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 BILL ANALYSIS

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Senate Bill 578 (as enacted)

**PUBLIC ACT 45 of 2010**

House Bill 4610 (as enacted)

**PUBLIC ACT 46 of 2010**

Sponsor: Senator Cameron S. Brown (S.B. 578)

Representative Tim Moore (H.B. 4610)

First Senate Committee: Natural Resources and Environmental Affairs (S.B. 578)

Senate Committee: Agriculture and Bioeconomy

House Committee: Tourism, Outdoor Recreation and Natural Resources

Date Completed: 1-12-11

### **CONTENT**

**Senate Bill 578** amended Part 721 (Michigan Trailways) of the Natural Resources and Environmental Protection Act to do the following:

- Regulate the access of pack and saddle animals on public land managed by the Department of Natural Resources and Environment (DNRE), and allow access to be restricted only under specific circumstances.
- Require the DNRE to review previously imposed restrictions on access by pack and saddle animals in specific locations.
- Prohibit a person from using pack and saddle animals on State-owned land except on pack and saddle trailways that are open for access by those animals.
- Require the DNRE to establish a plan for a statewide trail network that includes Michigan trailways, pack and saddle trailways, and other recreational use trails.

- Require the Subcommittee to recommend a plan for a statewide network of pack and saddle trailways, and otherwise advise the Council and the DNRE.
- Include references to pack and saddle trailways in legislative findings.
- Include pack and saddle trailways in the adopt-a-trail program.

The bills were tie-barred and took effect on April 2, 2010.

### **Senate Bill 578**

#### Restrictions on Access

The bill requires pack and saddle animals to be allowed access to pack and saddle trailways on public land managed by the DNRE, as follows:

**House Bill 4610** amended Part 721 to:

- Replace the Michigan Trailways Advisory Council with the Michigan Snowmobile and Trails Advisory Council.
- Create the Equine Trailways Subcommittee of the Advisory Council.

- Access on land of the State forest system is allowed unless restricted by statute, deed restriction, land use order, or other legal mechanism, in effect on the bill's effective date.
- Access on land of the State park system or State game area system is prohibited unless authorized by land use order or other legal mechanism in effect on the bill's effective date.
- Access on other land managed by the DNRE is allowed according to the specific authorization or restriction applicable to the land.

(House Bill 4610 defines "pack and saddle trailways" as trailways and equine access locations that may be used by pack and saddle animals. The bill defines "equine access locations" as open access roads, management roads, forestry access roads, two-track and single-track trails that are not wildlife paths, staging areas for pack and saddle animals to be dropped off or picked up, and associated wilderness campsites. "Trailway" means a trail or other land corridor that features a broad trail capable of accommodating a variety of public recreation uses. "Trail" means a right-of-way adapted to foot, horseback, motorized, or other nonmotorized travel.)

Access by pack and saddle animals may be restricted on land described above if conditions are not suitable for those animals because of public safety concerns or necessary maintenance, or for reasons related to the DNRE's mission. Restrictions related to the Department's mission must be supported, to the greatest extent practicable, by a written science-based rationale that is supported with documentation made available to the public.

Before determining that pack and saddle animals will be restricted, the DNRE must make every effort to resolve any public safety or maintenance concerns. The DNRE may not restrict pack and saddle animals from public land managed by the Department unless all of the following conditions are met:

- The Natural Resources Commission, upon the DNRE's request, holds a public meeting on the proposal, to receive testimony from the general public, and invites the Advisory Council, the Equine Trailways Subcommittee, and the Michigan Horse Council to attend.
- The DNRE, after considering testimony at the Commission meeting, provides a specific rationale for its determination to restrict access by pack and saddle animals.
- A written statement is posted at the trailhead where the restriction is imposed, stating the cause and estimated duration of the closure.
- A list of pack and saddle trailways on which the DNRE has restricted access, including under temporary orders, is posted on the Department's website and the Subcommittee is notified.

