time, and at the same rate per gallon as the tax levied under the motor fuel tax act. The privilege tax imposed on dyed diesel fuel shall be paid to the department of treasury by the retail distributor or other person who sells the dyed diesel fuel to a person who uses the fuel to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles. The privilege tax imposed by this section shall not apply to liquefied petroleum gas.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2000, Act 405, Imd. Eff. Jan. 8, 2001

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71103 Legislative finding; joint report.**

Sec. 71103.

(1) The legislature finds that 2.0% of all of the gasoline sold in this state for consumption in internal combustion engines is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The department and the state transportation department shall prepare a joint report to the legislature by January 1, 1992, providing their estimate of actual gasoline and diesel fuel usage based on any data collected from March 30, 1988 to January 1, 1991 and their observation of the historical trends of gasoline and diesel fuel usage in this state for the following categories:

- (a) Off-road vehicles.
- (b) Watercraft.
- (c) Snowmobiles.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71104 Tax refund; claim; invoice; payment; false statement; forfeiture; misdemeanor.**

Sec. 71104.

(1) The purchaser of gasoline or diesel fuel for the operation of vessels excepted by section 71101 is entitled to a refund of tax paid on that gasoline or diesel fuel, upon filing a sworn claim with the department of treasury, upon forms prescribed and furnished by it, within 6 months from the date of purchase, as shown by the invoice. The retail distributor shall furnish a purchaser with an invoice showing the amount of gasoline or diesel fuel purchased, the date of the purchase, and the total amount of tax paid on the purchase. Each dealer or distributor shall keep a copy of the invoices issued for a period of 2 years subject to examination by the department of treasury. Each claim for refund shall have attached to the claim the original invoice received by the purchaser and, when approved by the department of treasury, the claims shall be paid out of the state waterways fund upon warrant of the department of treasury.

(2) A person who makes a false statement in a claim or invoice presented to the department of treasury, or who presents to the department of treasury a claim or invoice containing a false statement, or who collects or causes to be paid to the person or any other person a refund without being entitled to the refund, shall forfeit the full amount of the claim and is guilty of a misdemeanor.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 585, Eff. Mar. 1, 1997

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71105 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.**

**Compiler's Notes:** The repealed section pertained to creation of recreation improvement fund.

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71106 Total of taxes collected; determining revenue derived.**

Sec. 71106.

The department of treasury shall annually present to the department an accurate total of all the gasoline taxes collected and shall determine the amount of revenue derived from them. The department of treasury shall determine the portion of these revenues derived from the sale of gasoline as described in section 71102 by multiplying the total by 2.0% and shall credit this amount to the recreation improvement account, less a deduction for collection costs and refunds.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71107 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.**

**Compiler's Notes:** The repealed section pertained to carrying over money remaining in recreation improvement fund.

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71108 Annual review and recommendations; distribution and use of account.**

Sec. 71108.

(1) The state treasurer shall annually review and make recommendations to the legislature on the distributions of the recreation improvement account, including recreational projects and geographic locations.

(2) Money in the recreation improvement account shall be distributed as follows:

(a) Eighty percent of the money shall be annually transferred to the waterways account.

(b) Fourteen percent of the money shall be annually transferred to the snowmobile account.

(c) The remainder of the money that is not transferred under subdivisions (a) and (b) shall be used, upon appropriation, for recreation projects and for the administration of the recreation improvement account. Of the money credited to recreational projects in a fiscal year, not less than 25% shall be expended on projects to repair damages as a result of pollution, impairment, or destruction of air, water, or other natural resources, or the public trust in air, water, or other natural resources, as a result of the use of off-road vehicles.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451  
**Popular Name:** NREPA

Part 713  
RECREATION BOND AUTHORIZATION

**324.71301 Bonds; authorization; limitation; purpose.**

Sec. 71301.

The state shall borrow a sum not to exceed \$140,000,000.00 and issue the general obligation bonds of this state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

**324.71302 Bonds; conditions, methods, and procedures.**

Sec. 71302.

Bonds shall be issued in accordance with conditions, methods, and procedures established by law.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

**324.71303 Bonds; disposition of proceeds and interest.**

Sec. 71303.

The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be deposited in the state treasury and credited to the recreation bond fund created in part 715 and shall be disbursed from that fund only for the purposes for which the bonds have been authorized, including the expense of issuing the bonds. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be expended for the purposes set forth in this part in a manner as provided by law.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

**324.71304 Submission of question to electors.**

Sec. 71304.

The question of borrowing a sum not to exceed \$140,000,000.00 and the issuance of the general obligation

bonds of the state for the purposes set forth in this part shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963, at the next general election following September 9, 1988. The question submitted to the electors shall be substantially as follows:

"Shall the state of Michigan borrow a sum not to exceed \$140,000,000.00 and issue general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects, the method of repayment of the bonds to be from the general fund of this state?

Yes.....

No.....".

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71305 Duties of secretary of state.**

Sec. 71305.

The secretary of state shall perform all acts necessary to properly submit the question prescribed by section 71304 to the electors of this state qualified to vote on the question at the next general November election following September 9, 1988.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71306 Appropriation; purpose; executive budget recommendations.**

Sec. 71306.

(1) After the issuance of the bonds authorized by this part, there shall be appropriated from the general fund of the state each fiscal year a sufficient amount to pay promptly, when due, the principal of and interest on all outstanding bonds authorized by this part and the costs incidental to the payment of the bonds.

(2) The governor shall include the appropriation provided in subsection (1) in his or her annual executive budget recommendations to the legislature.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71307 Majority vote of electors required.**

Sec. 71307.

Bonds shall not be issued unless the question set forth in section 71304 is approved by a majority vote of the qualified electors voting on the question.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA



Part 715  
RECREATION BOND IMPLEMENTATION

**324.71501 Definitions.**

Sec. 71501.

As used in this part:

- (a) "Bonds" means the bonds issued under part 713 or former Act No. 327 of the Public Acts of 1988.
- (b) "Fund" means the recreation bond fund created in section 71506.
- (c) "Local public recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities, and the restoration of the natural environment. Local public recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.
- (d) "Local unit of government" means a county, city, township, village, school district, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or school districts, or any combination of those entities, which authority is legally constituted to provide public recreation.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71502 Legislative finding and declaration.**

Sec. 71502.

The legislature finds and declares that the construction, expansion, development, and rehabilitation of state and local recreational facilities and the restoration of the natural environment under this part are a public purpose in the interest of the health, safety, and general welfare of the citizens of this state.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71503 Bonds; requirements generally.**

Sec. 71503.

(1) The bonds issued under part 713 shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates, to be subject or not subject to prior redemption and, if subject to prior redemption, with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board, and to be subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax-exempt status. The state administrative board shall rotate legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds to partly refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the

limitation on principal amount imposed by the vote of the people on November 8, 1988. Further, refunding bonds issued under this section shall not be subject to the restrictions of section 71507.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this act.

(4) The state administrative board may authorize the state treasurer, but only within limitations that are contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment of the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy bonds so issued at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price and at a publicly advertised sale or a competitively negotiated sale as determined by the state administrative board. If bonds are issued at a competitively negotiated sale, the state administrative board shall use its best efforts to include firms based in this state in the sale of the bonds.

(7) Except as provided in subsection (8), the bonds shall be sold in accordance with the following schedule, beginning during the first year after December 1, 1988:

(a) Not more than 34% shall be sold during the first year.

(b) Not more than 33% shall be sold during the second year.

(c) Not more than 33% shall be sold during the third year.

(d) After the third year any remaining bonds may be sold at the discretion of the state administrative board.

(8) The state administrative board may alter the schedule for issuance of the bonds provided in subsection (7) if amendments to the internal revenue code of 1986 would impair the tax-exempt status of the bonds.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 72, Imd. Eff. June 6, 1995 ;-- Am. 2002, Act 388, Imd. Eff. May 30, 2002

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71504 Bonds negotiable; tax exemption.**

Sec. 71504.

Bonds issued under part 713 shall be fully negotiable under the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.11102 of the Michigan Compiled Laws. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71505 Bonds as securities.**

Sec. 71505.

Bonds issued under part 713 are made securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71506 Recreation bond fund; creation; composition; restricted subaccounts.**

Sec. 71506.

- (1) The recreation bond fund is created in the state treasury.
- (2) The fund shall consist of all of the following:
  - (a) The proceeds of sales of general obligation bonds issued pursuant to part 713 and any premium and accrued interest received on the delivery of the bonds.
  - (b) Any interest or earnings generated by the proceeds described in subdivision (a).
  - (c) Any repayments of principal and interest made under a loan program authorized for in this part.
  - (d) Any federal funds received.
- (3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71507 Disposition of bond proceeds; investment of fund; allocation of interest and earnings; crediting and use of repayments of principal and interest; disposition of unencumbered balance; submission and contents of list of projects; appropriations.**

Sec. 71507.

