

SUBSTITUTE FOR  
HOUSE BILL NO. 4201

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 2123 and 2124 (MCL 324.2123 and 324.2124), as  
added by 1995 PA 60, and by adding section 2123a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2123. (1) ~~The~~**SUBJECT TO SECTION 2124, THE** department may  
2 grant **OR OTHERWISE PROVIDE FOR** an easement **FOR A ROADWAY** over state  
3 owned land under the jurisdiction of the department to an  
4 individual **WHO REQUESTS IT, BUT** only if all of the following  
5 conditions are met:

6       **(A) THE REQUEST IS MADE ON A FORM PROVIDED BY THE DEPARTMENT.**

1           (B) ~~(a)~~—The individual does not have other **LEGAL** access to the  
2 individual's land.

3           (C) ~~(b)~~—The easement does not conflict with ~~an~~**ANY OF THE**  
4 **FOLLOWING:**

5           (i) **AN** existing program or management plan of the department.  
6 ~~or a~~

7           (ii) **A** local ordinance.

8           (D) ~~(c)~~—The roadway for which the easement is granted is open  
9 to public access and ~~is not a roadway~~ for the exclusive use of the  
10 grantee.

11           (E) ~~(d)~~—The easement provides the logical and most feasible  
12 access to the individual's land.

13           (F) ~~(e)~~—The width of the roadway is restricted to the minimum  
14 consistent with the quality of the road required.

15           (G) ~~(f)~~—The individual agrees to construct, if necessary, and  
16 maintain the road.

17           (H) ~~(g)~~—The individual offers a similar roadway easement to  
18 the department across the land to which the easement **GRANTED BY THE**  
19 **DEPARTMENT** is to provide access. **THE DEPARTMENT SHALL NOT ACCEPT A**  
20 **ROADWAY EASEMENT UNDER THIS SUBDIVISION IF THE ROADWAY EASEMENT**  
21 **WOULD END AT A BODY OF WATER.**

22           (2) **IF THE DEPARTMENT DENIES A REQUEST FOR AN EASEMENT UNDER**  
23 **THIS SECTION, THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE**  
24 **INDIVIDUAL WHO REQUESTED THE EASEMENT OF THE DENIAL AND THE REASONS**  
25 **FOR THE DENIAL.**

26           **SEC. 2123A. (1) SUBJECT TO SECTION 2124 AND NOTWITHSTANDING**  
27 **SECTION 2123, THE DEPARTMENT SHALL GRANT OR OTHERWISE PROVIDE FOR**

1 AN EASEMENT FOR A ROADWAY OVER STATE OWNED LAND UNDER THE  
2 JURISDICTION OF THE DEPARTMENT TO AN INDIVIDUAL WHO REQUESTS IT,  
3 BUT ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

4 (A) THE REQUEST IS MADE ON A FORM PROVIDED BY THE DEPARTMENT.

5 (B) THE INDIVIDUAL DOES NOT HAVE OTHER LEGAL ACCESS TO THE  
6 INDIVIDUAL'S LAND, AS CONFIRMED BY A POLICY OF TITLE INSURANCE OR  
7 THE WRITTEN OPINION OF AN ATTORNEY AND BY THE DEPARTMENT.

8 (C) THE EASEMENT DOES NOT CONFLICT WITH ANY OF THE FOLLOWING:

9 (i) WITH AN EXISTING PROGRAM OR MANAGEMENT PLAN OF THE  
10 DEPARTMENT.

11 (ii) IF THE LAND WAS ACQUIRED USING REVENUE FROM HUNTING AND  
12 FISHING LICENSE FEES, FEDERAL FUNDS FROM A WILDLIFE OR SPORT FISH  
13 RESTORATION PROGRAM, OR OTHER STATE OR FEDERAL PROGRAM FUNDS, WITH  
14 STATE OR FEDERAL LAWS GOVERNING THE USE OF LANDS ACQUIRED THROUGH  
15 THE RESPECTIVE PROGRAM.

16 (iii) WITH A LOCAL ORDINANCE.

17 (D) THE EASEMENT DOES NOT CROSS AN ENVIRONMENTALLY SENSITIVE  
18 AREA, INCLUDING, BUT NOT LIMITED TO, A WETLAND AS DEFINED IN  
19 SECTION 30301 OR A CRITICAL DUNE AREA AS DEFINED IN SECTION 35301.

20 (E) THE INDIVIDUAL OFFERS A SIMILAR ROADWAY EASEMENT TO THE  
21 DEPARTMENT ACROSS THE LAND TO WHICH THE EASEMENT GRANTED BY THE  
22 DEPARTMENT IS TO PROVIDE ACCESS. THE DEPARTMENT SHALL NOT ACCEPT A  
23 ROADWAY EASEMENT UNDER THIS SUBDIVISION IF THE ROADWAY EASEMENT  
24 WOULD END AT A BODY OF WATER.

25 (2) THE DEPARTMENT MAY IMPOSE CONDITIONS ON AN EASEMENT  
26 GRANTED UNDER THIS SECTION.

27 (3) IF THE DEPARTMENT DENIES A REQUEST FOR AN EASEMENT UNDER

1 THIS SECTION, THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE  
2 INDIVIDUAL WHO REQUESTED THE EASEMENT OF THE DENIAL AND THE REASONS  
3 FOR THE DENIAL.

4 Sec. 2124. The department shall not grant an easement over  
5 state owned land under the jurisdiction of the department if any of  
6 the following occur ~~occur~~ **APPLY**:

7 (a) The proposed easement is over land designated as a  
8 wilderness area, wild area, or natural area under part 351.

9 (b) The proposed easement is over land in an area closed to  
10 vehicular traffic pursuant to a management plan approved by the  
11 department.

12 (c) The construction or use of the new or existing roadway  
13 will result in ~~unnecessary~~ **UNREASONABLE** damage to or destruction of  
14 the surface, soil, animal life, fish or **OTHER** aquatic life, or  
15 property.