

Legislative Analysis



HORSEBACK RIDING ON STATE-OWNED LAND

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House Bill 4610 (Substitute H-1)

Sponsor: Rep. Tim Moore

Committee: Tourism, Outdoor Recreation and Natural Resources

First Analysis (11-5-09)

BRIEF SUMMARY: The bill would require the Department of Natural Resources (DNR) to allow pack and saddle animals (primarily, horses) to be ridden on "trailways" or "equine access locations" on any state-owned land where this use has been allowed since January 1, 1999, and to reopen lands that were closed to this use since that date. The bill would also add members to an existing Michigan Trailways Council (set to be abolished by Executive Order No. 2009-45), create a new Equine Trailways Advisory Council, and require the Natural Resources Commission to establish a network of trails on state-owned land open to pack and saddle animals. In addition, the bill would declare that "the use of trailways and equine access locations by pack and saddle animals is compatible with the management of land for the conservation of fish and wildlife." The DNR is strongly opposed to the bill.

FISCAL IMPACT: House Bill 4610 would require the DNR to allow recreational horseback riding on any state owned land that has been open for use by pack and saddle animals at any time since January 1, 1999. The bill mandates this use regardless of the current use of the land or any regulatory or statutory provisions regarding the DNR management of specific state-owned lands.

According to the DNR, the provisions of the bill would result in the loss of \$24.8 million in Federal funding to the DNR annually. Michigan receives federal funding through the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act. These federal acts prohibit hunting and fishing license fees (including land bought with the revenue) from being used for purposes other than game and fish activities. Mandating that interfering activities be allowed would likely constitute a diversion of these fees and result in the loss of federal funding for these programs.

The funding that Michigan would no longer be eligible to receive would be (based on FY 2009 funding):

Pittman-Robertson Wildlife Restoration	\$9.6 million
Hunter Education funding	1.9 million
Dingell-Johnson Sport Fish Restoration	13.3 million
Total	\$24.8 million

In a letter to Ms. Rebecca Humphries, the Director of DNR, in April of 2009, the Chief of the Fish and Wildlife Service of the U.S. Department of the Interior agreed that under the provisions of HB 4610, Michigan would be ineligible for this \$24.8 million federal funding until the violating activities were no longer allowed.

According to the DNR, in addition to the loss of federal funding, the state may be required to reimburse the U.S. Fish and Wildlife Service for the current fair market values of any land acquired with Federal Aid funds or license fees that is found to be no longer used for the purpose for which it was acquired (50 CFR 80.14). Because of the provisions of HB 4610, the US Fish and Wildlife Service may require the state to reimburse the value of the 118,000 acres of the Pigeon River Country Forest which was purchased with hunting and fishing license revenue. That potential cost is indeterminate at this time.

The bill also allows that the 12 members of the Equine Trailways Advisory Council may be reimbursed for their relevant expenses. This provision may increase expenditures to the DNR depending upon the amount of any expenses that are reimbursed.

THE APPARENT PROBLEM:

The bill is a response to the DNR's decision to limit some recreational horseback riding in the Pigeon River Country State Forest as part of its management plan for the area approved on November 8, 2007. Federal wildlife and sport fish restoration program staff have also expressed concerns about unrestricted horseback riding in this area. The DNR's decision was unpopular with persons who had previously engaged in off-trail horseback riding in this state forest and who believe that concerns about environmental degradation and the negative effects on wildlife management are overstated.

It has been suggested that the DNR's management plan, unpopular with many horseback riders, should be overturned by a state law that would ensure that horseback riders could ride on any "trailway" or "equine access location" on any state-owned land that was open pack and saddle animals at any time since January 1, 1999. Further, the bill would have the Legislature declare that the use of trailways and equine access locations by pack and saddle animals is compatible with the management of land for the conservation of fish and wildlife, add members to existing trailways council, create a new equine council, and require the creation of a system of trails to be used by horseback riders.

THE CONTENT OF THE BILL:

The bill would amend Part 721 (Michigan Trailways) of the Natural Resources and Environmental Protection Act to require the Department of Natural Resources (DNR) to preserve and facilitate the use of pack and saddle animals (e.g., horses and mules) on all "trailways" and "equine access locations" on state-owned lands that have been open to this use since January 1, 1999. In addition, the DNR would have to reopen and make accessible for use by pack and saddle animals any trailways and equine access locations on state-owned land that were available for use by pack and saddle animals on January 1,

1999 and subsequently closed. The bill would also adopt a legislative finding that "the use of trailways and equine access locations by pack and saddle animals is compatible with the management of land for the conservation of fish and wildlife."

"Trailway" is defined in Part 721 as "a land corridor that features a broad trail capable of accommodating a variety of public recreation uses." The bill would define "equine access locations" as "open access roads, management roads, forestry access roads, established 2-track and single-track trails, staging areas for pack and saddle animals to be dropped off or picked up, and associated wilderness campsites." The DNR would have to allow pack and saddle animals on both trailways and equine access locations.

A person could not use pack and saddle animals on state-owned land except on trailways and equine access locations that were open for use by such animals.

Network. In addition, by July 31, 2010, the Natural Resources Commission (NRC), in consultation with a new Equine Trailways Advisory Council, would be required to establish a network of trailways on state-owned lands for use by pack and saddle animals. This network would have to include trailways and other equine access locations that were open for use by these animals at any time since January 1, 1999. A trailway designated for use by these animals could have other uses as well. The NRC would have to facilitate the inclusion of other public and private lands, in addition to state-owned lands, to provide a comprehensive network of pack and saddle trailways throughout Michigan.