- (1) The proceeds of the bonds issued under part 713 shall be deposited into the fund.
- (2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.
- (3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program provided in this part shall be credited to the appropriate restricted subaccounts of the fund and used for the purposes authorized for the use of bond proceeds deposited in that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.
- (4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.
- (5) The department shall annually submit to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the appropriations committees of the house of representatives and the senate a list of all projects that are recommended to be funded

under this part. This list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the department. The estimated cost of eligible local public recreation projects on the list for each year in which there is a limitation on borrowing under section 71503(7) shall not exceed 1/3 of the amount authorized for local public recreation projects under section 71508(1)(b).

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2018, Act 237, Eff. Sept. 25, 2018

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71508 Use of fund generally.**

Sec. 71508.

(1) Except as otherwise provided in this section, money in the fund shall be used as follows:

(a) \$70,000,000.00 of the bond revenues shall be used to construct, expand, and develop recreational facilities at state parks pursuant to the "5 year capital outlay program" published by the department and approved by the commission, and for other state recreation facilities for which matching funds are available. The department may deviate from the uses of the bond revenues provided in this subdivision only upon recommendation of the commission and approval of the legislature.

(b) \$65,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for local public recreation projects pursuant to this part.

(c) \$5,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for the purpose of discouraging development of open space and undeveloped lands that on December 1, 1988 are not zoned for industrial use. Grants and loans made under this subdivision shall be used to redevelop and reuse vacant manufacturing facilities or abandoned industrial sites for recreational facilities.

(2) Money in the fund that is allocated for local public recreation projects under subsection (1)(b) shall be used for any of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, historical structures, playgrounds, and restoration of the natural environment.

(b) The development of public recreation facilities on waterfront sites for the purpose of increasing recreation opportunities that encourage further private investments in the area. Public recreation facilities on waterfront sites shall include, but shall not be limited to, shoreline stabilization and beautification, breakwaters, bulkheads, fishing piers, amphitheaters, shoreline walkways, and pedestrian bridges.

(c) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, and fishing sites.

(d) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, historical sites, fishing access sites, and recreational development of abandoned railroad rights-of-way.

(e) Intermediate school districts for environmental education capital outlay projects that are consistent with the long-term recreation and parks plan for the local unit or units of government which the intermediate school district serves.

(3) Money in the fund for other state recreation purposes shall be used for infrastructure projects for fisheries, wildlife, recreational boating, or state forest campgrounds, for which not less than 50% of the cost of the project is available from any combination of federal, private, or restricted funds.

(4) Money in the fund shall not be used for land acquisition.

(5) Money in the fund shall not be expended for sports facilities, arenas, or stadiums intended as the primary home of a professional sports team, for commercial theme parks, or for any purpose that may result in the siting of casino gambling in this state.

(6) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds under part

713 and by the department to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in this section shall be available for appropriation to the department to pay department costs directly associated with the completion of a project described in subsection (1)(a), (b), or (c) for which bonds are issued as provided under this part. Bond proceeds shall not be available to pay indirect, administrative overhead costs incurred by any organizational unit of the department not directly responsible for the completion of a project. Department costs shall be deducted proportionately from the amounts stated in subsection (1). It is the intent of the legislature that general fund appropriations to the department shall not be reduced as a result of department costs funded pursuant to this subsection.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71509 Making and allocating grants and loans to local units of government; division of state into regions; match by local unit; rules; sale, disposal, or use of facility.**

Sec. 71509.

(1) Grants and loans made to local units of government under section 71508(1)(b) shall be made by the department and allocated as follows:

(a) Each region provided for in subsection (2) shall receive \$6.50 per capita based upon the 1985 census figures in the document entitled "estimated state spending by county fiscal year 1985-86" published by the senate fiscal agency, dated October, 1987.

(b) The balance of the money remaining after the distribution under subdivision (a) shall be used for local public recreation projects that are regional parks as defined by rules promulgated by the department. An application under this subdivision shall not preclude an application under subdivision (a).

(2) For purposes of the distribution of grants and loans for local public recreation projects under section 71508(1)(b), the state is divided into the following 3 regions:

(a) Region 1—“all of the counties of the Upper Peninsula.

(b) Region 2—“Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Region 3—“Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any of the above items with which it seeks to meet its local unit portion.

(4) The department shall promulgate rules that establish criteria for grants and loans made under this part, an application process, the definition of regional parks, and a process for disbursement of grants and loans to local units of government.

(5) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant or loan without express approval of the department.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71510 Grant or loan program; rules; maximum participation; considerations in determining**

**appropriateness of grant or loan program; considerations in making grant or loan.**

Sec. 71510.

(1) The department shall assure maximum participation by local units of government by promulgating rules that provide for a grant or loan program, where appropriate. In determining whether a grant or a loan program is appropriate, the department shall consider whether the project is likely to be undertaken without state assistance; the availability of state funds from other sources; the degree of private sector participation in the type of project under consideration; the extent of the need for the project as a demonstration project; and other factors considered important by the department.

(2) Prior to making a grant or loan authorized by this part, the department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71511 Application for grant or loan; form; information.**

Sec. 71511.

An application for a grant or a loan authorized under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make determinations required by this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71512 Conditions to making grant or loan.**

Sec. 71512.

The department shall not make a grant or a loan under this part unless all of the following conditions are met:

- (a) The applicant demonstrates that the proposed project is in compliance with all applicable state laws and rules.
- (b) The applicant demonstrates to the department the capability to implement the proposed project.
- (c) The applicant provides the department with evidence that a licensed professional engineer has approved the plans and specifications for the project, if appropriate.
- (d) The applicant demonstrates to the department that there is an identifiable source of funds for the maintenance and operation of the proposed project.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.71513 Recipient of grant or loan; duties; noncompliance; recovery of grant; withholding grant or loan.**

Sec. 71513.

- (1) A recipient of a grant or a loan made under this part shall be subject to all of the following:

(a) A recipient shall keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting shall be subject to a postaudit.

(b) A recipient shall obtain authorization from the department before implementing a change that significantly alters the proposed project or facility.

(2) The department may revoke a grant or a loan made by it under this part or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan or with the requirements of this part or the rules promulgated under this part.

(3) The department may recover a grant if the project for which the grant was made never operates.

(4) The department may withhold a grant or a loan until the department determines that the recipient is able to proceed with the proposed project or facility.

(5) To assure timely completion of a project, the department may withhold 10% of the grant or loan amount until the project is complete.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71514 Rules generally.**

Sec. 71514.

The department shall promulgate rules as are necessary or required to implement this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

## **Part 716 LOCAL RECREATION GRANTS**

### **324.71601 Definitions.**

Sec. 71601.

As used in this part:

(a) "Community recreation plan" means a 5-year, comprehensive recreation plan for a given local unit of government, approval of which is required by the department for participation in the land and water conservation fund program pursuant to the land and water conservation fund act of 1965, public law 88-578, 78 Stat. 897, and the Michigan natural resources trust fund grant program under part 19.

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

(c) "Director" means the director of the department.

(d) "Grant" means a local recreation grant under this part.

(e) "Infrastructure improvement" means restoration of the natural environment or the renovation, repair, replacement, upgrading, or structural improvement of an existing facility that is not less than 15 years old, including any of the following:

(i) Recreation centers.

(ii) Sports fields.

(iii) Beaches.

(iv) Trails.

(v) Playgrounds.

(f) "Local recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities. Local recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(g) "Local unit of government" means a county, city, township, village, the Huron-Clinton metropolitan



authority, or any authority composed of counties, cities, townships, villages, or any combination of those entities, which authority is legally constituted to provide public recreation.

(h) "Regional park" means a public recreation site that is under the applicant's control and that is in compliance with all of the following requirements as determined by the department:

(i) The site does now, or will, attract not less than 25% of its users from areas in the region that are 30 minutes or more driving time from the site.

(ii) The site provides passive, water-based, and active recreation opportunities.

(iii) The site is contiguous to, or encompasses, a natural resource feature.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71602 Local recreation grant program; establishment; provisions; prohibitions.**

Sec. 71602.

(1) The department shall establish a local recreation grant program. The grant program shall provide grants to local units of government for local recreation projects that provide for 1 or more of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, playgrounds, skating rinks, toboggan runs, sledding hills, and park support facilities.

(b) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, picnic facilities, nature centers, nonmotorized trails and walkways, amphitheaters, and fishing piers and fishing access sites.

(c) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, and fishing access sites.

(2) A grant shall not be provided under this part for land acquisition or a commercial theme park.

(3) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71603 Allocations to local units of government; zones; purposes; matching requirements; sale, disposal, or conversion of facility.**

Sec. 71603.

(1) Subject to amounts appropriated to the department under section 19608(5), the total amount of grants made to local units of government under this part shall be allocated as follows:

(a) Local recreation projects within zone 1 3.6%

(b) Local recreation projects within zone 2 14.4%

(c) Local recreation projects within zone 3 72%

(d) Local recreation projects at regional parks 10%

(2) For purposes of the distribution of grants for local recreation projects under this part, the state is divided into



the following 3 zones:

- (a) Zone 1—All of the counties of the Upper Peninsula.
  - (b) Zone 2—Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogenaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.
  - (c) Zone 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.
- (3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any such goods and services with which the local unit of government seeks to meet the match requirement.
- (4) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant without express approval of the department.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71604 Project funding; conditions.**

#### **Sec. 71604.**

The department shall consider a project application for funding under this part if it is in compliance with all of the following conditions:

- (a) The application is submitted by the deadline established by the department.
- (b) The application is complete and submitted on the form required by the department.
- (c) The application includes the following information:
  - (i) An 8-1/2-inch by 11-inch project location map.
  - (ii) An 8-1/2-inch by 11-inch preliminary site development plan.
  - (iii) Preliminary floor plans and elevation drawings for any building construction.
  - (iv) A certified resolution from the governing body of the local unit of government stating that the proposal will be undertaken if a grant is awarded and designating an authorized project representative.
  - (v) Evidence and results of a preannounced public meeting on the application proposal.
  - (vi) A brief description of the project proposal.
  - (vii) The total cost of the project proposal and the amount of grant requested.
  - (viii) Sources of the local match.
  - (ix) A breakdown of development items and their projected costs.
  - (x) A narrative, limited to 1 page, of what the proposal is and why it is needed.
  - (xi) Attestation, by signature of an authorized project representative, that all statements on the application form are true, complete, and accurate to the best of the representative's knowledge.
  - (xii) Other information as determined by the department.
- (d) The local unit of government has an approved community recreation plan on file with the department. Department-approved plans are valid through December 31 of the fifth full calendar year after adoption by the local unit's governing body.
- (e) The project for which funding assistance is sought is listed and justified in the local unit of government's recreation plan.
- (f) The local unit of government has submitted notice of the project application to the regional planning agency for review.
- (g) The local unit of government has fee title or a legal instrument that demonstrates property control for not less than 15 years from the date of application. If control is evidenced by less than fee title, the length of control shall be commensurate with the value of the proposed project.
- (h) The local unit of government's grant request is not more than \$750,000.00 and not less than \$15,000.00. An

applicant may receive more than 1 grant in a funding cycle.

(i) The proposed project addresses at least 1 of the following purposes as described in section 71602:

(i) Infrastructure improvement.

(ii) Community recreation.

(iii) Tourist attraction.

(j) The proposed project is not for the purpose of meeting the physical education and athletic program requirements of a school. Facilities funded under this program on school grounds shall not restrict public use to less than 50% of operating hours. A schedule of when such sites are open to the public may be requested by the department.

(k) The proposed project does not unfairly compete with the private sector. Projects that would create an unfairly competitive situation with private enterprises are not eligible for funding. In situations where privately managed facilities are providing identical or similar recreation opportunities, the local unit of government shall provide written justification of the need for the proposed facility in light of the private sector's presence.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71605 Final grant awards; determination; factors; ratings; priority; upgrade of drinking water systems or rest room facilities.**

Sec. 71605.

(1) Final grant awards will be determined by the director.

(2) The department shall use the 3 factors listed in subsection (3)(a), (b), and (c) to evaluate projects. All factors are of equal importance in the evaluation of a project.

(3) Each of the 3 factors listed in subdivisions (a), (b), and (c) shall be rated exceptional, good, or fair. An exceptional rating is equal to a score of 80; a good rating is equal to a score of 60; and a fair rating is equal to a score of 40. The factors are as follows:

(a) The need for the project as determined by an overall assessment of the following:

(i) The merits of the project relative to cost in addressing 1 of the following program priorities as designated by the applicant:

(A) Infrastructure improvement.

(B) Community recreation.

(C) Tourism.

(ii) How well the project meets the following priorities:

(A) Proximity to urban areas.

(B) Attention, beyond the requirements of law, to the needs of special populations, such as minorities, senior citizens, low income individuals, and the handicapped.

(C) Impact on county and regional recreation opportunity deficiencies or identified local recreation deficiencies documented in the community recreation plan.

(b) The capability of the local unit of government to complete the project and to operate and maintain it once completed. Capability will be determined by an overall assessment of all of the following criteria:

(i) Demonstrated satisfactory performance of the local unit of government in other department grant programs.

(ii) Demonstrated ability to operate and maintain existing recreation facilities.

(iii) Assurance of funds for the maintenance and operation of the proposed project.

(iv) Demonstrated commitment to public recreation through recreation staffing and the existence of a citizen recreation board or commission.

(c) The quality of the site and project design. Quality will be determined by an overall assessment of all of the following criteria:

(i) The appropriateness of the site for the intended uses.

(ii) Clarity and detail of the development plans and the quality of the project design in terms of orientation, spacing of facilities, traffic flow, and effective use of site features.

(iii) The quality of any existing development.

(iv) The adequacy of safety and health considerations.

(v) Evaluation of the impact of proposed development on the natural environment.

(4) If the score on 2 or more projects is the same and does not determine which project should be recommended within available dollars, the department shall consider the following factors to determine priority:

- (a) The amount of local recreation grants funds previously received by a local unit of government under this part.
- (b) A local unit of government's need for financial assistance. Financial need will be determined by the local unit of government's rank on the distressed communities list.
- (c) A local unit of government's commitment to provide more than the required 25% match.
- (d) The amount of Michigan natural resources trust fund development grants and land and water conservation grants previously received by the local unit of government.
- (5) If a project is determined to be eligible for a grant and the needs at the location of the project include the upgrade of drinking water systems or rest room facilities, the grant award for the project shall first be used for such upgrades at that project location.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71606 Administration of grants; compliance with requirements of part 196.**

Sec. 71606.

Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.71607 Rules.**

Sec. 71607.

The department may promulgate rules to implement this part.

**History:** Add. 1998, Act 286, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

## TRAILWAYS Part 721 MICHIGAN TRAILWAYS

### **324.72101 Definitions.**

Sec. 72101.

As used in this part:

- (a) "Advisory council" means the Michigan trails advisory council created in section 72110.
- (b) "Council" means a trail management council established pursuant to section 72106.
- (c) "Department" means the department of natural resources.
- (d) "Director" means the director of the department or his or her designee.
- (e) "Equine access locations" means open access roads, management roads, forestry access roads, 2-track and single-track trails that are not wildlife paths, staging areas for pack and saddle animals to be dropped off or picked up, and associated wilderness campsites.

- (f) "Forest road" means that term as defined in section 81101.
- (g) "Fund" means the Pure Michigan Trails fund created in section 72109.
- (h) "Governmental agency" means the federal government, a county, city, village, or township, or a combination of any of these entities.
- (i) "Pack and saddle trails" means trails and equine access locations that may be used by pack and saddle animals.
- (j) "Pure Michigan Trail" means a trail designated as a "Pure Michigan Trail" under section 72103.
- (k) "Pure Michigan Water Trail" means a water trail designated as a "Pure Michigan Water Trail" under section 72103.
- (l) "Pure Michigan Trail Town" means a "Pure Michigan Trail Town" designated under section 72104.
- (m) "Rail-trail" means a former railroad bed that is in public ownership and used as a trail.
- (n) "Statewide trail network" means the statewide trail network established in section 72114.
- (o) "Trail" means a right-of-way adapted to foot, horseback, motorized, or other nonmotorized travel. Trail also includes a water trail.
- (p) "Water trail" means a designated route on a body of water.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1997, Act 129, Imd. Eff. Nov. 5, 1997 ;-- Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010 ;-- Am. 2014, Act 211, Eff. Sept. 25, 2014 ;-- Am. 2016, Act 288, Imd. Eff. Sept. 28, 2016

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72102 Legislative findings.**

Sec. 72102.

The legislature finds that a statewide system of trails will provide for public enjoyment, health, and fitness; encourage constructive leisure-time activities; protect open space, cultural and historical resources, and habitat for wildlife and plants; enhance the local and state economies; link communities, parks, and natural resources; create opportunities for rural-urban exchange, agricultural education, and the marketing of farm products; and preserve corridors for possible future use for other public purposes. Therefore, the planning, acquisition, development, operation, and maintenance of trails are in the best interest of this state and are a public purpose.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010 ;-- Am. 2014, Act 211, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72103 Designation as "Pure Michigan Trail" or "Pure Michigan Water Trail"; requirements; public hearing; revocation of designation.**

Sec. 72103.

(1) The director may designate a trail in this state located on land as a "Pure Michigan Trail". A person may request that the director designate a trail as a Pure Michigan Trail. The director shall not designate a trail as a Pure Michigan Trail unless it meets, or will meet when completed, all of the following requirements:

(a) The trail is a model trail for its designated uses and the designation of the trail as a Pure Michigan Trail contributes to a statewide trail network that promotes healthy lifestyles, economic development, recreation, and conservation of the natural and cultural resources of this state.

(b) The land on which the trail is located is owned by this state or a governmental agency or otherwise is under the long-term control of this state or a governmental agency through a lease, easement, or other arrangement. If the land is owned by a governmental agency, the director shall obtain the consent of the governmental agency before designating the land as part of a Pure Michigan Trail.

(c) The design and maintenance of the trail and its related facilities meet generally accepted standards of public safety.

(d) The trail meets appropriate standards for its designated recreation uses.

(e) The trail is available for designated recreation uses on a nondiscriminatory basis.

(f) The trail is, or has potential to be, a segment of a statewide network of trails, or it attracts a substantial share of its users from beyond the local area.

(g) The trail is marked with an official Pure Michigan Trail sign and logo at major access points.

(h) Where feasible, the trail offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trail. The trail may include amenities related to trail usage such as connectors and access to rest areas, lodging, and eating facilities, as well as park benches and signage. Support facilities and trail amenities described in this subdivision are public goods.

(i) Potential negative impacts of trail development on owners or residents of adjacent property are minimized through all of the following:

(i) Adequate enforcement of trail rules and regulations.

(ii) Continuation of access for trail crossings for agricultural and other purposes.

(iii) Construction and maintenance of fencing, where necessary, by the owner or operator of the trail.

(iv) Other means as considered appropriate by the director.

(j) A trademark license is obtained by the department from the Michigan economic development corporation for use of the words "Pure Michigan".

(k) Other conditions required by the director.

(2) In designating trails as Pure Michigan Trails under subsection (1), the director shall consider all forms of permissible recreation uses equally in order to develop a Pure Michigan Trails network that is representative of the various trail uses.

(3) The director may designate a water trail as a "Pure Michigan Water Trail". A person may request that the director designate a trail as a Pure Michigan Water Trail. The director shall not designate a trail as a Pure Michigan Water Trail unless it meets, or will meet when completed, all of the following requirements:

(a) The trail and its access points are open to public use and are designed, constructed, and maintained according to best management practices.

(b) The trail is located on a contiguous waterway or a series of waterways that are contiguous or are connected by portages.

(c) The trail is consistent with applicable land use plans and environmental laws.

(d) The trail meets the criteria of subsection (1)(a), (c), (d), (e), (f), (g), (h), (i)(i) and (iv), and (k).

(e) A trademark license is obtained by the department from the Michigan economic development corporation for use of the words "Pure Michigan".

(4) Prior to designating a Pure Michigan Trail under subsection (1) or a Pure Michigan Water Trail under subsection (3), the director shall refer the proposed designation to the natural resources commission, which shall hold a public hearing on the proposed designation. Within 90 days after receiving the referral under this subsection, the natural resources commission shall provide the director with its recommendation regarding the designation.

(5) The director may revoke a Pure Michigan Trail or a Pure Michigan Water Trail designation if he or she determines that a trail fails to meet the requirements of this section. Before revoking a Pure Michigan Trail or a Pure Michigan Water Trail designation, the director shall provide notice to all entities involved in the management of the trail. If the trail is brought into compliance with this section within 90 days after providing this notice, the director shall not revoke the designation.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 210, Eff. Sept. 25, 2014 ;-- Am. 2018, Act 69, Eff. June 17, 2018

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72103a Researching and providing historical, cultural, or natural resource information; recommendations; means.**

Sec. 72103a.

The department may develop recommendations for local trail managers on researching and providing historical, cultural, or natural resource information related to the area that a trail traverses using interpretive signage, online material, or other appropriate means.

**History:** Add. 2018, Act 69, Eff. June 17, 2018

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72104 Designation as "Pure Michigan Trail Town"; sign and logo; revocation of designation.**

Sec. 72104.

(1) The director, upon petition by a person, may designate a city, village, or township as a "Pure Michigan Trail Town" if the director determines that the following conditions have been met:

(a) The city, village, or township is easily accessible to users of a Pure Michigan Trail or a Pure Michigan Water Trail.

(b) The city, village, or township has adopted a resolution in support of the designation.

(c) The city, village, or township has adopted a plan for providing support services to trail users such as parking, sanitary facilities, restaurants, accommodations, grocery stores, bike shops, boat docks, or other services that may be needed or desired by trail users.

(d) The petitioner demonstrates at least 3 of the following:

(i) There is community support for the designation as evidenced by creation of an advisory committee.

(ii) There has been an annual trail-related project or event within the city, village, or township.

(iii) A school board within the city, village, or township has endorsed a trail-based service learning educational component within its schools.

(iv) Land use plans, planning tools, ordinances, or guidelines are in place that recognize the relationship between the trail and other community assets, or that there is support to amend, change, or add these provisions.

(e) A trademark license is obtained by the department from the Michigan economic development corporation for use of the words "Pure Michigan".

(2) Upon designation of a city, village, or township as a Pure Michigan Trail Town, the city, village, or township may erect and maintain along the Pure Michigan Trail or Pure Michigan Water Trail at a junction with the city, village, or township an official Pure Michigan Trail Town sign and logo designed by the department. The department shall only provide for the erection and maintenance of an official Pure Michigan Trail Town sign and logo when sufficient private contributions are received to pay for the cost of erecting and maintaining the sign and logo.

(3) The director may revoke a Pure Michigan Trail Town designation if he or she determines that the city, village, or township has failed to meet the requirements of this section. Before revoking a Pure Michigan Trail Town designation, the director shall provide notice to the city, village, or township. If the city, village, or township is brought into compliance with this section within 90 days after providing this notice, the director shall not revoke the designation.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 210, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72105 Operating and maintaining trail; agreement; provisions; operation of electric bicycle; requirements; exception; definitions.**

Sec. 72105.

(1) The department may operate and maintain a trail that is located on state owned land or may enter into an agreement with a council or 1 or more governmental agencies to provide for the operation and maintenance of the trail. An agreement entered into under this subsection may include provisions for any of the following:

(a) Construction, maintenance, and operation of the trail, including amenities related to trail usage such as connectors and access to rest areas, lodging, and eating facilities, as well as park benches and signage.

(b) Enforcement of trail rules and regulations including permitted uses of the trail.

(c) Other provisions consistent with this part.

(2) All of the following apply to the operation of an electric bicycle on a trail subject to this part:

(a) An individual may operate a class 1 electric bicycle on a linear trail that has an asphalt, crushed limestone, or similar surface, or a rail trail. A local authority or agency of this state having jurisdiction over a trail described in this subdivision may regulate or prohibit the operation of a class 1 electric bicycle on that trail.



(b) An individual may operate a class 2 or class 3 electric bicycle on a linear trail that has an asphalt, crushed limestone, or similar surface, or a rail trail if authorized by the local authority or agency of this state having jurisdiction over the trail.

(c) Except as otherwise provided in this subdivision, an individual shall not operate an electric bicycle on a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or agency of this state having jurisdiction over a trail described in this subdivision may allow the operation of an electric bicycle on that trail.

(3) Subsection (2) does not apply to the use of electric bicycles on a congressionally authorized public trail system.

(4) As used in this section, "electric bicycle", "class 1 electric bicycle", "class 2 electric bicycle", and "class 3 electric bicycle" mean those terms as defined in section 13e of the Michigan vehicle code, 1949 PA 300, MCL 257.13e.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 212, Eff. Sept. 25, 2014 ;-- Am. 2017, Act 138, Eff. Jan. 28, 2018 ;-- Am. 2018, Act 69, Eff. June 17, 2018

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72105a Adopt-a-trail program.**

Sec. 72105a.

(1) The department shall establish an "adopt-a-trail" program that will allow volunteer groups to assist in maintaining and enhancing trails on state owned land.

(2) Subject to subsection (3), volunteer groups in the adopt-a-trail program may adopt any available trail or trail segment and may choose any 1 or more of the following volunteer activities:

- (a) Spring cleanups.
- (b) Environmental activities.
- (c) Accessibility projects.
- (d) Special events.
- (e) Trail maintenance, enhancement, and development.
- (f) Public information and assistance.
- (g) Training.

(3) The department shall designate the activities to be performed by a volunteer group in the adopt-a-trail program. The department may provide for more than 1 volunteer group to adopt an eligible trail or trail segment. If the department operates other programs in the vicinity of the trail that allows volunteers to adopt a park or other resource, the department shall coordinate these programs to provide for efficient and effective volunteer programs in the area.

(4) A volunteer group that wishes to participate in the adopt-a-trail program shall submit an application to the department on a form provided by the department. Additionally, volunteer groups shall agree to the following:

- (a) Volunteer groups shall participate in the program for at least a 2-year period.
- (b) Volunteer groups shall consist of at least 6 people who are 18 years of age or older, unless the volunteer group is a school or scout organization, in which case the volunteers may be under 18 years of age.
- (c) Volunteer groups shall contribute a total of at least 400 service hours over a 2-year period.
- (d) Volunteer groups shall comply with other reasonable requirements of the department.

(5) A state park manager or a district forest manager may issue to volunteers who are actively working on adopt-a-trail projects that last more than 1 day free camping permits if campsites are available. A state park manager or a district forest manager may waive state park entry fees for volunteers entering state parks to work on adopt-a-trail projects.

(6) While a volunteer is working on an adopt-a-trail project, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of 1964 PA 170, MCL 691.1408.

(7) The department shall design and erect near the entrance of each adopted trail or trail segment an adopt-a-trail program sign with the name of the volunteer group's sponsoring organization listed for each volunteer group that has contributed at least 100 service hours by volunteers.

**History:** Add. 1997, Act 129, Imd. Eff. Nov. 5, 1997 ;-- Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010 ;-- Am. 2014, Act 212, Eff. Sept. 25,

2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72106 Trail management council; establishment; purpose; adopting operating procedures and electing officers; powers; public hearings; dissolution.**

Sec. 72106.

(1) Two or more governmental agencies may establish a trail management council for the development and management of a trail pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(2) Upon formation, a council shall adopt operating procedures and shall elect officers as the council considers appropriate.

(3) A council may do 1 or more of the following as authorized in an interlocal agreement entered into pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512:

(a) Operate and maintain that portion of 1 or more trails that are owned or under the control of the governmental agencies establishing the council.

(b) Pursuant to an agreement under section 72105, operate and maintain that portion of 1 or more trails that are located on state owned land.

(c) Review and consider current and potential permitted uses of each trail and trail segment and provide an easily understood plan for trail users.

(d) Establish protocols for the development and management of a trail, which may include any of the following:

(i) Signage.

(ii) Trail etiquette and safety guidance.

(iii) A historical and cultural interpretive plan.

(iv) A formula for sharing costs of maintenance.

(v) A plan for linking the trail to nearby water trails, where appropriate.

(vi) A plan for providing transit-based access for trail users in order to enhance access for those who may not reside in the vicinity of the trail.

(e) Coordinate the enforcement of trail rules and regulations and other applicable laws and ordinances, including permitted uses of the trail on trails owned or under the control of the governmental agencies establishing the council or, pursuant to an agreement under section 72105, trails that are located on state owned land.

(f) Receive any grant made from the fund or other funding related to that portion of a trail within its jurisdiction.

(g) Acquire or hold real property for the purpose of operating a trail.

(h) Perform other functions consistent with this part.

(4) A council may hold 1 or more public hearings to receive input and provide information on the development and management of a trail.

(5) A council may be dissolved by the governmental agencies that participated in creating the council. However, if a council has entered into an agreement with the department under section 72105, the agreement shall specify how the council may be dissolved.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 212, Eff. Sept. 25, 2014 ;-- Am. 2018, Act 69, Eff. June 17, 2018

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72107 Closure during pesticide application.**

Sec. 72107.

In agricultural areas, a trail may be temporarily closed by the entity operating the trail to allow pesticide application on lands adjoining the trail. The entity operating the trail shall post the closure of the trail or arrange with a landowner or other person for the posting of signs and the closure of the trail during pesticide application and appropriate reentry periods.



**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 214, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72108 Department; powers; acquisition of land as Pure Michigan Trail; transfer or use of railroad right-of-way; assumption of liability; "fair value" defined.**

Sec. 72108.

(1) The department may do any of the following:

(a) Grant easements or, pursuant to part 13, use permits or lease land owned by this state that is being used for a Pure Michigan Trail for a use that is compatible with the use of the Pure Michigan Trail.

(b) Enter into contracts for concessions along a state owned Pure Michigan Trail.

(c) Lease land adjacent to a state owned Pure Michigan Trail for the operation of concessions.

(2) If the department acquires land, the director may state that the specified land is acquired for use as a Pure Michigan Trail. Following acquisition of land that the director states is acquired for use as a Pure Michigan Trail, any revenue derived from the land under subsection (1), except as otherwise provided by law, must be deposited into the fund.

(3) If the department enters into negotiations with a railroad for the department to become a trail sponsor under 16 USC 1247(d), the department shall comply with 49 CFR 1152.29(a)(2)(ii). The department shall assume full responsibility for any potential legal liability arising out of the transfer or use of the railroad right-of-way. In exchange for the department's assumption of liability, the railroad shall provide the department with the fair value of the department's assumption of liability. As used in this subsection, "fair value" means the value that the department and the railroad mutually agree accurately reflects the risk of liability assumed by the department.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2014, Act 215, Eff. Sept. 25, 2014 ;-- Am. 2017, Act 39, Eff. Aug. 21, 2017

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72109 Pure Michigan Trails fund.**

Sec. 72109.

(1) The Pure Michigan Trails fund is created within the state treasury.

(2) Except as otherwise provided by law, the state treasurer may receive money or other assets from any of the following for deposit into the fund:

(a) Payments to the state for easements, use permits, leases, or other use of state owned Pure Michigan Trail property.

(b) Payments to the state for concessions operated by private vendors on state owned property located on or adjacent to a Pure Michigan Trail.

(c) Federal funds.

(d) Gifts or bequests.

(e) State appropriations.

(f) Money or assets from other sources as provided by law.

(3) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) Money in the fund may be expended for any of the following purposes:

(a) The expenses of the department in operating and maintaining the Pure Michigan Trail system and enforcing Pure Michigan Trail rules and regulations.

(b) Grants to or contracts with councils, nonprofit organizations, private sector entities, or governmental agencies to operate and maintain segments of Pure Michigan Trails and to enforce Pure Michigan Trail rules and

regulations.

- (c) Funding Pure Michigan Trail construction and improvements.
- (d) Acquisition of land or rights in land.
- (e) Publications and promotions of the Pure Michigan Trails system.
- (6) The department shall submit a report to the legislature on or before December 1 of each year describing the use of money appropriated from the fund in the previous fiscal year.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 214, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72110 Michigan trails advisory council; creation; duties; membership; terms; vacancy; qualifications; chairperson; vice-chairperson; staffing; procedures; quorum; meetings; powers; workgroups; compensation; contracts; donations; additional responsibilities.**

Sec. 72110.

- (1) The Michigan trails advisory council is created within the department.
- (2) The advisory council shall advise the director and the governor on the creation, development, operation, and maintenance of motorized and nonmotorized trails in this state, including, but not limited to, snowmobile, biking, equestrian, hiking, off-road vehicle, skiing trails, and water trails. In advising the director and the governor on the creation and development of motorized and nonmotorized trails in this state, the advisory council shall seek to have the trails linked wherever possible. The advisory council may perform additional related duties as provided by this part, other law, or as requested by the director or the governor.
- (3) The advisory council shall consist of 11 members appointed by the governor. Subject to subsection (4), a member of the advisory council shall be appointed for a term of 4 years.
- (4) All of the following apply to the first advisory council appointed after the effective date of the amendatory act that added this subsection:
  - (a) 2 members shall serve for 1 year.
  - (b) 3 members shall serve for 2 years.
  - (c) 3 members shall serve for 3 years.
  - (d) 3 members, not fewer than 2 of whom shall be members of the equine trailways subcommittee created under section 72110a, shall serve for 4 years.
- (5) A vacancy on the advisory council occurring other than by expiration of a term shall be filled by the governor in the same manner as the original appointment for the balance of the unexpired term. A vacancy does not affect the power of the remaining members to exercise the duties of the advisory council.
- (6) At least 5 members of the advisory council shall be an owner of an ORV licensed as required under section 81116 or an owner of a snowmobile registered under section 82105. At least 3 members of the advisory council shall be owners of a snowmobile registered under section 82105. At least 1 member of the advisory council shall possess experience as an instructor in a snowmobile safety education and training program or an ORV safety education course. At least 2 members of the advisory council shall be residents of the Upper Peninsula of this state. At least 2 members of the advisory council shall be members of the equine trailways subcommittee created in section 72110a.
- (7) The governor shall designate a member of the advisory council to serve as the chairperson of the advisory council at the pleasure of the governor. The advisory council may select a member of the advisory council to serve as vice-chairperson of the advisory council.
- (8) The advisory council shall be staffed and assisted by personnel from the department, subject to available funding. Any budgeting, procurement, or related management functions of the advisory council shall be performed under the direction and supervision of the director.
- (9) The advisory council shall adopt procedures consistent with this section and other applicable state law governing its organization and operations.
- (10) A majority of the members of the advisory council serving constitute a quorum for the transaction of the advisory council's business. The advisory council shall act by a majority vote of its serving members.
- (11) The advisory council shall meet at the call of the chairperson and as may be provided in procedures adopted by the advisory council.
- (12) The advisory council may, as appropriate, make inquiries, conduct studies and investigations, hold hearings, and receive comments from the public. The advisory council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, government agencies, and institutions

of higher education. The advisory council shall consult with organizations involved with expanding trail access for persons with disabilities.

(13) The advisory council may establish advisory workgroups, including, but not limited to, an advisory workgroup on snowmobiles, as considered necessary by the advisory council to assist the advisory council in performing the duties and responsibilities of the advisory council. In addition, the equine trailways subcommittee created in section 72110a as a subcommittee of the advisory council shall advise the advisory council.

(14) Members of the advisory council shall serve without compensation. Members of the advisory council may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the civil service commission and the department of technology, management, and budget, subject to available funding.

(15) The advisory council may hire or retain contractors, subcontractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the advisory council and the performance of its duties as the director considers advisable and necessary in accordance with this part, other applicable law, and the rules and procedures of the civil service commission and the department of technology, management, and budget, subject to available funding.

(16) The advisory council may accept donations of labor, services, or other things of value from any public or private agency or person.

(17) Members of the advisory council shall refer all legal, legislative, and media contacts to the department.

(18) In addition to the responsibilities provided in this section and otherwise provided by law, the advisory council shall do both of the following:

(a) Make recommendations to the director on the expenditure of money in the fund.

(b) Advise the director on the implementation of this part and the establishment and operation of Pure Michigan Trails and Pure Michigan Water Trails.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010 ;-- Am. 2013, Act 248, Imd. Eff. Dec. 26, 2013 ;-- Am. 2014, Act 213, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72110a Equine trails subcommittee; creation; staffing; funding; membership; appointments; terms; vacancy; removal; meetings; quorum; business conducted at public meetings; writings subject to freedom of information act; compensation; duties.**

Sec. 72110a.

(1) The equine trails subcommittee is created as a subcommittee of the advisory council. The department may provide staffing and administrative support to the equine trails subcommittee. The equine trails subcommittee may also be staffed and funded by user groups and other interested persons.

(2) Subject to subsection (3), the equine trails subcommittee shall consist of the following members appointed by the director:

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

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

(i) One individual from the Upper Peninsula.

(ii) One individual from the northern Lower Peninsula.

(iii) One individual from the central Lower Peninsula.

(iv) One individual from the southeastern Lower Peninsula.

(v) One individual from the southwestern Lower Peninsula.

(3) The senate majority leader and the speaker of the house of representatives shall each submit a list of 3 persons to the director. The director shall appoint at least 1 person from each of those lists to the equine trails subcommittee.

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

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

(6) A member of the equine trails subcommittee may be removed for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(7) The first meeting of the equine trails subcommittee shall be called by the department within 30 days after the

appointments have been made. At the first meeting, the equine trails subcommittee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the equine trails subcommittee shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 3 or more members.

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

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

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

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

(12) The equine trails subcommittee shall do all of the following:

(a) Prepare and submit to the advisory council a recommended plan for a statewide network of pack and saddle trails. The recommended plan for a statewide pack and saddle trails network shall include both of the following:

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

(ii) All additional state lands that the equine trails subcommittee determines would be appropriate for pack and saddle animals and would contribute to a statewide network of pack and saddle trails.

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

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

(d) Advise the advisory council and the department on funding to conduct pack and saddle trail reviews under section 72115 and to provide for the reopening of previously closed pack and saddle trails, the preservation of existing pack and saddle trails, and the development of new pack and saddle trails across this state.

**History:** Add. 2010, Act 46, Imd. Eff. Apr. 2, 2010 ;-- Am. 2014, Act 213, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72111 State agencies; duties.**

Sec. 72111.

All state agencies shall cooperate with the commission and the department in the implementation of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72112 Rules.**

Sec. 72112.

The department may promulgate rules as it considers necessary to implement this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 210, Eff. Sept. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72113 Repealed. 2014, Act 210, Eff. Sept. 25, 2014.**

**Compiler's Notes:** The repealed section pertained to Michigan heritage water trail program.

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72114 Statewide trail network; establishment; modification to include additional trails or uses; signage; availability on department's website; recommendations from equine trails subcommittee and other trails users; database of trail maps.**

Sec. 72114.

(1) The department shall establish a statewide trail network that includes Pure Michigan Trails, Pure Michigan Water Trails, and other recreational use trails. The statewide trail network shall be designed to accommodate a variety of public recreation uses and shall specify the types of uses that are allowed on each trail segment. The statewide trail network shall be in conformance with section 72115 and the determinations made under section 72115. Prior to the department establishing the statewide trail network, the department shall hold a public meeting to receive testimony from the general public.

(2) After the statewide trail network is established, if the department is informed that additional trails should be added to the statewide trail network or that uses on particular trail segments should be modified, the department shall modify the statewide trail network to include additional trails or to modify the uses on particular trails as the department determines appropriate. However, any modifications shall be in conformance with section 72115 and determinations made under section 72115.

(3) The department may provide signage and recognition of places significant to the history of Native Americans, including places significant to that history along trails in the statewide trail network, as provided for in section 72117.

(4) Upon establishment of the statewide trail network, the department shall make the statewide trail network available on the department's website. If the department modifies the statewide trail network, the department shall make the updated statewide trail network available on the department's website.

(5) Within 1 year after receiving recommendations from the equine trails subcommittee under section 72110a, the advisory council shall review recommendations from the equine trails subcommittee as well as other interested trail users and shall make recommendations to the department for the establishment of the statewide trail network.

(6) The department shall work in cooperation with interested parties to facilitate the creation and maintenance of a current database of trail maps for all trails within the statewide trail network on the department's internet website. The database of trail maps shall specifically designate which of the trails are Pure Michigan Trails or Pure Michigan Water Trails. The database of trail maps shall allow trail users to download or print trail maps. In addition, the department shall work in cooperation with interested parties to facilitate the development and maintenance of a mobile software application of trail maps and other information related to specific trails that may be downloaded onto smartphones, tablet computers, and other portable electronic devices. The department shall work in cooperation with these interested parties to assure that the software application is updated to reflect current information from the database of trail maps.

**History:** Add. 2010, Act 45, Imd. Eff. Apr. 2, 2010 ;-- Am. 2014, Act 210, Eff. Sept. 25, 2014 ;-- Am. 2016, Act 247, Eff. Sept. 22, 2016

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72115 Pack and saddle animals; access to pack and saddle trails on public land; restrictions.**

Sec. 72115.

(1) Subject to subsections (2) and (3), pack and saddle animals shall be allowed to access pack and saddle trails on public land managed by the department as follows:

(a) Access on land of the state forest system is allowed unless restricted by statute, deed restriction, land use order, or other legal mechanism, in effect on April 2, 2010.

(b) Access on land of the state park system or state game area system is prohibited unless authorized by land use order or other legal mechanism in effect on April 2, 2010.

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

(2) Access by pack and saddle animals may only be restricted on lands described in subsection (1) after April 2, 2010 if conditions are not suitable for pack and saddle animals because of public safety concerns, necessary maintenance, or for reasons related to the mission of the department. Restrictions related to the mission of the department shall be supported, to the greatest extent practicable, by a written science-based rationale that is supported with documentation that is made available to the public. Prior to determining that access by pack and saddle animals be restricted, the department shall make every effort to resolve any public safety or maintenance concerns. Subject to subsection (3), the department shall not restrict pack and saddle animals from lands described in subsection (1) unless all of the following conditions are met:

(a) The department holds a public meeting on a proposal to restrict access by pack and saddle animals on pack and saddle trails to receive testimony from the general public. The department shall invite the advisory council and the equine trails subcommittee created in section 72110a to attend the meeting.

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

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

(d) A written statement shall be posted at the trailhead in which the restriction is imposed stating the cause and estimated duration of the closure.

(e) A list of pack and saddle trails on which the department has restricted access for pack and saddle animals, including temporary orders, shall be posted on the department's website and notification shall be provided to the equine trails subcommittee created in section 72110a.

(3) Any restrictions described in subsection (1) on access by pack and saddle animals that were in effect on April 2, 2010 shall remain in effect until those restrictions are reviewed using the process under subsection (2).

(4) An individual shall not use pack and saddle animals on state-owned land except on pack and saddle trails that are open for access by pack and saddle animals. However, an individual may use a pack and saddle animal in an area in which public hunting is permitted to retrieve legally harvested deer, bear, or elk using the most direct route that does not enter a stream, river, or wetland except over a bridge, culvert, or similar structure.

**History:** Add. 2010, Act 45, Imd. Eff. Apr. 2, 2010 ;-- Am. 2014, Act 213, Eff. Sept. 25, 2014 ;-- Am. 2016, Act 288, Imd. Eff. Sept. 28, 2016

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72116 Installation of telecommunication facilities on rail-trail; authorization; deposit of use fees; expenditures; preexisting arrangements or agreements; definitions.**

Sec. 72116.

(1) If the state owns the land on which a rail-trail is located or if the land is under the long-term control of the state or a state governmental agency through a lease, easement, or other arrangement, the department shall, upon application of a telecommunication provider and payment of not more than \$500.00 in application fees, authorize the installation of telecommunication facilities on that land unless the installation is inconsistent with or prohibited by the lease, easement, or other arrangement. The authorization granted under this subsection shall be granted within 45 days and shall require all of the following:

(a) All telecommunication facilities shall be installed underground or shall be attached to existing aboveground structures consistent with subdivision (c).

(b) The telecommunication provider shall notify the department, in writing, of the installation of the facilities and



the anticipated completion date of the installation not less than 30 days prior to beginning the installation. Within 5 days after its receipt of the notification, the department shall notify the telecommunication provider, in writing, of any use of the rail-trail for which a permit has been issued by the department.

(c) The use of the land for telecommunication facilities and the installation of the facilities or any repairs to the facilities shall not unreasonably interfere with the use or uses of the rail-trail.

(d) Following installation of the telecommunication facilities or any repairs to the facilities, the land shall be reasonably restored to its condition prior to the installation or repair.

(e) The telecommunication provider shall pay to the department a 1-time use fee of 5 cents per longitudinal linear foot of the space to be occupied by the telecommunication facilities. The fee required under this subdivision shall not be required beginning 6 years after the effective date of the amendatory act that added this section. At no time during or after this 6-year time period shall a telecommunications provider that pays the fee be charged with any additional fee for the use of the land for telecommunication facilities.

(2) The department shall forward use fees collected under this section to the state treasurer for deposit as follows:

(a) If the land or rights in land on which the telecommunications facilities are installed was purchased with money from the Michigan natural resources trust fund, money received under subsection (1)(e) shall be deposited into the Michigan natural resources trust fund.

(b) All money not described in subdivision (a) shall be deposited into the fund.

(3) Notwithstanding any other provision of this part, money from the fund that is collected under this section shall be expended, upon appropriation, as follows:

(a) Money collected from application fees under subsection (1) shall be used by the department for the administrative costs of implementing this section.

(b) In each county in which money is collected under subsection (1)(e) for the installation of telecommunication facilities on rail-trails that are used for motorized use, the department shall expend the money for grants to organizations operating in that county that are involved with the motorized use of rail-trails if such organizations exist. Money provided under this subdivision to organizations involved with the motorized use of rail-trails shall be used for the development and maintenance of rail-trails located within the county for motorized recreational uses.

(c) In each county in which money is collected under subsection (1)(e) for the installation of telecommunication facilities, but which is not expended pursuant to subdivision (b), the department shall expend the money for grants to local units of government or other organizations operating in that county that are involved with the use of rail-trails. Money provided under this subdivision to local units of government or organizations involved with the use of rail-trails shall be used for the development and maintenance of rail-trails located within the county for motorized and nonmotorized recreational uses.

(4) This section does not affect the rights and duties set forth in any arrangements or agreements for the installation of telecommunication facilities in a rail-trail described in subsection (1) between the department and a telecommunication provider entered before the effective date of the amendatory act that added this section. This section does not create a right for either the department or a telecommunication provider to terminate any preexisting arrangements or agreements.

(5) As used in this section:

(a) "Michigan natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963, and provided for in part 19.

(b) "Telecommunication facilities" means either or both of the following:

(i) Telecommunication facilities as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(ii) Facilities used by a video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

(c) "Telecommunication provider" means either or both of the following:

(i) A telecommunication provider as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(ii) A video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

**History:** Add. 2012, Act 138, Imd. Eff. May 22, 2012

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72117 Preservation and promotion of history of Native Americans; collaboration with certain entities;**

**report.**

Sec. 72117.

(1) The department shall work collaboratively with tribal governments, educators, universities, the state transportation department, the council for the arts and cultural affairs, Travel Michigan, the state historic preservation office, the state archaeologist, the Michigan historical commission, historic preservation organizations, and historical societies to do all of the following:

(a) Review, plan, and implement a master plan to promote and preserve the history of Native Americans in this state. The master plan shall include a central compilation of information about places significant to the history of Native Americans in this state. The master plan shall also provide for the dissemination of such information to the public through websites, brochures, or other means.

(b) In conjunction with state and federal authorities, sponsor commemorations, linkages, seminars, and public forums on Native American history in this state and neighboring states.

(c) Assist and promote the making of applications for inclusion in the National Register of Historic Places and for Michigan historical markers for places significant to the history of Native Americans in this state.

(d) Assist and develop partnerships to seek public and private funds to carry out activities to protect, preserve, and promote the awareness of Native American cultural heritage in this state.

(e) Promote the signage and recognition of places significant to the history of Native Americans, including places significant to that history along the statewide trail network described in section 72114.

(2) The department shall annually report to the governor and both houses of the legislature on its activities under this section in the prior calendar year.

**History:** Add. 2016, Act 247, Eff. Sept. 22, 2016

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.72118 Forest roads; inventory; applicable provisions; posting on website.**

Sec. 72118.

(1) The department shall make a comprehensive inventory of forest roads that are state roads. The department shall divide the state into 5 regions and complete the inventory in regional phases. The Upper Peninsula shall be a separate region or regions. The department shall inventory the 2 most northerly regions in the Lower Peninsula by December 31, 2017. The department shall inventory the remaining regions by December 31, 2018. The inventory shall meet both of the following requirements:

(a) Identify the location, condition, and development level of the forest roads.

(b) Determine types of motorized and nonmotorized use currently restricted on each forest road segment and the seasons during which those uses are currently restricted.

(2) Beginning when the inventory for a region is completed or required to be completed, whichever occurs first, all of the following apply:

(a) The forest roads within that region are open to motorized use by the public unless designated otherwise by an order of the department under section 504. However, forest roads in the Upper Peninsula are open to motorized use by the public unless designated otherwise by an order of the department under section 504.

(b) If a timber harvest is planned for a particular area in that region, the department shall evaluate whether the timber harvest activity offers the opportunity to connect existing forest roads and trails in that area.

(c) The department shall not newly restrict a road or trail in that region from being used to access public land unless the department has provided each local unit of government in which the public land is located written notice that includes the reason for the restriction. This subdivision does not apply to a restriction imposed to protect public health or safety in an emergency situation.

(3) The department shall annually post to its website the total miles of forest roads open to motorized use in all inventoried regions and a map or maps of those forest roads.

**History:** Add. 2016, Act 288, Imd. Eff. Sept. 28, 2016 ;-- Am. 2018, Act 237, Eff. Sept. 25, 2018 ;-- Am. 2018, Act 240, Eff. Sept. 25, 2018

**Popular Name:** Act 451

**Popular Name:** NREPA



Part 723  
TRAILS

**324.72301 Trail defined.**

Sec. 72301.

As used in this part, "trail" means a right-of-way adapted to foot or horseback travel.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72302 State system of trails; master plan; development and maintenance of trails with facilities.**

Sec. 72302.

Within legislative appropriations, the department shall make a survey and prepare a master plan for a state system of trails with campsites and necessary facilities that takes into account points of historical interest and scenic beauty. Revisions of the plan may be made from time to time. On those parts of the trail that are not public roads, the department may prohibit motor equipment. The department may provide, develop, and maintain a system of trails with campsites and necessary facilities for the use of the public, within the appropriations made for those purposes by the legislature.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.72303 Trails; gifts; grants of property interests; prison labor.**

Sec. 72303.

The department may accept gifts or grants of land, rights-of-way and other property. The department may use state timber, timber materials, equipment, and prison labor on lands that are under lease or use permit to it.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

RECREATIONAL TRESPASS  
Part 731  
RECREATIONAL TRESPASS

**324.73101 Definitions; F to P.**

Sec. 73101.

