

HOUSE BILL No. 5360

December 12, 1989, Introduced by Reps. Gnodtke, Stacey, Bartnik, DeMars, Krause, DeLange, Pridnia, Ouwinga, Weeks, Middaugh, Sikkema, Munsell, Dunaskiss, Bender, Oxender, Spaniola and Murphy and referred to the Committee on Tourism, Fisheries and Wildlife.

A bill to provide certain remedies to owners and operators of certain campgrounds in case of disturbances, damage to property, nonpayment of rent, or unlawful presence on certain campgrounds; to allow for a lien in favor of campground owners and operators and to provide for its enforcement; and to prescribe certain powers of local law enforcement officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Campground" means that term as defined in section 12501
3 of the public health code, Act No. 368 of the Public Acts of
4 1978, being section 333.12501 of the Michigan Compiled Laws,
5 except that campground does not include land or sites operated by
6 the department of natural resources.

7 (b) "Occupant" means a person who occupies a site in a
8 campground.

1 (c) "Operator" means a person who owns or operates a
2 campground, and includes the employees and agents of the person
3 who owns or operates the campground.

4 Sec. 2. The operator of a campground may remove or cause to
5 be removed from the campground, in the manner provided in this
6 section, any occupant of the campground or guest of an occupant
7 or other individual who, while on the premises of the campground,
8 disturbs the peace and comfort of other occupants, who causes
9 physical harm to the campground facilities, or who fails to pay
10 rent at the rental rate agreed upon by the time agreed upon.
11 However, admission to, or removal from, any campground shall not
12 be based upon a person's religion, race, color, national origin,
13 age, sex, height, weight, or marital status as prohibited under
14 the Elliott-Larsen civil rights act, Act No. 453 of the Public
15 Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan
16 Compiled Laws.

17 Sec. 3. Before an occupant is removed from a campground,
18 the operator shall request that the occupant immediately depart
19 from the campground. The request shall be in writing. If the
20 occupant has paid in advance, the operator, at the time the
21 request is given to the occupant, shall return to the occupant
22 the unused portion of the advance payment. An occupant who
23 remains or attempts to remain in a campground after being
24 requested to leave for the reasons and in the manner prescribed
25 in this act is guilty of a misdemeanor, punishable by a fine of
26 not more than \$100.00, or imprisonment for not more than 30 days,
27 or both.

1 Sec. 4. If an occupant has accumulated an outstanding
2 account in excess of an amount equal to 3 nights' rent at a camp-
3 ground, the operator may disconnect the utilities of the
4 occupant's recreational vehicle and notify the occupant that the
5 action is for the purpose of requiring the occupant to confront
6 the operator and arrange for payment of the occupant's account.
7 The arrangement shall be in writing, and a copy shall be fur-
8 nished to the occupant. Upon entering into a payment agreement,
9 the operator shall reconnect the utilities of the recreational
10 vehicle.

11 Sec. 5. (1) If any occupant, guest of an occupant, or other
12 individual engages in an act or omission for which an operator
13 may remove a person under section 2, or violates section 3, the
14 operator may call upon any local law enforcement officer for
15 assistance. The law enforcement officer, upon the request of the
16 operator, may place under arrest and take into custody any occu-
17 pant or guest of an occupant or other individual who violates
18 section 3, commits a breach of the peace, or violates any other
19 state law or local ordinance in the presence of the officer. If
20 a warrant has been issued by the proper judicial officer for the
21 arrest of any occupant or guest of an occupant, the officer shall
22 serve the warrant, arrest the occupant or guest, and take the
23 occupant or guest into custody.

24 (2) Upon arrest, with or without warrant, an occupant shall
25 be considered to have given up any right to occupancy of the
26 campground site, and the operator shall employ all reasonable and
27 proper means to adequately care for any personal property which

1 may be left on the campground site by the occupant and shall
2 refund to the occupant any unused portion of money paid by the
3 occupant for the occupancy of the campground site.

4 Sec. 6. In addition to grounds for eviction established
5 under this section, grounds for eviction may be established in a
6 written lease agreement between the occupant and the operator.

7 Sec. 7. The operator has a lien upon all personal property
8 left on the campground site for rent or other lawful charges
9 incurred in the occupancy of the campground site, including
10 expenses necessary for its preservation, or reasonably incurred
11 in its sale pursuant to this act. The lien attaches as of the
12 date the occupant takes possession of the campground site.

13 Sec. 8. (1) An operator's lien under section 7 shall be
14 enforced only as provided in this section.

15 (2) An operator whose claim for rent or other lawful charges
16 described in section 7 has not been satisfied may sell the per-
17 sonal property subject to the lien at a public sale, if the
18 public sale conforms to this section.

