



**House
Legislative
Analysis
Section**

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EVICTON BY CAMPGROUND OPERATORS

House Bill 5360 with committee amendments F 11 IV 10
First Analysis (2-7-90)

Sponsor: Rep. Carl F. Gnodtke
Committee: Tourism, Fisheries, & Wildlife

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THE APPARENT PROBLEM:

Most private and public campgrounds in Michigan are operated with the intention that guests will stay at a campsite for no longer than two weeks. State and federal campgrounds have provisions to address situations in which the occupant of a campsite doesn't leave the site promptly or situations that require park operators to evict an occupant from a site and dispose of the occupant's property. Under current law, mobile home parks, bed and breakfasts, hotels and motels, inns and boarding houses also have the ability to evict occupants from their premises and dispose of the occupant's property. However, the options of evicting an occupant from a campsite and disposing of the occupant's property are not available to private and municipal campground operators and owners. Because of this, it can take months for a private campground owner or municipal campground operator to evict the occupant of a site. Even if an occupant is successfully evicted from a private or municipal campground, there are no provisions currently to allow the owner or operator to dispose of the occupant's property.

Under current law, law enforcement officers can enter the premises of state and federal parks in order to help park rangers evict occupants of the park. However, current law makes no provision for law enforcement officers to make arrests for misdemeanors committed on private or municipal campgrounds if the officers did not witness the offenses. In addition, while there are specific provisions which allow state and federal park operators to collect overdue fees from occupants of a campsite, private and municipal campground owners and operators have to try to recoup overdue fees through the small claims court process. This can take several months, by which time the former occupant of the site has, in some cases, left the state, thereby making it almost impossible for the owner or operator to collect the amount owed. Legislation has been introduced to specify situations in which law enforcement officers may assist owners and operators of private and municipal campgrounds and to address the problems listed above.

THE CONTENT OF THE BILL:

The bill would create an act to provide owners and operators of private campgrounds, and operators of municipal campgrounds, with several options to address cases of disturbances, damage to property, nonpayment of rent, or unlawful presence on the grounds. The bill would specify that the term "campground" would not include state or federal campgrounds.

Eviction. The operator could remove, or cause to be removed, any occupant or guest of an occupant of the campground, or any other individual, who caused physical harm to campground facilities, disturbed the peace of other occupants, or who failed to pay the agreed upon rent at the agreed upon time. However, the bill would specify that admission to, or removal from, any campground

would not be based upon a person's religion, race, color, national origin, age, sex, height, weight, or marital status as prohibited under the Civil Rights Act. The operator would have to request in writing that an occupant immediately depart from the campground before the operator could remove the occupant. If an advance had been paid by the occupant, the operator would refund the unused portion at the time of request for departure. Occupants, guests or other individuals who remained after being requested to leave would be guilty of a misdemeanor, punishable by a fine of up to \$100, or up to 30 days imprisonment, or both.

A local law enforcement officer, upon the request of the operator, could place under arrest and take into custody any occupant, guest or other individual who remained, or attempted to remain, on a camp's grounds after being requested to leave, who committed a breach of the peace, or who violated any other state law or local ordinance in the presence of the officer. Further, an officer could serve a warrant upon an occupant or guest, and could take the person into custody.

Upon arrest an occupant would give up any right to occupancy of the campground site, and the operator would employ all reasonable and proper means to adequately care for any personal property that may be left on the site by the occupant. The operator would refund to the occupant any unused portion of the money paid by the occupant for the site.

The bill would specify that grounds for eviction could be established in a written lease agreement between the occupant and the operator.

Nonpayment. If an occupant of a campground accumulated an outstanding account in excess of three nights' rent, the operator of the campground could disconnect the utilities of the occupant's recreational vehicle in order to require the occupant to arrange for payment of the account. Any arrangement made would have to be in writing, and a copy would be provided to the occupant. Upon entering into an agreement, the operator would reconnect the utilities of the recreational vehicle.

Lien. The operator would have a lien upon all personal property left upon a site for rent or other lawful charges incurred in the occupancy of the site, including expenses necessary for the preservation of the property and its sale. The lien would attach as of the date the occupant took possession of the campground site. If an operator whose claim for rent or other lawful charges was not satisfied, the operator could sell the property subject to the lien at a public sale held in accordance with the bill's provisions.

