



# SENATE BILL No. 504

March 17, 1993, Introduced by Senators FAUST, DINGELL, KOIVISTO, EHLERS and GAST and referred to the Committee on Natural Resources and Environmental Affairs.

A bill 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 "Recreational trespass act," 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:

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

## TITLE

1  
2 An act to regulate ~~certain~~ trespass upon ~~any lands~~  
3 CERTAIN PROPERTY; to prohibit the possession of a loaded firearm  
4 or discharge of a firearm within the limits of the right of way  
5 of any public highway adjoining certain ~~lands~~ PROPERTY; to pro-  
6 hibit ~~the~~ posting or enclosing ~~of lands except by~~ PROPERTY  
7 WITHOUT THE PERMISSION OF the owner or lessee of ~~lands~~ THAT  
8 PROPERTY or by his OR HER authorized agent; TO PROVIDE FOR LIMI-  
9 TATIONS ON CERTAIN CIVIL ACTIONS AND CERTAIN CRIMINAL PROSECU-  
10 TIONS; TO PROVIDE FOR FORFEITURE OF CERTAIN PROPERTY UNDER CER-  
11 TAIN CIRCUMSTANCES; TO PROVIDE FOR THE PAYMENT OF RESTITUTION  
12 UNDER CERTAIN CIRCUMSTANCES; to provide for penalties; and to  
13 repeal certain acts and parts of acts.

14 SEC. 1A. AS USED IN THIS ACT:

15 (A) "FARM PRODUCT" MEANS THAT TERM AS DEFINED IN SECTION 2  
16 OF THE MICHIGAN RIGHT TO FARM ACT, ACT NO. 93 OF THE PUBLIC ACTS  
17 OF 1981, BEING SECTION 286.472 OF THE MICHIGAN COMPILED LAWS.

18 (B) "FARM PROPERTY" MEANS LAND USED OR INTENDED TO BE USED  
19 IN THE PRODUCTION OF A FARM PRODUCT.

20 Sec. 2. (1) Except as provided in subsection (4), a person  
21 shall not enter ~~in~~ or remain upon the ~~lands~~ PROPERTY of  
22 another PERSON, other than farm ~~lands or connected farm wood~~  
23 ~~lots, for the purpose of hunting; fishing in a private lake, pond~~  
24 ~~or stream; operating a snowmobile, off road recreational vehicle,~~  
25 ~~or other motorized vehicle without the written~~ PROPERTY OR A  
26 WOODED AREA CONNECTED TO FARM PROPERTY, TO ENGAGE IN ANY  
27 RECREATIONAL ACTIVITY ON THAT PROPERTY WITHOUT THE consent of the

1 owner ~~—~~ OR his OR HER lessee or agent, ~~under any~~ IF EITHER of  
 2 the following ~~conditions~~ CIRCUMSTANCES EXISTS:

3 (a) The ~~lands are~~ PROPERTY IS fenced or enclosed, and THE  
 4 PROPERTY IS maintained in SUCH a manner AS to exclude intruders.

5 (b) The ~~lands are~~ PROPERTY IS posted in a conspicuous  
 6 manner against entry. ~~The minimum letter height on the posting~~  
 7 ~~signs shall be 2~~ EACH POSTING SIGN SHALL BE NOT LESS THAN 50  
 8 SQUARE inches and the signs shall be ~~so~~ spaced ~~as will~~ TO  
 9 enable a person to observe not less than 1 sign at any point of  
 10 entry upon the ~~lands~~ PROPERTY.

11 (2) Except as provided in subsection (4), a person shall not  
 12 enter OR REMAIN upon farm ~~lands or connected farm wood lots for~~  
 13 ~~any of the purposes cited in subsection (1) without written~~  
 14 PROPERTY OR A WOODED AREA CONNECTED TO FARM PROPERTY FOR ANY REC-  
 15 REATIONAL ACTIVITY WITHOUT THE consent of the owner ~~—~~ OR his OR  
 16 HER lessee or agent, whether or not the farm ~~lands or connected~~  
 17 ~~wood lots are~~ PROPERTY OR WOODED AREA CONNECTED TO FARM PROPERTY  
 18 IS fenced, enclosed, or posted.

