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 BILL ANALYSIS

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Senate Bill 578 (Substitute S-2)
Sponsor: Senator Cameron S. Brown
First Committee: Natural Resources and Environmental Affairs
Second Committee: Agriculture and Bioeconomy

Date Completed: 12-2-09

CONTENT

The bill would amend Part 721 (Michigan Trailways) of the Natural Resources and Environmental Protection Act to do the following:

- **Prohibit the restriction of pack and saddle animals from access to State land on trailways and equine access locations that previously had been open for use by those animals, unless a restriction were based on public safety concerns, maintenance, or other reasons related to the mission of the Department of Natural Resources (DNR).**
- **Require a public meeting to be held, and other conditions met, before a restriction took effect.**
- **Create the Equine Trailways Advisory Council.**
- **Require the Council, within six months after the bill's effective date, to conduct a review of two areas of the State, including the Pigeon River Country State Forest, that previously were open for use by pack and saddle animals, and recommend whether current restrictions should be revised.**
- **Require the DNR, within two years after the bill's effective date and based on the recommendation of the Council, to determine whether pack and saddle trailways in those areas would be reopened for use.**
- **Require the Council, by January 1, 2011, to submit to the Natural Resources Commission (NRC) a plan for a statewide network of pack and saddle trailways.**
- **Require the NRC, by July 1, 2012, to review and adopt a pack and saddle trailway network plan based on the Council's recommendation.**
- **Revise the membership of the Michigan Trailways Advisory Council.**
- **Include legislative findings regarding recreational activities and the use of trailways.**

Pack & Saddle Trailways

Under the bill, pack and saddle animals could not be restricted from access to public land owned, managed, or funded by the State on trailways and equine access locations that previously had been open for use by those animals, unless the DNR restricted access where conditions were not suitable because of public safety concerns or necessary maintenance, or for reasons related to the DNR's mission.

("Equine access locations" would mean open access roads, designated trails, designated campsites, and staging areas for pack and saddle animals to be dropped off or picked up.)

Before determining that pack and saddle animals would be restricted from State public land, the DNR would have to make every effort to resolve any public safety or maintenance concerns.

The DNR could not restrict pack and saddle animals from such land unless all of the following conditions were met:

- The DNR held a public meeting on the proposal, to receive testimony from the general public, and invited the Michigan Trailways Advisory Council, the proposed Equine Trailways Advisory Council, and the Michigan Horse Council to attend.
- The DNR provided a specific rationale for a determination to restrict access to pack and saddle animals.
- A written statement was posted at the trailhead in which the restriction was imposed, stating the cause and estimated duration of the closure.
- A list of trailways and equine access locations on which the DNR had restricted access for pack and saddle animals was posted on the Department's website.

In addition, any decision to restrict access could not take effect for a period of time set by the DNR, but not less than 60 days. If the DNR Director determined, however, that a restriction had to be imposed because of an imminent threat to public health, safety, welfare, or the environment, he or she could issue a temporary order restricting access to pack and saddle animals for 30 days or until the threat had abated. A temporary order could be reissued if the threat persisted.

Any restriction that was in force on the bill's effective date would have to remain in force until those restrictions were reviewed as described above.

Subject to the availability of funding, within two years after the bill's effective date, upon recommendation by the Equine Trailways Advisory Council, the DNR would have to use the process described above to determine whether pack and saddle trailways in Pigeon River Country State Forest and other areas reviewed by the Council would be reopened for use by pack and saddle animals.

By July 1, 2012, the NRC would have to review and adopt a plan for the pack and saddle trailways network based on the recommendation of the Equine Trailways Advisory Council. In adopting the plan, the NRC could make changes to the network if they were discussed publicly at a Commission meeting and the Commission articulated a rationale for the changes. Following adoption of the plan, if the NRC determined at a meeting that additional trailways were appropriate to be added, it could add them to the plan.

Upon approval by the NRC, the DNR would have to post the approved plan for the pack and saddle trailways network on its website.

The designation of a trailway for pack and saddle animals would not preclude the use of the trailway for other uses as designated by the NRC. In addition, these provisions would not cause pack and saddle animals to be excluded from inclusion in the development of new trailways on public land unless restricted by the Commission as provided in the bill.

The NRC, in consultation with the Equine Trailways Advisory Council, would have to facilitate the inclusion of other public and private land within a statewide network of pack and saddle trailways to provide for a comprehensive network throughout the State.

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

Equine Trailways Advisory Council

The bill would create the Council within the DNR. The Council would have to consist of the following members, appointed jointly by the Governor, the Senate Majority Leader, and the Speaker of the House of Representatives:

- The DNR Director or his or her designee.
- One individual representing the State's tourism industry.
- Five individuals representing the equine industry.

One individual representing the equine industry would have to come from the Upper Peninsula. The others would have to come from the northern, central, southeastern, and southwestern Lower Peninsula.

