

Amendment No. 1 to HB2638

Watson
Signature of Sponsor

AMEND Senate Bill No. 2508

House Bill No. 2638*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 4, is amended by adding the following as a new section:

39-14-4__.

(a) This section shall be known and may be cited as the “Equal Access to Public Property Act of 2012”.

(b)

(1) The state of Tennessee has a variety of substantial governmental interests with respect to property, and particularly real property, owned by the state. For the reasons stated in this subsection, this section is specifically intended to protect state interests jeopardized by the activity of camping on state property that is not compatible to or designated for such activity.

(2) Whether the property is a state park, recreation area, wildlife refuge, historic building, educational institution or natural green space, it is in the state’s interests to be a good steward of public land and manage and protect it in such a manner as to ensure that future generations of Tennesseans are able to continue to enjoy the natural treasures and rich beauty of this state

(3) it is also an important state interest that publicly-owned land is properly used. The use of public land in a manner or for a purpose for which it is not designed or made available to the

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public causes the property to deteriorate more rapidly, and results in higher maintenance and security. This not only depreciates the value of the property but makes it unavailable for its intended purposes.

(4) As important an interest as the preservation of resources is, perhaps more important are the health concerns that can reasonably be expected to follow from the use of public land by a group of people for an activity never contemplated on that location. Without necessities such as sanitary facilities, the risk of communicable disease transforms an unauthorized use of public land into a potential public health problem..

(5) Even though state owned property takes many forms, the common thread is that it is acquired, preserved, improved, protected and maintained using the tax dollars of all citizens of this state. Therefore, ensuring that state land and other property remain available and accessible to all citizens of this state is an interest for which action is justified, if not required.

(6) Therefore, at times it becomes necessary to enact measures, such as the proscription against unauthorized camping contained in this section, to prohibit, regulate or restrict otherwise lawful activities in certain places because they are inimical to substantial state interests, such as the ones set forth in this section.

(c)

(1) As used in this section, "camping" means the erection or use of temporary structures such as tents, tarps, and other temporary shelters for living accommodation activities such as sleeping, or making preparations to sleep.

(2) "Camping" shall include, but not be limited to, the laying down of bedding for the purpose of sleeping, storing personal belongings, making any fire, doing any digging or earth breaking or carrying on cooking activities, whether by fire or use of artificial means such as a propane stove or other heat-producing portable cooking equipment.

(d) An area of state-owned land may be designated as a camping area by the department, agency, official or officials the responsible for the operation, protection or maintenance of the property in question. The area's designation as a camping area may be accomplished by means of signage, advertisement or other notice designed to make known its availability for the activity of camping.

(e) It is an offense for a person to engage in the activity of camping on property owned by the state knowing that the area on which the camping occurs is not specifically designated for use as a camping area by the department or agency responsible for such land.

(f) Any items associated with camping in violation of this section, including tents, portable toilets, sleeping bags, tarps, stakes, ropes, blankets, propane heaters, cooking equipment and generators, shall be subject to seizure and forfeiture by the appropriate state officials authorized to maintain and protect the land on which the camping equipment is found or other officials whose duties include enforcement of this section.

(g) A violation of this section is a Class A misdemeanor.

(h) Nothing in this section shall be construed as preempting or preventing a state department or agency with responsibility for state property from enacting or enforcing other lawful and reasonable rules, regulations, or statutes that concern the use of and access to state property. However, if any such rule, regulation or statute is in conflict with this section, it is the intent that this section shall prevail and the prohibition against camping on state property in areas not designated as camping areas be a uniform one.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.