Equine Trailways Advisory Council. The bill would create a new Equine Trailways Advisory Council with members appointed jointly by the Governor, Senate Majority Leader, and the Speaker of the House. The new council would have to advise the NRC and the DNR on the network of trails for use by saddle and pack animals and matters related to promotion of the state's equine industry. The new advisory council would have the following members:

- One member representing the state's tourism industry.
- One member representing businesses that support the equine industry.
- Five members representing the equine industry (one each from the Upper Peninsula, northern Lower Peninsula, central Lower Peninsula, southeastern lower Peninsula, southwestern Lower Peninsula).

The members would serve four-year terms or until a successor was appointed, whichever was later. The members' terms would be staggered by having two of the initial members serve two-year terms, two serve three-year terms, and three serve four-year terms. Vacancies would be filled in the same manner as the original appointment; members could be removed for good cause.

The bill also specifies that the first meeting would be called by the DNR director, specifies how often the council would meet (at least quarterly), describes a council quorum and other procedural matters. The council's business would be conducted in

compliance with the Open Meetings Act and its writing would be subject to the Freedom of Information Act.

Members would serve without compensation but could be reimbursed for their actual and necessary expenses in performing their official duties.

Michigan Trailways Advisory Council. The bill would also amend the membership of the Equine Trailways Advisory Council that currently exists in statute (but is set to be abolished by Executive Order No. 2009-45 in January 2009). The council currently has: (1) one person involved with a multiple use trailway; (2) two persons representing Michigan trailway user groups; (3) one local government official; (4) and one member of the general public. The bill would add one more individual representing a trailway user group (for a total of three) and one member of a the new Equine Trailways Advisory Council to this council. The new members would be appointed within 90 days after the bill took effect. The new representative of trailway user groups would serve a three-year term; the new representative from the equine council would serve a four-year terms.

MCL 324.72101, 324.72114

ARGUMENTS:

For:

The bill would overturn a DNR management plan for the Pigeon River Country that has been unpopular with horseback riders, could expand horseback riding on state-owned lands generally, would require the creation of a new trail system for horseback riders, and would lend support to an important segment of Michigan's tourism industry.

Against:

This broad and sweeping proposal could have significant unintended impacts on sensitive and site-specific management plans for state-owned lands.

In addition, according to the DNR and federal officials, the bill could jeopardize approximately \$25 million dollars in federal funding if it were found that allowing off-trail horseback riding in the Pigeon River area or elsewhere in the state violated state or federal laws regarding lands purchased with certain funds. The DNR points to a letter written on April 24, 2009 from the U.S. Fish and Wildlife Service to the DNR in which the Service indicated that the passage of this bill would conflict with the federal and state laws and rules governing the use of funds that Michigan receives under the federal Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act.

Although many horseback riders are unhappy with the new management plan, they are still allowed to ride horses on the trails, forest roads, open management roads, and county roads in this state forest. All of the equestrian campgrounds in the Pigeon River Country are open. In addition, "backcountry horseback riding" is available on 3.9 million of the 4.5 million acres under the DNR's management.

POSITIONS:

Persons or organizations who testified or otherwise indicated support of the bill include members of the Back Country Horsemen, Fort Custer Horse Friends, the Gaited Horse Club of Michigan, Horse Riders in Michigan, the Michigan Association for Purebred Dogs, the Michigan Farm Bureau, the Michigan Horse Council, the Michigan Posse, the Michigan Ropers Association, the Michigan Trail Riders Association, Ottawa County Trail Riders, Pigeon River and Beyond, the Pontiac Lake Horseman's Association, the Portland Equestrian/Blue Ribbon Riders, the Shiawassee Trail Riders, Shore to Shore Trail Riding Ltd., Sleepy Hollow Trail Riders, the Walkaway Trail Riders, the Waterloo Hunt Club, and many individuals.

The Department of Natural Resources testified as strongly opposed to the bill.

Organizations that testified or otherwise indicated opposition the bill include: The Michigan Conservation Foundation, the Michigan United Conservation Clubs, the Michigan Resource Stewards, and several individuals. The Sierra Club, which previously indicated a neutral position, is opposed to the bill as reported from committee.

Members of the following organizations signed a June 30, 2009, letter in opposition to this bill (and Senate Bill 478): Anglers of the Au Sable, Flint River Chapter of the National Wild Turkey Federation, Gibraltar Duck Hunters Association, Great Lakes Council of the Federation of Fly Fishers, Huron Pointe Sportsmen's Association, Huron Valley Conservation Association, Livingston County Wildlife and Conservation Club, Ludington Area Charter Boat Association, Michigan Association of Gamebird Breeders & Hunting Preserves, Michigan Bear Hunters Association, Michigan Bow Hunters Association, Michigan Charter Boat Association, Michigan Conservation Foundation, Michigan Duck Hunters Association, Michigan Ducks Unlimited, Michigan Resource Stewards, Michigan Steelhead & Salmon Fishermen's Association, Michigan Trappers Association, Michigan Trout Unlimited, Michigan United Conservation Clubs, Michigan Wild Turkey Hunting Association, Mid Michigan United Sportsmen's Alliance, Montmorency County Conservation Club, National Wildlife Federation, Pigeon River Country Association, Quality Deer Management Association (Michigan branch), Saginaw Field and Stream Club, Sportsmen's Club of Battle Creek, Tri-County Sportsmen's League, Trout Unlimited (Headwaters Chapter), Upper Black River Restoration Committee.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.