

Act No. 81
Public Acts of 2013
Approved by the Governor
June 27, 2013
Filed with the Secretary of State
June 28, 2013
EFFECTIVE DATE: May 1, 2014

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Rep. Foster

ENROLLED HOUSE BILL No. 4297

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 2045, 74116, 74117, 74120, 78105, and 78119 (MCL 324.2045, 324.74116, 324.74117, 324.74120, 324.78105, and 324.78119), section 2045 as added by 2010 PA 32, sections 74116, 74117, and 74120 as amended by 2010 PA 33, and section 78105 as amended and section 78119 as added by 2010 PA 34.

The People of the State of Michigan enact:

Sec. 2045. (1) The department shall distribute recreation passport fee revenue as follows:

(a) First, for necessary expenses incurred by the secretary of state each state fiscal year in administration and implementation of section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805. Funds appropriated for necessary expenses shall be based upon an established cost allocation methodology that reflects actual costs. Appropriations under this subdivision in a state fiscal year shall not exceed \$1,000,000.00.

(b) The next \$10,700,000.00 received each fiscal year shall be deposited in the state park improvement account.

(c) The next \$1,030,000.00 received each fiscal year shall be deposited in the waterways account.

(d) The remaining revenue shall be deposited as follows:

(i) 50% in the state park improvement account to be used for capital improvements at state parks, including state recreation areas.

(ii) 30% in the state park improvement account to be used for operations and maintenance at state parks, including state recreation areas.

(iii) 2.75% in the state park improvement account to be used for operations, maintenance, and capital improvements of state park cultural and historic resources.

(iv) 0.25% in the state park improvement account to be used to do all of the following:

(A) Promote, in concert with other state agencies, the use of state parks, state-operated public boating access sites, state forest campgrounds, and state forest nonmotorized trails and pathways.

(B) Promote the use of the internet for state park camping reservations and for payment of the recreation passport fee in conjunction with motor vehicle registration.

(v) 10% in the local public recreation facilities fund created in section 1911, to be used for development of public recreation facilities for local units of government.

(vi) 7% in the forest recreation account to be used for operating, maintaining, and making capital improvements to state forest campgrounds and the state forest system of pathways and nonmotorized trails, including, but not limited to, equestrian trails.

(2) For each state fiscal year, beginning with the 2011-2012 state fiscal year, the state treasurer shall adjust the amounts set forth in subsection (1)(b) and (c) by an amount determined by the state treasurer to reflect the cumulative percentage change in the consumer price index for the most recent 1-year period for which data are available. As used in this subsection, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.

(3) By January 15 of each year, the department, in consultation with the department of state, shall estimate the amount of additional revenue that would have been collected as recreation passport fees during the immediately preceding state fiscal year if owners of resident motor vehicles described in sections 74116(4)(c) and 78119(4)(b) were not exempt under those provisions from paying the recreation passport fee. The department shall estimate the amount as follows:

(a) Determine the total number of resident motor vehicles described in sections 74116(4)(c) and 78119(4)(b).

(b) Multiply the number under subdivision (a) by the percentage of resident motor vehicles with single-year registrations for which a recreation passport fee was paid during the preceding state fiscal year.

(c) Subtract from the result under subdivision (b) the number of resident motor vehicles described in sections 74116(4)(c) and 78119(4)(b) for which a recreation passport fee was paid during the preceding state fiscal year under rules promulgated under section 74120(3).

(d) Multiply the result under subdivision (c) by the current amount of the recreation passport fee during the preceding state fiscal year.

(4) The legislature shall annually appropriate from the general fund a sum equal to the amount estimated under subsection (3). The sum appropriated shall be distributed as provided in subsection (1)(d).

(5) The department shall submit a report to the standing committees and appropriations subcommittees of the legislature with jurisdiction over issues pertaining to natural resources and the environment by February 1 each year. The report shall provide information on all of the following for the preceding state fiscal year:

(a) The total amount of recreation passport fee revenue received by the department and the amounts allocated under subsection (1).

(b) The total amount of annual and daily state park motor vehicle permit fee revenue received by the department under section 74117.

(c) The total amount of seasonal or daily state-operated public boating access site revenue received by the department under section 78105(3).

(d) Details on the specific uses of the revenue described in subdivisions (a), (b), and (c) and the amounts expended for each specific use.

(e) The amount of revenue received during the preceding state fiscal year under subsection (4).

(f) The adequacy of the revenue described in subdivisions (a) and (e) for each of the purposes for which it is allocated under subsection (1).

(g) The impact of the state park revenue stream described in subdivisions (a), (b), and (d) on the Michigan state parks endowment fund created in section 35a of article IX of the state constitution of 1963 and provided for in section 74119.

(h) Other relevant issues that affect funding needs for the state park system.