19 (3) On fenced or posted ~~lands~~ PROPERTY or farm ~~lands~~  
 20 PROPERTY, a fisherman wading or floating a navigable ~~—~~ public  
 21 stream ~~of a length greater than 15 miles~~ may, without written  
 22 or ~~verbal~~ ORAL consent, enter upon ~~the upland~~ PROPERTY within  
 23 the clearly defined banks of the stream or walk a route as  
 24 closely proximate to the clearly defined bank as possible when  
 25 necessary to avoid a natural or artificial hazard or obstruction  
 26 ~~—, such as~~ INCLUDING, BUT NOT LIMITED TO, a dam, deep hole, ~~a~~

1 fence, or ~~some~~ other exercise of ownership by the riparian  
2 owner.

3 (4) A person other than a person ~~in possession of~~  
4 POSSESSING a firearm ~~, unless priorly prohibited in writing or~~  
5 ~~verbally by the landowner or his agent,~~ may, UNLESS PREVIOUSLY  
6 PROHIBITED IN WRITING OR ORALLY BY THE PROPERTY OWNER OR HIS OR  
7 HER LESSEE OR AGENT, enter on foot ~~only~~ upon the ~~lands~~  
8 PROPERTY of another PERSON for the sole purpose of retrieving a  
9 hunting dog. The person shall not remain on the ~~lands~~ PROPERTY  
10 beyond ~~a~~ THE reasonable ~~period which is~~ TIME necessary to  
11 retrieve the dog.

12 (5) As used in this section, ~~:- (a) "Off road vehicle"~~  
13 ~~means an ORV as defined in Section 1(j) of Act No. 319 of the~~  
14 ~~Public Acts of 1975, being section 257.1601 of the Michigan~~  
15 ~~Compiled Laws. (b) "Snowmobile" means a snowmobile as defined in~~  
16 ~~section 1(e) of Act No. 74 of the Public Acts of 1968, as~~  
17 ~~amended, being section 257.1501 of the Michigan Compiled Laws.~~  
18 ~~(c) "Hunting~~ "HUNTING dog" means a dog ~~which is engaged or~~  
19 ~~aiding~~ ALLOWED TO RANGE FREELY TO ENGAGE IN OR AID in hunting on  
20 the day ~~when~~ the dog enters the ~~lands~~ PROPERTY of another  
21 PERSON.

22 Sec. 3. (1) A person shall not discharge a firearm within  
23 the right of way of a public highway adjoining or abutting any  
24 platted property, ~~or~~ fenced, enclosed, or posted ~~lands, or farm~~  
25 ~~lands or connected farm wood lots~~ PROPERTY, FARM PROPERTY, OR A  
26 WOODED AREA CONNECTED TO FARM PROPERTY without the ~~written~~

1 consent of the owner ~~, his lessee or agent,~~ of the abutting  
2 ~~lands~~ PROPERTY, OR HIS OR HER LESSEE OR AGENT.

3 (2) As used in this section, "public highway" means a road  
4 or highway under the jurisdiction of the STATE TRANSPORTATION  
5 department, ~~of state highways and transportation or~~ the road  
6 commission of a county, OR OF A LOCAL UNIT OF GOVERNMENT.

7 Sec. 4. A person shall not ~~, without due authority for~~  
8 ~~posting or enclosing lands from the owner, his lessee or agent,~~  
9 ~~erect posters~~ POST A SIGN ON PROPERTY OWNED BY ANOTHER PERSON or  
10 enclose ~~lands so as~~ THE PROPERTY OF ANOTHER PERSON to prohibit  
11 ~~the public enjoyment of~~ hunting, fishing, trapping, or other  
12 recreational activities on ~~the lands~~ THAT PROPERTY WITHOUT THE  
13 WRITTEN PERMISSION OF THE OWNER OF THAT PROPERTY, OR HIS OR HER  
14 LESSEE OR AGENT.

