

HOUSE BILL No. 4348

February 25, 1999, Introduced by Reps. Brewer, Pestka, Neumann, Hale, Kelly, LaForge and Cherry and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30101, 30102, and 30106 (MCL 324.30101, 324.30102, and 324.30106), as added by 1995 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30101. As used in this part:

2 (a) "Bottomland" means the land area of an inland lake or
3 stream that lies below the ordinary high-water mark and that may
4 or may not be covered by water.

5 (b) "Bulkhead line" means a line that is established pursu-
6 ant to this part beyond which dredging, filling, or construction
7 of any kind is not allowed without a permit.

8 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
9 QUALITY.

1 (D) ~~(c)~~ "Fund" means the land and water management permit
2 fee fund created in section 30113.

3 (E) ~~(d)~~ "Impoundment" means water held back by a dam,
4 dike, floodgate, or other barrier.

5 (F) ~~(e)~~ "Inland lake or stream" means a natural or artifi-
6 cial lake, pond, or impoundment; a river, stream, or creek which
7 may or may not be serving as a drain as defined by the drain code
8 of 1956, ~~Act No. 40 of the Public Acts of 1956, being sections~~
9 ~~280.1 to 280.630 of the Michigan Compiled Laws~~ 1956 PA 40, MCL
10 280.1 TO 280.630; or any other body of water that has definite
11 banks, a bed, and visible evidence of a continued flow or contin-
12 ued occurrence of water, including the St. Marys, St. Clair, and
13 Detroit rivers. Inland lake or stream does not include the Great
14 Lakes, Lake St. Clair, or a lake or pond that has a surface area
15 of less than 5 acres.

16 (G) ~~(f)~~ "Marina" means a facility that is owned or oper-
17 ated by a person, extends into or over an inland lake or stream,
18 and offers service to the public or members of the marina for
19 docking, loading, or other servicing of recreational watercraft.

20 (H) ~~(g)~~ "Minor offense" means either of the following vio-
21 lations of this part if the project involved in the offense is a
22 minor project as listed in R 281.816 of the Michigan administra-
23 tive code or the department determines that restoration of the
24 affected property is not required:

25 (i) The failure to obtain a permit under this part.

26 (ii) A violation of a permit issued under this part.

1 (I) ~~(h)~~ "Ordinary high-water mark" means the line between
2 upland and bottomland that persists through successive changes in
3 water levels, below which the presence and action of the water is
4 so common or recurrent that the character of the land is marked
5 distinctly from the upland and is apparent in the soil itself,
6 the configuration of the surface of the soil, and the
7 vegetation. On an inland lake that has a level established by
8 law, it means the high established level. Where water returns to
9 its natural level as the result of the permanent removal or aban-
10 donment of a dam, it means the natural ordinary high-water mark.

11 (J) ~~(i)~~ "Project" means an activity that requires a permit
12 pursuant to section 30102.

13 (K) ~~(j)~~ "Property owners' association" means any group of
14 organized property owners publishing a directory of their member-
15 ship, the majority of which are riparian owners and are located
16 on the inland lake or stream that is affected by the proposed
17 project.

18 (L) ~~(k)~~ "Riparian owner" means a person who has riparian
19 rights.

20 (M) ~~(l)~~ "Riparian rights" means those rights ~~which~~ THAT
21 are associated with the ownership of the bank or shore of an
22 inland lake or stream.

23 (N) ~~(m)~~ "Seasonal structure" includes any type of dock,
24 boat hoist, ramp, raft, or other recreational structure that is
25 placed into an inland lake or stream and removed at the end of
26 the boating season.

1 (O) ~~(n)~~ "Structure" includes a marina, wharf, dock, pier,
2 dam, weir, stream deflector, breakwater, groin, jetty, sewer,
3 pipeline, cable, and bridge.

4 (P) ~~(o)~~ "Upland" means the land area that lies above the
5 ordinary high-water mark.

6 Sec. 30102. Except as provided in this part, a person with-
7 out a permit from the department shall not do any of the
8 following:

9 (a) Dredge or fill bottomland.

10 (b) Construct, enlarge, extend, remove, or place a structure
11 on bottomland.

12 (c) Erect, maintain, or operate a marina.

13 (d) Create, enlarge, ~~or~~ diminish, OR WITHDRAW WATER FROM
14 an inland lake or stream. HOWEVER, A PERMIT IS NOT REQUIRED TO
15 WITHDRAW WATER FROM AN INLAND LAKE OR STREAM FOR NONCOMMERCIAL
16 USES OR FOR AGRICULTURAL IRRIGATION EXCEPT PURSUANT TO RULES
17 PROMULGATED BY THE DEPARTMENT.

18 (e) Structurally interfere with the natural flow of an
19 inland lake or stream.

20 (f) Construct, dredge, commence, extend, or enlarge an arti-
21 ficial canal, channel, ditch, lagoon, pond, lake, or similar
22 waterway where the purpose is ultimate connection with an exist-
23 ing inland lake or stream, or where any part of the artificial
24 waterway is located within 500 feet of the ordinary high-water
25 mark of an existing inland lake or stream.

26 (g) Connect any natural or artificially constructed
27 waterway, canal, channel, ditch, lagoon, pond, lake, or similar

1 water with an existing inland lake or stream for navigation or
2 any other purpose.

3 Sec. 30106. (1) The department shall issue a permit if it
4 finds that the structure or project will not adversely affect the
5 public trust or riparian rights. In passing upon an application,
6 the department shall consider the possible effects of the pro-
7 posed action upon the inland lake or stream and upon waters from
8 which or into which its waters flow and the uses of all such
9 waters, including uses for recreation, fish and wildlife, aes-
10 thetics, local government, agriculture, commerce, and industry.
11 The department shall not grant a permit if the proposed project
12 or structure will unlawfully impair or destroy any of the waters
13 or other natural resources of the state. This part does not
14 modify the rights and responsibilities of any riparian owner to
15 the use of his or her riparian water. A permit shall specify
16 that a project completed in accordance with this part shall not
17 cause unlawful pollution as defined by part 31.

18 (2) THE DEPARTMENT SHALL PROVIDE A COPY OF AN APPLICATION
19 FOR A PERMIT FOR A WATER WITHDRAWAL PURSUANT TO THIS PART TO THE
20 DEPARTMENT OF NATURAL RESOURCES IMMEDIATELY UPON RECEIPT. IN
21 ADDITION TO OTHER CRITERIA TO BE CONSIDERED IN REVIEWING APPLICA-
22 TIONS PURSUANT TO THIS PART, THE DEPARTMENT OF NATURAL RESOURCES
23 SHALL CONSIDER WHETHER THE PROPOSED WITHDRAWAL UNACCEPTABLY
24 DEGRADES AQUATIC RESOURCES, INCLUDING FISHERIES RESOURCES AND
25 FISHERIES HABITAT. IF THE DEPARTMENT OR THE DEPARTMENT OF NATU-
26 RAL RESOURCES DETERMINES THAT THE PROPOSED WATER WITHDRAWAL WILL

1 UNACCEPTABLY DEGRADE AQUATIC RESOURCES, THE PERMIT SHALL BE
2 DENIED.