(6) By February 1, 2012 and every 2 years thereafter, the department shall submit a report to the standing committees and appropriations subcommittees of the legislature with jurisdiction over issues pertaining to natural resources and the environment. The report shall provide information on how frequently motor vehicles for which the registrant declined to pay the recreation passport fee entered state parks and state-operated public boating access sites designated under section 78105 during the registration period. The information shall be based on random audits conducted by the department. A report under this subsection may be combined with a report required under subsection (5).

(7) The department may prepare a list of frequently asked questions and answers concerning the recreation passport fee. The department and the department of state may post the information on their websites. The department of state may provide the information with any applications for registration of motor vehicles that are mailed by the department of state.

Sec. 74116. (1) Subject to subsection (4), the operator of a nonresident motor vehicle or commercial motor vehicle shall not enter any state park with that motor vehicle unless a valid motor vehicle park permit issued under section 74117 is affixed to the lower right-hand corner of the windshield. An annual motor vehicle park permit for a nonresident motor vehicle shall be affixed permanently for that year. The department shall post signs at parks that state that a motor vehicle permit is required for entry by a nonresident motor vehicle or commercial motor vehicle.

(2) Subject to subsection (4), the operator of a resident motor vehicle shall not enter a state park with the resident motor vehicle unless the recreation passport fee has been paid for that motor vehicle. Payment of the recreation passport fee authorizes entry into all state parks and recreation areas and designated state-operated public boating access sites until expiration of the motor vehicle registration.

(3) Subject to subsection (4), if the secretary of state issues registration tabs or stickers as described in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805, the operator of a resident motor vehicle shall not enter a state park with the resident motor vehicle unless the resident motor vehicle has a registration tab or sticker marked as provided under that section to show that the recreation passport fee has been paid.

(4) Subsections (1) to (3) do not apply under any of the following circumstances:

(a) While the motor vehicle is being driven or parked within an established federal, state, or county highway within a state park.

(b) If the motor vehicle is used in the operation or maintenance of a state park, is an emergency motor vehicle, is a state owned or law enforcement motor vehicle, or is a private motor vehicle being operated on official state business.

(c) If the motor vehicle is registered under section 803e(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, and is exempt under section 803e(6) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, from the registration tax, or if the motor vehicle is registered under section 217d or 803f of the Michigan vehicle code, 1949 PA 300, MCL 257.217d and 257.803f.

(d) If and to the extent the department waives the requirements for department-sponsored events or other circumstances as determined by the director or the director's designee.

Sec. 74117. (1) This subsection and subsections (2) to (9) apply beginning October 1, 2010. The department shall prepare and distribute park permits as necessary to implement this part.

(2) Except as otherwise provided in this section, the department shall issue an annual nonresident motor vehicle park permit that authorizes the entry of a nonresident motor vehicle to which it is originally attached within any state park during the calendar year for which it is issued. The fee for the annual nonresident motor vehicle park permit for the owner of a nonresident motor vehicle is \$29.00. An annual park permit shall not be used for a commercial motor vehicle.

(3) The department shall issue a daily motor vehicle park permit, valid for 1 day only, that authorizes the entry of a nonresident motor vehicle or commercial motor vehicle to which it is originally attached within any state park during the day for which it is issued. The fee for a daily nonresident motor vehicle park permit is \$8.00. The fee for a daily commercial motor vehicle park permit is \$15.00.

(4) A person who has obtained an annual nonresident motor vehicle park permit under this section for a recreational vehicle to be used as a stationary primary camping shelter camped legally in and not moved from a state park campground during the period of the camping stay may obtain a duplicate nonresident motor vehicle park permit effective for the duration of the camping stay for a towed second motor vehicle present at the time of entry for a fee of \$6.00.

(5) The department may designate persons in this state authorized to sell park permits. The department shall require as a condition of the designation of a person other than a department employee that the person furnish a surety bond in an amount and form and with a surety acceptable to the department. After being designated by the department, a person may issue park permits in accordance with this part. This subsection does not apply to employees of the department of state acting under section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805.

(6) If a person's annual nonresident motor vehicle park permit is lost or destroyed, the department shall provide that person with a replacement motor vehicle park permit free of charge. The department may require a person requesting a replacement motor vehicle park permit to supply sufficient evidence of the loss or destruction of the original motor vehicle park permit.

(7) The department may add to the cost of a reservation or a motor vehicle park permit or camping fee the charges that the state incurs because of the use of a credit card.

(8) This section and section 74116 apply only to the entry of motor vehicles into state parks and do not obviate the necessity of obtaining additional permits for special services or park privileges as may be required by law or by rules promulgated by the department.

(9) For each calendar year, the state treasurer shall adjust the amounts set forth in subsections (2) to (4) by an amount determined by the state treasurer to reflect the cumulative percentage change in the consumer price index from October 1, 2010 to the October 1 immediately preceding that calendar year, using the most recent data available and rounded to the nearest dollar.

Sec. 74120. (1) The department may promulgate rules to implement this part.