19 (3) The occupant shall be notified of the proposed sale of
20 personal property to satisfy the claim of the operator by notice
21 personally delivered or sent by first-class mail and by certified
22 mail to the last known address of the occupant, if the occupant
23 provided his or her address to the operator. The notice shall
24 include:

25 (a) An itemized statement of the owner's claim showing the
26 amount due at the time of the notice and the date on which the
27 amount became due.

1 (b) A demand for payment within a period of 30 days after
2 delivery of the notice.

3 (c) A conspicuous statement, printed in not less than
4 10-point type, indicating that unless the claim is paid within
5 the time stated in the notice, the personal property will be
6 advertised for sale and sold. The statement shall specify the
7 time, place, and manner of the proposed sale.

8 (4) After the expiration of the 30-day period in
9 subsection (3)(b), an advertisement of the proposed sale shall be
10 published once a week for 2 consecutive weeks in a newspaper of
11 general circulation in the city, village, or township in which
12 the campground is located. If there is no newspaper of general
13 circulation in the city, village, or township in which the camp-
14 ground is located, the advertisement shall be posted at least 10
15 days before the date of the sale in not less than 6 conspicuous
16 places in the city, village, or township in which the campground
17 is located. The advertisement shall include all of the
18 following:

19 (a) A brief, general description of the personal property
20 subject to the lien. The description shall reasonably identify
21 the property, except that any container, including but not
22 limited to a suitcase, trunk, valise, or box, that is locked,
23 fastened, sealed, or tied in a manner which deters immediate
24 access to its contents may be described as such without describ-
25 ing its contents.

26 (b) The address of the campground and the name of the
27 occupant, if known to the operator.

1 (c) The time, place, and manner of the proposed sale.

2 (5) The sale shall take place not sooner than 30 days after
3 the first publication or posting. A sale of the personal prop-
4 erty shall be held at the campground or at the nearest suitable
5 place.

6 (6) Before a sale of personal property pursuant to this sec-
7 tion, the occupant may pay the amount necessary to satisfy the
8 lien, including the reasonable expenses incurred by the operator
9 under this section, and redeem the personal property. Upon
10 receipt of this payment, the operator shall return the personal
11 property to the occupant in the same condition, or substantially
12 the same condition, as it was in when it was left at the camp-
13 ground by the occupant.

14 (7) Before a sale of personal property pursuant to this sec-
15 tion, the operator shall complete an inventory of the personal
16 property.

17 (8) Before a sale of a motor vehicle, boat, or recreational
18 vehicle pursuant to this section, the operator shall contact the
19 secretary of state to determine the name and address of any title
20 holders or lienholders, and the owner shall notify every such
21 title holder or lienholder of the time and place of the proposed
22 sale. The operator shall be held liable for notifying the holder
23 of a security interest only if the security interest is filed
24 under the name of the occupant. Failure to make the lien
25 searches required by this subsection shall result in liability
26 only to valid lienholders injured by that failure.

1 (9) Before a sale of personal property pursuant to this
2 section, a holder of a prior lien on any of the property to be
3 sold may pay the operator the amount of the owner's lien attrib-
4 utable to storage of the property, including the reasonable
5 expenses incurred by the owner under this section. A payment
6 made to the operator shall be added to the amount of the lien of
7 the prior lienholder who made the payment, and shall be sub-
8 tracted from the amount of the operator's lien.

9 (10) A purchaser in good faith of the personal property sold
10 under this section takes the property free of any rights of per-
11 sons against whom the lien was valid, despite noncompliance by
12 the owner with the requirements of this section.

13 (11) In a sale under this section, the party conducting the
14 sale shall distribute the proceeds in the following sequence:

15 (a) First, to satisfy the operator's liens, minus any amount
16 already paid to the operator pursuant to subsection (9).

17 (b) Second, to satisfy outstanding balances owed to prior
18 perfected lienholders.

19 (c) Third, any proceeds of the sale remaining after the dis-
20 tribution is made under subdivision (a) or (b) shall be returned
21 to the occupant by mailing the proceeds to the occupant's last
22 known address by certified mail and by notifying the occupant by
23 first-class mail. If the occupant does not claim the remaining
24 proceeds within 2 years after the date of sale, the remaining
25 proceeds shall escheat to the state.

1 (12) The operator shall maintain proper records of money
2 received in any sale held under this section, and the records
3 shall be subject to audit by the state.

4 (13) The party conducting the sale shall dispose of any
5 property offered for sale but not purchased by donating it to a
6 charitable organization or, if the property is not accepted by a
7 charitable organization, by any other means.

8 (14) An occupant who suffers damages because of an
9 operator's failure to comply with this act may bring an action in
10 a court of appropriate jurisdiction for the actual amount of the
11 damages or \$250.00, whichever is greater, together with reason-
12 able attorney's fees.