15 Sec. 5. (1) A prosecution under this act shall be in the  
16 name of the people of the state, ~~and~~ shall be brought before a  
17 district court of competent jurisdiction in the county in which  
18 the offense was committed, and SHALL BE BROUGHT within 1 year  
19 from the time the offense charged was committed.

20 ~~(2) In a proceeding for a violation of this act, the pres-~~  
21 ~~ence of a person on the enclosed, fenced, or conspicuously posted~~  
22 ~~premises of another, or upon any farm lands or farm wood lots~~  
23 ~~connected therewith without written consent of the owner, his~~  
24 ~~lessee or agent shall constitute prima facie evidence of unlawful~~  
25 ~~entry.~~

1       (2) ~~-(3)-~~ A peace officer ~~or conservation officer~~ may  
 2 SEIZE PROPERTY AND OTHERWISE enforce this act upon complaint of  
 3 the landowner, OR his OR HER lessee or agent.

4       Sec. 6. (1) ~~No~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A  
 5 cause of action shall NOT arise AGAINST THE OWNER, TENANT, OR  
 6 LESSEE OF PROPERTY for ~~injuries~~ AN INJURY to ~~any~~ A person who  
 7 is on ~~the lands of another, including farm lands and connected~~  
 8 ~~wood lots, without paying to such other person a~~ THAT PROPERTY  
 9 BUT WHO HAS NOT PAID THE OWNER, TENANT, OR LESSEE OF THAT  
 10 PROPERTY valuable consideration for ~~the purpose of hunting,~~  
 11 ~~fishing, trapping, camping, hiking, sightseeing, motorcycling,~~  
 12 ~~snowmobiling, or any other outdoor~~ THE recreational use ~~, with~~  
 13 ~~or without permission, against the owner, his lessee or agent of~~  
 14 ~~the premises~~ OF THE PROPERTY, unless the ~~injuries were~~ INJURY  
 15 WAS caused by the gross negligence or ~~wilful~~ WILLFUL and wanton  
 16 misconduct of the owner, ~~his~~ TENANT, OR lessee. ~~or agent.~~

17       (2) A CAUSE OF ACTION SHALL NOT ARISE AGAINST THE OWNER,  
 18 TENANT, OR LESSEE OF FARM PROPERTY FOR AN INJURY TO A PERSON WHO  
 19 IS ON THAT FARM PROPERTY AND HAS PAID THE OWNER, TENANT, OR  
 20 LESSEE VALUABLE CONSIDERATION FOR FISHING OR HUNTING ON THAT  
 21 PROPERTY, UNLESS THAT PERSON'S INJURIES WERE CAUSED BY A CONDI-  
 22 TION THAT INVOLVED AN UNREASONABLE RISK OF HARM AND ALL OF THE  
 23 FOLLOWING APPLY:

24       (A) THE OWNER, TENANT, OR LESSEE KNEW OR HAD REASON TO KNOW  
 25 OF THE CONDITION OR RISK.

1 (B) THE OWNER, TENANT, OR LESSEE FAILED TO EXERCISE  
2 REASONABLE CARE TO MAKE THE CONDITION SAFE, OR TO WARN THE PERSON  
3 OF THE CONDITION OR RISK.

4 (C) THE PERSON INJURED DID NOT KNOW OR DID NOT HAVE REASON  
5 TO KNOW OF THE CONDITION OR RISK.

6 Sec. 7. ~~A~~ THE prosecuting attorney FOR A COUNTY shall  
7 enforce this act and prosecute all persons charged with violating  
8 this act IN THAT COUNTY. THE ATTORNEY REPRESENTING A CITY, VIL-  
9 LAGE, OR TOWNSHIP MAY ENFORCE THIS ACT IN THAT CITY, VILLAGE, OR  
10 TOWNSHIP, AND PROSECUTE ALL PERSONS CHARGED WITH VIOLATING THIS  
11 ACT IN THAT CITY, VILLAGE, OR TOWNSHIP.