Any decision to restrict access may not take effect for a period of time set by the DNRE, but not less than 60 days. If the DNRE Director determines, however, that a restriction must be imposed because of user conflicts or an imminent threat to public health, safety, welfare, or to natural resources or the environment, he or she may issue a temporary order restricting access by pack and saddle animals for 30 days or until the threat or user conflict is abated. A temporary order may be reissued if the threat or conflict persists.

Any restrictions that were in effect on the bill's effective date must remain in force until they are reviewed as described above. For the following areas, the DNRE had to review the restrictions on access by pack and saddle animals it previously imposed, according to the following timelines:

- By June 15, 2010, the Pigeon River Country State Forest.
- By January 1, 2011, the Lost Nation State Game and the Gladwin Field Trial Area.

For the Lost Nation State Game Area and the Blueberry Ridge Pathway, the DNRE must review previously imposed restrictions by January 1, 2012.

All of these provisions are contained in Section 72115, which the bill added.

#### Statewide Trail Network

The bill requires the Advisory Council, within one year after receiving recommendations from the Equine Trailways Subcommittee, to review those recommendations as well as recommendations from other interested trailway users, and make recommendations to the DNRE for the establishment of a plan for a statewide trail network.

Within one year after receiving the Council's recommendations, the DNRE must establish a plan for a statewide trail network that includes Michigan trailways, pack and saddle trailways, and other recreational use trails. If the Council does not make recommendations, within two years after the bill's effective date, the DNRE must review the recommendations of the Subcommittee and other interested trail users and establish a plan.

The plan must be designed to accommodate a variety of public recreation uses, and must specify the types of uses that are allowed on each trail segment. The plan also must be in conformance with Section 72115 and the determinations made under that section. Before establishing the plan, the DNRE must hold a public meeting to receive testimony from the general public.

After the plan is established, if the DNRE is informed that additional trails should be added to it, or that uses on particular trail segments should be modified, the Department may modify the plan to include additional trails or to modify the uses. Any modification must be in conformance with Section 72115 and determinations made under it.

The DNRE must make the plan for a statewide trail network, and an updated plan if there are modifications, available on the Department's website.

#### **House Bill 4610**

The Michigan Trailways Advisory Council previously existed within the DNRE and consisted of the following members appointed by the Natural Resources Commission:

- One person who was involved with the establishment or operation of a multiple-use trailway.
- Two people who represented Michigan trailway user groups.
- One local government official from a governmental agency in which a multiple-use trailway is located.
- One member of the general public.

The bill, instead, creates the Michigan Snowmobile and Trails Advisory Council in the DNRE. The Council must consist of 11 members appointed by the Governor for four-year terms. At least five members must own a licensed off-road vehicle (ORV) or a registered snowmobile. At least one member must have experience as an instructor in a snowmobile safety education and training program or an ORV safety education course. At least one member must be a resident of the Upper Peninsula. At least two members must be on the Equine Trailways Subcommittee.

Subject to available funding, DNRE personnel must staff and assist the Council. Any budgeting, procurement, or related management functions of the Council must be performed under the direction and supervision of the DNRE Director.

The Council is required to advise the Director and the Governor on the creation, development, operation, and maintenance of motorized and nonmotorized trails in the State, including snowmobile, biking, equestrian, hiking, ORV, and skiing trails. In doing so, the Council must seek to have the trails linked wherever possible. The Council may perform additional related duties as provided by Part 721 or other law, or as requested by the Director or the Governor.

As appropriate, the Council may make inquiries, studies, and investigations, hold hearings, and receive comments from the public. It also may consult with outside experts in order to perform its duties.

The Council may establish workgroups, including an advisory workgroup on snowmobiles, as it considers necessary. The Equine Trailways Subcommittee also must serve as advisory to the Council.

Council members must serve without compensation. Subject to available funding, members may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Technology, Management, and Budget.

The Council may accept donations of labor, services, or other things of value from any public or private agency or person. Council members must refer all legal, legislative, and media contacts to the DNRE.