The occupant would be notified of the proposed sale of the property. Notification could be by personal delivery, or first-class mail and certified mail to the last known address of the occupant if the occupant provided the operator with an address. Notification would include an itemized statement of the owner's claim, a demand for payment

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within 30 days after delivery of the notice, and a conspicuous statement indicating that the property would be sold unless the claim was promptly paid. The statement would also specify the time, place, and manner of the proposed sale.

The bill would specify the manner in which the sale would be advertised and information to be included in the advertisement. An occupant could pay the amount necessary to satisfy the lien, including the operator's expenses to advertise the sale, and redeem the personal property. Property would have to be returned in the same condition or substantially the same condition as it was when it was left at the campground. Before sale of a motor vehicle, boat, or recreational vehicle, the operator would contact the secretary of state's office to determine the name and address of any title holders or lienholders, and the owner would notify every title holder or lienholder of the time and place of the proposed sale. The operator would be liable for notifying the holder of a security interest only if the security interest was filed under the name of the occupant. Before a sale of personal property, a holder of a prior lien could pay the operator the amount of the owner's lien attributable to storage of the property, including the reasonable expenses incurred by the owner under this provision. Payment made to the operator would be added to the amount of the lien of the prior lienholder who made the payment, and would be subtracted from the amount of the operator's lien.

A purchaser in good faith of the personal property sold under the bill would take the property free of any rights of persons against whom the lien was valid, despite the noncompliance by the owner with the requirements of the bill. Proceeds from a sale would be distributed in the following sequence:

- to satisfy the operator's liens, minus any amount already paid to the operator by a prior lienholder;
- to satisfy the outstanding balances owed prior to prior perfected lienholders;
- any proceeds remaining after the above distributions would be returned to the occupant's last known address by certified mail and by notifying the occupant by first-class mail. If the occupant did not claim the remaining proceeds within two years after the date of sale, the remaining proceeds would revert to the state.

The bill would require operators to maintain proper records of money received in any sale held in accordance with the bill's provisions, and the records would be subject to audit by the state. The party conducting the sale would dispose of any property not purchased by donating it to a charitable organization, or if not accepted by a charitable organization, by any other means. Occupants who suffered damages because of an operator's failure to comply with the bill could bring an action in court for the actual amount of the damages or for \$250, whichever was greater, together with reasonable attorney's fees.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the amount of money that would be generated in fines or lost due to the costs of incarcerating a person under the bill cannot be determined at this time. (2-5-90)

ARGUMENTS:

For:

As the popularity of camping has increased, the number of people who violate the intent of the two week camp stay has also increased. Certain cities, such as Bridgeman, have

faced additional strain. The city operates a campground near a construction area, and the campground is located near the borders of the state. Many of the campers at the campground are temporary construction workers who often stay at the park for more than two weeks. If they are evicted, the campground operator has no recourse for disposing of the campsite occupant's property, and usually occupants that have overdue fee bills leave the state, making it virtually impossible for the campground operator to collect the fees. The bill would allow all private and municipal campground owners and operators to collect overdue fees and dispose of property that is taking up space on a campsite. In addition, it would allow operators and owners to address situations when an occupant is disorderly, and specify that law enforcement officers may provide assistance to them.

Against:

The bill does not specify what actions constitute a disturbance of "the peace and comfort." The lack of definition of this term allows it to be interpreted at the discretion of the owner or operator of the campground. This may result in inconsistency across the state, as some things that are acceptable at one campground may not be acceptable in another. In addition, the term "physical harm to campgrounds" should be clarified; physical harm to one campground may be natural wear and tear on another campground's facilities.

SUGGESTED AMENDMENTS:

The Department of State Police suggests that the bill be amended to define the terms "disturbing the peace and comfort" and "physical harm" in order to alleviate the possibility of the discretionary interpretation of those terms and inconsistency in the enforcement of the bill's provisions. (2-2-90)

POSITIONS:

The City of Bridgeman supports the bill. (2-6-90)

The Department of State Police supports the bill. (2-2-90)

The Michigan Association of Private Campground Owners supports the bill. (2-5-90)

The Michigan Municipal League supports the concept of the bill. (2-5-90)