12 Sec. 8. A person shall not resist or obstruct a peace offi-  
13 cer ~~or a conservation officer~~ enforcing ~~the provisions of~~  
14 this act.

15 Sec. 9. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A  
16 person who violates this act is guilty of a misdemeanor  
17 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF  
18 NOT MORE THAN \$100.00, OR BOTH.

19 (2) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION  
20 OF THIS ACT OCCURRING WITHIN 3 YEARS OF A PREVIOUS VIOLATION OF  
21 THIS ACT SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 90  
22 DAYS OR A FINE OF NOT LESS THAN \$100.00 OR MORE THAN \$1,000.00,  
23 OR BOTH.

24 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), IF A PERSON IS  
25 SENTENCED UNDER SUBSECTION (2) AND THE PERSON IS LICENSED TO HUNT  
26 OR FISH IN THIS STATE, THE COURT MAY ORDER THE PERSON'S HUNTING  
27 OR FISHING LICENSE REVOKED FOR THE REMAINDER OF THE CALENDAR YEAR

1 AND ORDER THE PERSON NOT TO SEEK OR POSSESS A HUNTING OR FISHING  
2 LICENSE OF ANY KIND FOR NOT MORE THAN 3 SUCCEEDING CALENDAR  
3 YEARS.

4 (4) IF A PERSON IS SENTENCED UNDER SUBSECTION (2), THE  
5 SECOND OR SUBSEQUENT VIOLATION OCCURRED ON A PRIVATE SHOOTING  
6 PRESERVE LICENSED PURSUANT TO SECTION 1 OF ACT NO. 134 OF THE  
7 PUBLIC ACTS OF 1957, BEING SECTION 317.301 OF THE MICHIGAN  
8 COMPILED LAWS, THE PERSON POSSESSED A FIREARM OR BOW INCLUDING,  
9 BUT NOT LIMITED TO, A CROSSBOW, AT THE TIME THE VIOLATION  
10 OCCURRED, AND THE PERSON IS LICENSED TO HUNT OR FISH IN THIS  
11 STATE, THE COURT SHALL ORDER THE PERSON'S LICENSE REVOKED FOR THE  
12 REMAINDER OF THE CALENDAR YEAR AND SHALL ORDER THE PERSON NOT TO  
13 SEEK OR POSSESS A HUNTING OR FISHING LICENSE OF ANY KIND FOR NOT  
14 MORE THAN 3 SUCCEEDING CALENDAR YEARS.

15 (5) THE COURT MAY ORDER A PERSON CONVICTED OF VIOLATING THIS  
16 ACT TO PAY THE COSTS OF PROSECUTION.

17 (6) PROPERTY BROUGHT ONTO THE PROPERTY OF ANOTHER PERSON  
18 WHILE COMMITTING A SECOND OR SUBSEQUENT VIOLATION OF THIS ACT MAY  
19 BE SEIZED AND FORFEITED AS PROVIDED IN CHAPTER 47 OF THE REVISED  
20 JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961,  
21 BEING SECTIONS 600.4701 TO 600.4709 OF THE MICHIGAN COMPILED  
22 LAWS.

23 (7) THE COURT SHALL ORDER A PERSON CONVICTED OF VIOLATING  
24 THIS ACT TO MAKE RESTITUTION FOR ANY DAMAGE ARISING OUT OF THE  
25 VIOLATION.

26 SEC. 9A. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT THIS ACT  
27 AS AN ORDINANCE, EXCEPT THAT A PENALTY IMPOSED FOR A VIOLATION OF



1 THAT ORDINANCE SHALL NOT EXCEED THE PENALTY AUTHORIZED BY LAW FOR  
2 THE VIOLATION OF AN ORDINANCE ENACTED BY THAT LOCAL UNIT OF  
3 GOVERNMENT.

4 (2) THIS SECTION DOES NOT PROHIBIT A LOCAL UNIT OF GOVERN-  
5 MENT FROM ENACTING OR ENFORCING AN ORDINANCE THAT OTHERWISE REGU-  
6 LATES CONDUCT ADDRESSED UNDER THIS ACT.