(2) The department may promulgate rules providing a method for an individual whose motor vehicle registration expires annually to pay a state park and state-operated public boating access site recreation passport fee in addition to the method provided for in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805. The amount of the state park and state-operated public boating access site recreation passport fee required to be paid under a method provided

for by rule under this subsection shall not exceed twice the amount of a state park and state-operated public boating access site recreation passport fee paid under the method provided for in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805.

(3) The department shall promulgate rules providing a method for an individual whose motor vehicle registration does not expire annually and who is exempt under sections 74116(4)(c) and 78119(4)(b) from the recreation passport fee to voluntarily pay the recreation passport fee as a donation. The amount of the state park and state-operated public boating access site recreation passport fee required to be paid under the method provided for by rule under this subsection shall equal the amount of a state park and state-operated public boating access site recreation passport fee paid under the method provided for in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805.

(4) A rule promulgated under this section shall provide for a method evidencing payment of the state park and state-operated public boating access site recreation passport fee, such as the issuance and display of a permit.

Sec. 78105. (1) The department has the following powers and duties:

(a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters lying within the boundaries of this state.

(b) To acquire, by purchase, lease, gift, or condemnation the lands, rights of way, and easements necessary for harbors and channels. For the purposes of this subdivision, the department shall be considered a state agency under 1911 PA 149, MCL 213.21 to 213.25.

(c) To acquire, by purchase, lease, gift, or condemnation suitable areas on shore for disposal of the material from dredging.

(d) To enter into any contracts or agreements that may be necessary in carrying out this part, including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of those works that the United States undertakes.

(e) To provide for the granting of concessions within the boundaries of harbors, so as to furnish the public gas, oil, food, and other facilities.

(f) To represent this state and the governor in dealings with the chief of engineers of the United States army and his or her authorized agents for the purposes set forth in this part.

(g) To charge fees for both seasonal and daily moorage at state-operated small craft mooring facilities. All revenues derived from this source shall be deposited in the waterways account.

(h) To collect the proceeds from the sale of marine fuel at harbors operated by the department. The proceeds from the sales shall be credited to the waterways account and used for the purchase of marine fuel supplies as may be needed. Any remaining revenue from this source not needed for the purchase of marine fuel supplies may be expended in the same manner as other funds within the waterways account.

(2) The director shall designate state-operated public boating access sites that, subject to section 78119(4), shall not be entered by a resident motor vehicle unless the recreation passport fee has been paid or by a nonresident or commercial motor vehicle unless a pass purchased under subsection (3) is affixed to the motor vehicle as described in section 78119.

(3) The department shall charge fees for passes authorizing seasonal or daily entry by nonresident motor vehicles or commercial motor vehicles at designated state-operated public boating access sites. Fee revenue under this subsection shall be deposited in the waterways account.

Sec. 78119. (1) Subject to subsection (4), a person shall not enter, in a nonresident motor vehicle or commercial motor vehicle, a state-operated public boating access site designated under section 78105(2) without a valid pass affixed to the lower right-hand corner of the windshield. A seasonal pass shall be affixed permanently for the season.

(2) Subject to subsection (4), the operator of a resident motor vehicle shall not enter a state-operated public boating access site designated under section 78105(2) with the resident motor vehicle unless the recreation passport fee has been paid for that motor vehicle. Payment of the recreation passport fee authorizes entry into all state parks and recreation areas and designated state-operated public boating access sites until expiration of the motor vehicle registration.

(3) Subject to subsection (4), if the secretary of state issues registration tabs or stickers as described in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805, the operator of a resident motor vehicle shall not enter a designated state-operated public boating access site with the resident motor vehicle unless the resident motor vehicle has a registration tab or sticker marked as provided under that section to show that the recreation passport fee has been paid.

(4) Subsections (1) to (3) do not apply under any of the following circumstances:

(a) If the motor vehicle is used in the operation or maintenance of the public boating access site, is an emergency motor vehicle, is a state-owned or law enforcement motor vehicle, or is a private motor vehicle being operated on official state business.

(b) If the motor vehicle is registered under section 803e(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, and is exempt under section 803e(6) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, from the registration tax, or if the motor vehicle is registered under section 217d or 803f of the Michigan vehicle code, 1949 PA 300, MCL 257.217d and 257.803f.

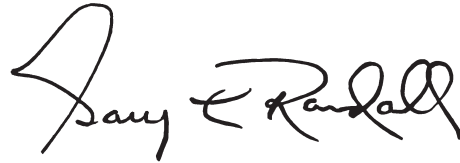
(c) If and to the extent the department waives the requirements for department-sponsored events or other circumstances as determined by the director or the director's designee.

(5) A person who violates subsection (1), (2), or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. A person shall not be cited for a violation of both subsections (2) and (3) for the same incident.

(6) In any proceeding for the violation of this part or a rule promulgated under this part, if a motor vehicle is found parked in a designated state-operated public boating access site, the registration plate displayed on the motor vehicle constitutes prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where it was found.

Enacting section 1. This amendatory act takes effect May 1, 2014.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4439 of the 97th Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor