

**Act No. 244
Public Acts of 1993
Approved by the Governor
November 19, 1993
Filed with the Secretary of State
November 22, 1993**

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Faust, Dingell, Koivisto, Ehlers and Gast

ENROLLED SENATE BILL No. 504

AN ACT to amend the title and sections 2, 3, 4, 5, 6, 7, 8, and 9 of Act No. 323 of the Public Acts of 1976, entitled "An act to regulate certain trespass upon any lands; to prohibit the possession of a loaded firearm or discharge of a firearm within the limits of the right of way of any public highway adjoining certain lands; to prohibit the posting or enclosing of lands except by the owner or lessee of lands or by his authorized agent; to provide for penalties; and to repeal certain acts and parts of acts," being sections 317.172, 317.173, 317.174, 317.175, 317.176, 317.177, 317.178, and 317.179 of the Michigan Compiled Laws; and to add sections 1a and 9a.

The People of the State of Michigan enact:

Section 1. The title and sections 2, 3, 4, 5, 6, 7, 8, and 9 of Act No. 323 of the Public Acts of 1976, being sections 317.172, 317.173, 317.174, 317.175, 317.176, 317.177, 317.178, and 317.179 of the Michigan Compiled Laws, are amended and sections 1a and 9a are added to read as follows:

TITLE

An act to regulate trespass upon certain property; to prohibit the possession of a loaded firearm or discharge of a firearm within the limits of the right of way of any public highway adjoining certain property; to prohibit posting or enclosing property without the permission of the owner or lessee of that property or by his or her authorized agent; to provide for limitations on certain civil actions and certain criminal prosecutions; to provide for forfeiture of certain property under certain circumstances; to provide for the payment of restitution under certain circumstances; to prohibit the enactment or enforcement of certain ordinances; to provide for penalties; and to repeal certain acts and parts of acts.

Sec. 1a. As used in this act:

(a) "Farm product" means that term as defined in section 2 of the Michigan right to farm act, Act No. 93 of the Public Acts of 1981, being section 286.472 of the Michigan Compiled Laws.

(b) "Farm property" means land used in the production of a farm product and all lands contained within the farm.

Sec. 2. (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 the property 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 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, 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.

(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.

(6) As used in this section, "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.

Sec. 3. (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.

Sec. 4. 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.

Sec. 5. (1) A prosecution under this act 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 act upon complaint of the landowner, or his or her lessee or agent.

Sec. 6. (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.

Sec. 7. The prosecuting attorney for a county shall enforce this act and prosecute all persons charged with violating this act in that county. The attorney representing a city, village, or township may enforce this act in that city, village, or township, and prosecute all persons charged with violating this act in that city, village, or township.

Sec. 8. A person shall not resist or obstruct a peace officer enforcing this act.

Sec. 9. (1) Except as provided in subsection (2), a person who violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(2) A person convicted of a second or subsequent violation of this act occurring within 3 years of a previous violation of this act shall be punished by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both.

(3) Except as provided in subsection (4), if a person is sentenced under subsection (2) and the person is licensed to hunt or fish in this state, the court may order the person's hunting or fishing license revoked for the remainder of the calendar year and order the person not to seek or possess a hunting or fishing license of any kind for not more than 3 succeeding calendar years.

(4) If a person is sentenced under subsection (2), the second or subsequent violation occurred on a private shooting preserve licensed pursuant to section 1 of Act No. 134 of the Public Acts of 1957, being section 317.301 of the Michigan Compiled Laws, the person possessed a firearm or bow including, but not limited to, a crossbow, at the time the violation occurred, and the person is licensed to hunt or fish in this state, the court shall order the person's license revoked for the remainder of the calendar year and shall order the person not to seek or possess a hunting or fishing license of any kind for not more than 3 succeeding calendar years.

(5) The court may order a person convicted of violating this act to pay the costs of prosecution.

(6) Property brought onto the property of another person while committing a second or subsequent violation of this act may be seized and forfeited as provided in chapter 47 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.4701 to 600.4709 of the Michigan Compiled Laws.

(7) The court shall order a person convicted of violating this act to make restitution for any damage arising out of the violation.

Sec. 9a. (1) A local unit of government may adopt this act 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 act.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 505 of the 87th Legislature is enacted into law.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.