

HOUSE BILL No. 5178

December 5, 2013, Introduced by Rep. Pettalia and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 73301 (MCL 324.73301), as amended by 2007 PA
174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 73301. (1) Except as otherwise provided in this section,
2 a cause of action ~~shall~~**DOES** not arise for injuries to a person who
3 is on the land of another without paying to the owner, tenant, or
4 lessee of the land a valuable consideration for the purpose of
5 fishing, hunting, trapping, camping, hiking, sightseeing,
6 motorcycling, snowmobiling, **AVIATION ACTIVITIES**, or any other
7 outdoor recreational use or trail use, with or without permission,
8 against the owner, tenant, or lessee of the land unless the

1 injuries were caused by the gross negligence or willful and wanton
2 misconduct of the owner, tenant, or lessee.

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

14 (3) A cause of action ~~shall~~**DOES** not arise against the owner,
15 tenant, or lessee of land or premises for injuries to a person who
16 is on that land or premises for the purpose of gleaning
17 agricultural or farm products, unless that person's injuries were
18 caused by the gross negligence or willful and wanton misconduct of
19 the owner, tenant, or lessee.

20 (4) A cause of action ~~shall~~**DOES** not arise against the owner,
21 tenant, or lessee of a farm used in the production of agricultural
22 goods as defined by section 35(1)(h) of the former single business
23 tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan
24 business tax act, 2007 PA 36, MCL 208.1207, for injuries to a
25 person who is on that farm and has paid the owner, tenant, or
26 lessee valuable consideration for the purpose of fishing or
27 hunting, unless that person's injuries were caused by a condition

1 ~~which~~**THAT** involved an unreasonable risk of harm and all of the
2 following apply:

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

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

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

10 (5) A cause of action ~~shall~~**DOES** not arise against the owner,
11 tenant, or lessee of land or premises for injuries to a person,
12 other than an employee or contractor of the owner, tenant, or
13 lessee, who is on the land or premises for the purpose of picking
14 and purchasing agricultural or farm products at a farm or "u-pick"
15 operation, unless the person's injuries were caused by a condition
16 that involved an unreasonable risk of harm and all of the following
17 apply:

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

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

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

25 (6) As used in this section: ~~,"agricultural"~~

26 **(A) "AGRICULTURAL** or farm products" means the natural products
27 of the farm, nursery, grove, orchard, vineyard, garden, and apiary,

1 including, but not limited to, trees and firewood.

2 (B) "AVIATION ACTIVITIES" MEANS THE NONCOMMERCIAL OPERATION,
3 AND RELATED ACTS IN THE AIR AND ON THE GROUND, OF AN AIRCRAFT,
4 INCLUDING, BUT NOT LIMITED TO, A MOTORIZED OR NONMOTORIZED FIXED
5 WING AIRCRAFT, HELICOPTER, BALLOON, HANG GLIDER, OR PARASAIL.
6 AVIATION ACTIVITIES INCLUDE PARTICIPATION IN THE OPERATION OR
7 RELATED ACTS DESCRIBED IN THIS SUBDIVISION AS A PASSENGER OR
8 SPECTATOR.