In addition to the responsibilities described above, the Advisory Council must do the following (as previously required of the Michigan Trailways Advisory Council):

- Make recommendations to the Natural Resources Commission and the DNRE on the expenditure of money in the Michigan Trailways Fund.
- Advise the Commission and the DNRE on the implementation of Part 201 and the establishment and operation of Michigan trailways.

## Equine Trailways Subcommittee

The bill creates the Equine Trailways Subcommittee of the Advisory Council. The DNRE may provide staffing and administrative support to the Subcommittee, which also may be staffed and funded by user groups and other interested people.

The Subcommittee must be appointed by the DNRE Director and consist of one individual representing the State's tourism industry and five individuals representing the equine industry, including the following:

- One from the Upper Peninsula.
- One from the northern Lower Peninsula.
- One from the central Lower Peninsula.
- One from the southeastern Lower Peninsula.
- One from the southwestern Lower Peninsula.

The Senate Majority Leader and the Speaker of the House of Representatives each must submit a list of three people to the DNRE Director, who must appoint at least one person from each of those lists.

Subcommittee members are to serve for four-year terms. Of the members first appointed, however, two must serve for two years, two for three years, and two for four years. The Subcommittee is subject to the Open Meetings Act and the Freedom of Information Act.

Members must serve without compensation but, subject to the availability of funding, they may be reimbursed for actual and necessary expenses incurred in the performance of their official duties as Subcommittee members.

Within one year after the members are appointed, the Subcommittee must prepare and submit to the Advisory Council a recommended plan for a statewide network of pack and saddle trailways. The recommended plan must include all pack and saddle trailways on State-owned land that have previously been open for use by pack and saddle animals at any time and that the Subcommittee determines are appropriate for pack and saddle trailways. The recommended plan also must include all additional State land that the Subcommittee determines would be appropriate for pack and saddle animals and would contribute to

a statewide network of pack and saddle trailways.

In addition, the Subcommittee is required to advise the DNRE and the Advisory Council on the development and use of the pack and saddle trailways network, and on other matters related to the promotion of the State's equine industry. The Subcommittee also must advise the DNRE and the Council on funding to conduct pack and saddle trailway reviews under Section 72115 and to provide for the reopening of previously closed pack and saddle trailways, the preservation of existing pack and saddle trailways, and the development of new pack and saddle trailways across the State.

## Legislative Findings

Part 721 contains a legislative finding regarding the merits of a statewide system of trailways, and states that the planning, acquisition, development, operation, and maintenance of trailways are in the best interests of the State and declared to be a public purpose. The bill refers to trails and pack and saddle trailways, in addition to trailways.

## Adopt-a-Trail Program

Part 721 requires the DNRE to establish an "adopt-a-trail" program that allows volunteer groups to assist in maintaining and enhancing Michigan trailways and rail-trails. Volunteer groups in the program may adopt any available Michigan trailway or rail-trail and choose various volunteer activities, including spring cleanup, environmental activities, and trailway maintenance and development. The DNRE is required to designate the activities to be performed by a volunteer group. Near the entrance of each Michigan trailway or rail-trail in the program, or along the trailway, the DNRE must put up a sign listing the name of the sponsoring organization for each group that has contributed at least 100 service hours by volunteers.

Under the bill, these provisions apply to pack and saddle trails, as well as Michigan trailways and rail-trails.

MCL 324.72114 & 324.72115 (S.B. 578)  
324.72101 (H.B. 4610)

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The Department estimates that the requirement in Senate Bill 578 to establish a plan for a statewide trail network will cost upwards of \$100,000. A funding source for this requirement is not identified in the legislation, so this cost will likely come in the form of increased workloads for Department employees.

Additionally, House Bill 4610 provides that the Michigan Snowmobile and Trails Advisory Council and the Equine Trailways Subcommittee will be supported and staffed by the Department, subject to available funding. If funding is available, the Department will be responsible for providing staff for meetings as well as reimbursing incidental expenses for members of both the Council and the Subcommittee.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.