

Act No. 210  
Public Acts of 1998  
Approved by the Governor  
July 1, 1998  
Filed with the Secretary of State  
July 1, 1998  
EFFECTIVE DATE: July 1, 1998

STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

**Introduced by Reps. Crissman, Galloway, Callahan, Walberg, Green, Dobb, Middleton, DeVuyst, Lowe and Brackenridge**

# **ENROLLED HOUSE BILL No. 4363**

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 prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 78101 and 78110 (MCL 324.78101 and 324.78110), as added by 1995 PA 58, and by adding sections 78113, 78114, 78115, and 78116.

*The People of the State of Michigan enact:*

Sec. 78101. As used in this part:

(a) "Advisory committee" means the public boating access site advisory committee established pursuant to section 78113.

(b) "Commission" means the Michigan state waterways commission.

(c) "Department" means the department of natural resources.

(d) "Director" means the administrative director of the commission.

(e) "Diesel motor fuel" means any liquid fuel used in the operation of engines of the diesel type in motor vehicles or watercraft.

(f) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine, and naphtha; also, any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any 1 or more products of petroleum, with or without other products, and regardless of the original character of the petroleum products blended, if the resultant product obtained is capable of use for the generation of power for the propulsion of motor vehicles or watercraft, it being the intention that the blending of the products, regardless of name or characteristics, shall conclusively be presumed to produce motor fuel, unless the resultant product is entirely incapable for use as motor fuel. Gasoline does not include diesel fuel, liquefied petroleum gas, or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold, or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.

(g) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for watercraft, including contrivances used or designed for navigation on water and used or owned by the United States.

(h) "Harbor facilities" means the structures at a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and ashore for the mooring and servicing of watercraft and the servicing of crews and passengers.

(i) "Liquefied petroleum gas" means gases derived from petroleum or natural gases which are in the gaseous state at normal atmospheric temperature and pressure, but which may be maintained in the liquid state at normal atmospheric temperature by suitable pressure. Liquefied petroleum gas includes those products predominately composed of propane, propylene, butylene, butane, and similar products which are not covered in chapters 1 and 2 of 1927 PA 150, MCL 207.101 to 207.134.

(j) "Marina" means a site which contains harbor facilities.

(k) "Navigable water" means any waterway navigable by vessels, or capable of being made navigable by vessels through artificial improvements, and includes the structures and facilities created to facilitate navigation.

(l) "Person" includes any individual, partnership, corporation, association, or body politic, except the United States and this state, and includes any trustee, receiver, assignee, or other similar representative of those entities.

(m) "Public boating access site" means a publicly owned site for the launching of recreational watercraft.

(n) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within the state.

(o) "Secretary of state" means the secretary of state of this state, acting directly or through a duly authorized deputy, investigators, agents, and employees.

(p) "Vessel" means all watercraft except the following:

(i) Watercraft used for commercial fishing.

(ii) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(iii) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(iv) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(q) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include contrivances used or owned by the United States.

(r) "Waterway" means any body of water.

Sec. 78110. (1) The Michigan state waterways fund is created in the state treasury. The fund shall be administered by the state treasurer and shall be used by the department solely for the construction, operation, and maintenance of recreational boating facilities, the acquisition of property for the purposes of this part, for grants to local units of government to acquire and develop harbors of refuge and public boating access sites under section 78115, and for the administration of this part. The fund shall receive such revenues as the legislature may provide.

(2) The Michigan harbor development fund is created in the state treasury. The fund shall be administered by the state treasurer and shall be used by the department solely for the purposes provided in part 791 and for the administration of that part. The fund shall receive revenues as provided in part 791 and such other revenues as the legislature may provide.

Sec. 78113. (1) Within 30 days after the effective date of this section, the department shall establish a public boating access site advisory committee to advise the department and the legislature on the state's method of acquiring public boating access sites. The advisory committee shall consist of not more than 20 members representing the boating industry, recreational users, riparian owners, local public officials who have public boating access sites within their local unit of government, experts from Michigan institutions of higher education, and other interested parties as appointed by the department. At least 2 members of the advisory committee shall be representatives of the general public. The advisory committee shall review and make recommendations regarding the current method of acquiring and operating public boating access sites. Additionally, the committee shall make recommendations on all of the following:

(a) The protection of the ecological integrity of lakes from degradation.

(b) The protection of the boating public and other lake users, including, but not limited to, riparian owners, from overly intense use of lakes.

(c) The provision of recreational boating opportunities for members of the general public.

(d) Other issues the advisory committee considers relevant.

(2) A meeting of the advisory committee shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Within 6 months after the advisory committee is established under subsection (1), the advisory committee shall deliver a report to the department, the commission, and the legislature on administrative and any legislative changes that the state should consider in acquiring and operating public boating access sites.

(4) Not later than 1 year after the advisory committee is established under subsection (1), the advisory committee shall be disbanded.

Sec. 78114. (1) Prior to acquiring a public boating access site, the department shall obtain a 90-day option on the land proposed for acquisition. In obtaining this option, the department shall attempt to negotiate an option that may be transferred to a local unit of government. Upon placing the option on the land, the department shall notify the municipality and the county in which the land is located of the option and whether the department plans to hold a public hearing on the proposed purchase and development of the land as a public boating access site. The municipality or county in which the proposed public boating access site is located may hold a public hearing on the proposed purchase and development of the land as a public boating access site. If a municipality or county holds a public hearing under this subsection, the municipality or county shall notify the department, and a representative of the department shall attend the public hearing.

(2) During the 90-day period in which the department holds an option under subsection (1), the municipality or county in which the land is located may do either of the following:

(a) Notify the department that it intends to operate a public boating access site on that land. If the department receives a notice pursuant to this subdivision, the department shall transfer the option, if possible, to the municipality or county so that it may exercise the option and purchase the land. If the municipality exercises the option and purchases the land, the exercise of the option shall be contingent upon the municipality or county and the department entering into a legally enforceable agreement that specifies how the public boating access site will be operated. The agreement shall provide that the public boating access site will be operated in the same manner as a public boating access site that is operated by the department, unless the department agrees to alternative terms. The agreement shall also provide that if the municipality or county violates the agreement, the department may operate the public boating access site in compliance with the agreement.

(b) Identify another suitable location on the lake that the department could acquire for a public boating access site. The public boating access site shall be comparable for development as the one proposed by the department.

Sec. 78115. (1) The department shall establish a public boating access sites grant program. The grant program shall provide funding with money in the Michigan state waterways fund to local units of government for all or a portion of the cost of either or both of the following:

- (a) The acquisition of land for the establishment of a public boating access site.
- (b) The cost of developing a public boating access site.

(2) A grant under subsection (1)(a) may be used as a local unit of government's required match under part 19 or another state or federal program.

(3) A local unit of government receiving a grant under subsection (1)(b) must agree to operate the public boating access site in accordance with the department's operational requirements.

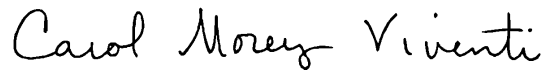
(4) A local unit of government that wishes to be considered for a grant under this section shall submit an application to the department in a manner prescribed by the department and containing the information required by the department.

Sec. 78116. The department may promulgate rules to implement this part.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.