As used in this part:

(a) "Farm product" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

- (b) "Farm property" means land used in the production of a farm product and all lands contained within the farm.
- (c) "Fish" means game fish or nongame fish as those terms are defined in section 48701.
- (d) "Fur-bearing animal" means that term as defined in section 43503.
- (e) "Game" means that term as defined in section 40103.
- (f) "Hunting dog" means a dog allowed to range freely to engage in or aid in hunting on the day the dog enters the property of another person.
- (g) "License" means a hunting, fishing, or fur harvester's license or, in the discretion of the court, any combination of such licenses. License does not mean a certificate, license, or permit under part 445 or 473.
- (h) "Protected animal" means that term as defined in section 40103.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 546, Eff. Mar. 23, 1999

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

### **324.73102 Entering or remaining on property of another; consent; exceptions.**

Sec. 73102.

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

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

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

(2) Except as provided in subsection (4), a person shall not enter or remain upon farm property or a wooded area connected to farm property for any recreational activity or trapping without the consent of the owner or his or her lessee or agent, whether or not the farm property or wooded area connected to farm property is fenced, enclosed, or posted.

(3) On fenced or posted property or farm property, a fisherman wading or floating a navigable public stream may, without written or oral consent, enter upon property within the clearly defined banks of the stream or, without damaging farm products, walk a route as closely proximate to the clearly defined bank as possible when necessary to avoid a natural or artificial hazard or obstruction, including, but not limited to, a dam, deep hole, or a fence or other exercise of ownership by the riparian owner.

(4) A person other than a person possessing a firearm may, unless previously prohibited in writing or orally by the property owner or his or her lessee or agent, enter on foot upon the property of another person for the sole purpose of retrieving a hunting dog. The person shall not remain on the property beyond the reasonable time necessary to retrieve the dog. In an action under section 73109 or 73110, the burden of showing that the property owner or his or her lessee or agent previously prohibited entry under this subsection is on the plaintiff or prosecuting attorney, respectively.

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

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 546, Eff. Mar. 23, 1999

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

### **324.73103 Discharging firearm within right-of-way of public highway abutting certain property; consent;**

**“public highway” defined.**

Sec. 73103.

(1) A person shall not discharge a firearm within the right-of-way of a public highway adjoining or abutting any platted property, fenced, enclosed, or posted property, farm property, or a wooded area connected to farm property without the consent of the owner of the abutting property or his or her lessee or agent.

(2) As used in this section, "public highway" means a road or highway under the jurisdiction of the state transportation department, the road commission of a county, or of a local unit of government.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

**324.73104 Removing, defacing, or destroying sign or poster.**

Sec. 73104.

A person shall not remove, deface, or destroy a sign or poster that has been posted pursuant to this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

**324.73105 Posting or enclosing property.**

Sec. 73105.

A person shall not post a sign on property owned by another person or enclose the property of another person to prohibit hunting, fishing, trapping, or other recreational activities on that property without the written permission of the owner of that property or his or her lessee or agent.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

**324.73106 Prosecution generally; seizure and enforcement by peace officer.**

Sec. 73106.

(1) A prosecution under this part shall be in the name of the people of the state, shall be brought before a district court of competent jurisdiction in the county in which the offense was committed, and shall be brought within 1 year from the time the offense charged was committed.

(2) A peace officer may seize property and otherwise enforce this part upon complaint of the landowner or his or her lessee or agent.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

**324.73107 Action for injury to person on property of another; exception.**

Sec. 73107.

(1) Except as provided in subsection (2), a cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent but who has not paid the owner, tenant, or lessee of that property valuable consideration for the recreational or trapping use of the property, unless the injury was caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent and has paid the owner, tenant, or lessee valuable consideration for fishing, trapping, or hunting on that property, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

- (a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.
- (b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe or to warn the person of the condition or risk.
- (c) The person injured did not know or did not have reason to know of the condition or risk.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

**324.73108 Enforcement and prosecution.**

Sec. 73108.

The prosecuting attorney for a county shall enforce this part and prosecute all persons charged with violating this part in that county. The attorney representing a municipality may enforce this part in that municipality and prosecute all persons charged with violating this part in that municipality.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

**324.73109 Violation of part; cause of action by property owner.**

Sec. 73109.

The owner of property on which a violation of this part is committed, or his or her lessee, may bring a cause of action against an individual who violates this part for \$750.00 or actual property damages, whichever is greater, and actual and reasonable attorney fees.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 546, Eff. Mar. 23, 1999 ;-- Am. 2013, Act 176, Eff. Feb. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

### **324.73110 Violation as misdemeanor; penalties; restitution.**

Sec. 73110.

(1) Except as provided in subsection (2) or (3), an individual who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both.

(2) An individual who kills any protected animal, game, or fish while violating this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$750.00, or both.

(3) An individual convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both. In addition, the court shall order the individual's license revoked if the individual is licensed to hunt, fish, or trap in this state, and shall order the individual not to seek or possess a license for the remainder of the calendar year in which the individual is convicted and during at least 1 succeeding calendar year. This subsection does not apply after September 30, 2001.

(4) This subsection applies beginning October 1, 2001. An individual convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than \$500.00 or more than \$1,500.00, or both. In addition, the court may order the individual's license revoked if the individual is licensed to hunt, fish, or trap in this state, and may order the individual not to seek or possess a license for not more than 3 succeeding calendar years.

(5) The court may order an individual convicted of violating this part to pay the costs of prosecution.

(6) The following may be seized and forfeited in the same manner as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709:

(a) A protected animal, a fur-bearing animal, game, or fish taken while committing any violation of this part.

(b) Property in the possession of the defendant while committing a second or subsequent violation of this part occurring within 3 years of a previous violation of this part. This subdivision does not apply to either of the following:

(i) Electronic hunting-dog-retrieval equipment.

(ii) A living or dead animal of any kind not described in subdivision (a).

(7) The court shall order an individual convicted of violating this part to make restitution for any damage arising out of the violation, including, but not limited to, reimbursing this state for the value of any protected animal, fur-bearing animal, game, or fish taken while violating this part as provided in section 40119. However, the value of fish shall be determined as provided in section 48740.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 546, Eff. Mar. 23, 1999 ;-- Am. 2013, Act 176, Eff. Feb. 25, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

### **324.73111 Adoption of part as ordinance; effect of contradicting or conflicting ordinance, regulation, or resolution.**

Sec. 73111.

(1) A local unit of government may adopt this part as an ordinance, except that a penalty imposed for a violation of that ordinance shall not exceed the penalty authorized by law for the violation of an ordinance enacted by that local unit of government.

(2) A local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Recreational Trespass Act

Part 733  
LIABILITY OF LANDOWNERS

**324.73301 Liability of landowner, tenant, or lessee for injuries to persons on property for purpose of outdoor recreation or trail use, using Michigan trailway or other public trail, gleaning agricultural or farm products, fishing or hunting, or picking and purchasing agricultural or farm products at farm or "u-pick" operation; definition.**

Sec. 73301.

(1) Except as otherwise provided in this section, a cause of action does not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

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

(3) A cause of action does not arise, for injuries to a person, against a person, other than a for-profit legal entity, with whom the owner, tenant, or lessee of land contracts to construct, maintain, or operate a trail or other land improvement used by the injured person as described in subsections (1) and (2), unless the injuries were caused by the gross negligence or willful and wanton misconduct of the person, other than a for-profit legal entity, with whom the owner, tenant, or lessee contracts.

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

(5) A cause of action does not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who is on that farm and has paid the owner, tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

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

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

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

(6) A cause of action does not arise against the owner, tenant, or lessee of land or premises for injuries to a person, other than an employee or contractor of the owner, tenant, or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

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

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

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

(7) As used in this section, "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary, including, but not limited to, trees and firewood.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2007, Act 174, Imd. Eff. Dec. 21, 2007 ;-- Am. 2017, Act 39, Eff. Aug. 21, 2017

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.73302 Injuries to person on right-of-way; cause of action against railroad.**

Sec. 73302.

(1) A cause of action does not arise against a railroad that owns or formerly owned or operated a right-of-way of a rail line that has been dedicated for interim trail use and rail banking under 16 USC 1247(d) for injuries to a person who is on the right-of-way that occur after the Surface Transportation Board approves the dedication of the right-of-way under 16 USC 1247(d) and before the right-of-way is reactivated for return to rail service.

(2) A cause of action does not arise against a railroad that owns or formerly owned or operated a right-of-way of a rail line that has been set apart for interim trail use and rail banking under the state transportation preservation act of 1976, 1976 PA 295, MCL 474.51 to 474.70, for injuries to a person who is on the right-of-way that occur after the dedication of the right-of-way under the state transportation preservation act of 1976, 1976 PA 295, MCL 474.51 to 474.70, and before the right-of-way is reactivated for return to rail service.

**History:** Add. 2017, Act 39, Eff. Aug. 21, 2017

**Popular Name:** Act 451

**Popular Name:** NREPA