The members would have to be appointed within 60 days after the bill took effect. Members would serve four-year terms, except, of the first appointed members, two would serve for two years and two for three years.

A Council member could be removed for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

The DNR Director would have to call the first meeting of the Council. At that meeting, the Council would have to elect from among its members a chairperson and other officers as it considered necessary or appropriate. After the first meeting, the Council would have to meet at least quarterly, or more frequently at the call of the chairperson or if requested by at least three members.

The Council would be subject to the Freedom of Information Act and the Open Meetings Act.

Council members would serve without compensation, but could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The DNR could provide staffing and administrative support to the Council.

Council Duties

Within six months after the bill's effective date, the Equine Trailways Advisory Council would have to conduct a review of two areas in the State in which pack and saddle trailways that were previously open for use by pack and saddle animals had been closed to those animals, and recommend whether the current restrictions should be revised. One of the areas would have to be pack and saddle trailways located within the Pigeon River Country State Forest.

By January 1, 2011, the Council would have to prepare and submit to the NRC a recommended plan for a network of pack and saddle trailways. In preparing the plan, the Council would have to include all trailways and equine access locations on State-owned, -managed, or -funded public land that previously had been open for use by pack and saddle animals, and all additional State land that the Council determined would be appropriate for those animals and would contribute to a statewide network of pack and saddle trailways.

Additionally, the Council would have to advise the NRC and the DNR on the development and use of the pack and saddle trailways network, on other matters related to the promotion of the State's equine industry, and on funding to conduct trailway restriction reviews under the bill.

Michigan Trailways Advisory Council

The Michigan Trailways Advisory Council exists within the DNR and consists of the following members appointed by the NRC:

- One person who is involved with the establishment or operation of a multiple-use trailway.
- Two people who represent 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 would increase from two to five the number of members representing trailway user groups, and would require one of them to be a member of the proposed Equine Trailways Advisory Council, one to be a member of a statewide biking association, one to represent the Michigan Trails and Greenways Alliance, one to represent an Upper Peninsula sportsmen organization, and one to represent a conservation or sportsmen organization.

The additional members would have to be appointed within 90 days after the bill took effect. Members of the Michigan Trailways Advisory Council currently serve for four-year staggered terms. Under the bill, of the additional members first appointed, three would have to be appointed for four years and two for three years.

Part 721 requires the Council to meet at least annually, or more frequently at the call of the chairperson or if requested by at least three members. Under the bill, the Council would have to meet more frequently if requested by at least four members.

Legislative Findings

Part 721 contains specific legislative findings. The bill would include a finding that, "Under Chapter 21 of Part 522 of the Services Manual of the Federal Fish and Wildlife Service, states may allow recreational activities and related facilities that are not fish or wildlife-dependent (e.g., bicycling, swimming, rock climbing, kennels, stables, horseback riding) if they determine that the activities will not interfere with the purpose for which they acquired, developed, or are managing the land.

The bill also would include a finding that, "In making land use decisions regarding the use of trailways in the state, the department and the commission shall, where appropriate, utilize sound science."

(Chapter 21 of Part 522 of the U.S. Fish and Wildlife Service manual provides guidance on recreational activities and related facilities constructed on land states acquire, develop, or manage with Federal assistance funds under specific programs.)

MCL 324.72101 et al.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Allowing horseback riders to use existing trails alongside other users of those trails should result in minimal costs to the Department, generally.

The bill outlines a process by which the Department and the Natural Resource Commission could close or keep closed to horseback riders certain trails or areas of State land for reasons related to public safety, maintenance, or the mission of the Department, if the restriction were based on sound science and validated with documentation that was made available to the public. The bill also would maintain restrictions on access to trails by pack and saddle animals that existed before the passage of the bill, until the restrictions were reviewed through this process. Because of these provisions, it is likely that areas managed for other activities that are not compatible with horseback riding could be kept off-limits to horseback riders, minimizing the chances that Michigan would be found in diversion of its Game and Fish Fund. Diversion of the Game and Fish Fund occurs when land that was paid for or is managed with Game and Fish Fund dollars is used for a purpose that conflicts with wildlife habitat preservation and hunting pursuits. The result of diversion could be the annual loss of \$24.8 million in Federal funding.

The bill would require that within two years, subject to available funding, the Department assess the appropriateness of allowing pack and saddle animals into areas reviewed by the Equine Trailways Advisory Council, which the bill would create. Since no additional funding for these studies would be

appropriated by the bill, this requirement would likely result in greater workloads for existing Department personnel, rather than greater actual costs to the Department.

The bill also would require that the Natural Resource Commission review and adopt a network of trails that could be used by pack and saddle animals, based on the recommendations of the Equine Trailways Advisory Council. This network would be posted on the Department's website. Since members of the Commission and the Council serve or would serve uncompensated, the only costs involved in establishing the network could be the services of a cartographer if maps of the network were drawn, and various technology costs associated with posting the network on the website.

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.