



HOUSE BILL No. 5138

October 19, 1993, Introduced by Rep. Yokich and referred to the Committee on Tourism and Recreation.

A bill to amend section 2 of Act No. 157 of the Public Acts of 1905, entitled as amended

"An act to provide for the acquisition, maintenance, management, and control of township parks, resorts, bathing beaches, and places of recreation; to provide for the creation of a township park commission; to provide for a board of commissioners to provide for the issuance of bonds and the levy of taxes; to provide for the transfer of certain real property for parks; to authorize cities and villages to appropriate money for park purposes; to provide for the acquisition, construction, and use of wharves, piers, docks, and landing places in townships; and to provide the powers and duties of certain local units of government and certain officials,"

being section 41.422 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 157 of the Public Acts of
2 1905, being section 41.422 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 2. (1) The board of commissioners ~~shall have the~~
5 ~~power to~~ MAY adopt rules and regulations for the use and

1 maintenance of ~~such~~ THE place of recreation, including the
 2 hours DURING which the ~~same~~ PLACE OF RECREATION shall be open^{en}
 3 to the public, and may make leases for the purposes of erecti^{ing}
 4 cottages and other necessary buildings under such rules and r^{egu-}
 5 lations as it ~~deems~~ CONSIDERS expedient. Under any such le^{ase}
 6 no spirituous or malt liquors shall be sold on the premises.

7. ~~Any~~

8 (2) A person who violates the rules and regulations OF THE^{THE}
 9 BOARD OF COMMISSIONERS is guilty of a misdemeanor. IF THE USE^{USE} OF
 10 A VEHICLE ON A RECREATIONAL TRAIL OR OTHER PLACE OF RECREATION^N
 11 WHERE USE OF THE VEHICLE IS PROHIBITED IS AN ELEMENT OF THE VIOL^{IO-}
 12 LATION OF A RULE OR REGULATION OF THE BOARD OF COMMISSIONERS, ALL
 13 OF THE FOLLOWING APPLY:

14 (A) IN ADDITION TO THE OTHER SANCTIONS PROVIDED FOR IN THIS^{THIS}
 15 SUBSECTION, A COURT OF COMPETENT JURISDICTION MAY ORDER A PERSON^{PERSON}
 16 TO RESTORE, AS NEARLY AS POSSIBLE, ANY LAND, WATER, STREAM BANK,
 17 STREAMBED, OR OTHER NATURAL OR GEOGRAPHIC FORMATION DAMAGED BY
 18 THE VIOLATION OF THE RULE OR REGULATION TO THE CONDITION IT WAS
 19 IN BEFORE THE VIOLATION OCCURRED.

20 (B) A PEACE OFFICER MAY IMPOUND THE VEHICLE AND ANY PERSONAL^{PERSONAL}
 21 PROPERTY ON OR IN THE VEHICLE. WITHIN 7 DAYS AFTER THE PROPERTY
 22 IS IMPOUNDED, THE PROSECUTING ATTORNEY SHALL GIVE NOTICE OF THE
 23 IMPOUNDMENT IN THE MANNER AND TO THE PERSONS REQUIRED FOR NOTICES
 24 OF SEIZURE AND INTENT TO FORFEIT UNDER SECTION 4704 OF THE
 25 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF
 26 1961, BEING SECTION 600.4704 OF THE MICHIGAN COMPILED LAWS.

1 (C) A COURT OF COMPETENT JURISDICTION MAY ORDER THE
2 IMPOUNDED PROPERTY RETURNED TO THE OWNER OR, IN ADDITION TO THE
3 OTHER SANCTIONS PROVIDED FOR IN THIS SUBSECTION AND UPON RECOM-
4 MENDATION OF THE PROSECUTING ATTORNEY FOR THE TOWNSHIP, FORFEITED
5 TO THE BOARD OF COMMISSIONERS. A PERSON WHO DID NOT HAVE PRIOR
6 KNOWLEDGE OF, OR CONSENT TO THE COMMISSION OF, THE VIOLATION AND
7 WHO HAS AN OWNERSHIP OR SECURITY INTEREST IN THE VEHICLE OR OTHER
8 PERSONAL PROPERTY MAY MOVE THE COURT TO RETURN THE PROPERTY. THE
9 COURT SHALL HEAR THE MOTION WITHIN 30 DAYS AFTER THE MOTION IS
10 FILED. AT THE HEARING ON THE MOTION, THE PROSECUTING ATTORNEY
11 SHALL ESTABLISH PROBABLE CAUSE TO BELIEVE THAT THE PERSON FILING
12 THE MOTION HAD PRIOR KNOWLEDGE OF, OR CONSENTED TO THE COMMISSION
13 OF, THE VIOLATION. IF THE PROSECUTING ATTORNEY FAILS TO SUSTAIN
14 THIS BURDEN OF PROOF, THE COURT SHALL ORDER THE RETURN OF THE
15 PROPERTY. IF PROPERTY IS FORFEITED, IT IS SUBJECT TO THE INTER-
16 EST OF ANY SECURED PARTY OF RECORD AND THE PROCEEDS OF THE PROP-
17 ERTY SHALL BE DISPOSED OF IN THE FOLLOWING ORDER OF PRIORITY:
18 (i) TO PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED
19 PARTY WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO, THE
20 COMMISSION OF THE VIOLATION.
21 (ii) TO SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION
22 FOR THE VIOLATION.
23 (iii) IF THE BOARD OF COMMISSIONERS AND ANY OTHER GOVERNMEN-
24 TAL ENTITY EMPLOYING PEACE OFFICERS WHO ENFORCE RULES AND REGULA-
25 TIONS OF THE BOARD OF COMMISSIONERS ON THE RECREATIONAL TRAIL OR
26 OTHER PLACE OF RECREATION HAVE ENTERED INTO AN AGREEMENT
27 PERTAINING TO THE DISTRIBUTION OF THE PROCEEDS OF THE PROPERTY,

1 TO BE DISTRIBUTED BY THE BOARD OF COMMISSIONERS PURSUANT TO ^{THAT}
2 AGREEMENT.

3 (iv) IF THERE IS NO AGREEMENT AS DESCRIBED IN
4 SUBPARAGRAPH (iii), TO BE DEPOSITED FOR THE USE OF THE BOARD OF
5 COMMISSIONERS.

6 (3) A charge for admission TO THE PLACE OF RECREATION ^{may} be
7 made by the board OF COMMISSIONERS, but the charge shall not
8 exceed the charge for admission to state parks of this state,
9 Funds received from such admissions shall be used for the
10 improvement of the places of recreation.