

Act No. 237
Public Acts of 2006
Approved by the Governor
June 24, 2006
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June 26, 2006
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Reps. Hansen, Stakoe, Garfield, Green, Vander Veen, Casperson, Stahl, Hildenbrand, Taub and Marleau

ENROLLED HOUSE BILL No. 5125

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, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 80110, 80111, and 80112 (MCL 324.80110, 324.80111, and 324.80112), as added by 1995 PA 58; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 80110. (1) The department may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state to assure compatibility of uses and to protect public safety. If the department receives a resolution pursuant to section 80112, the department shall initiate an investigation and inquiry under this subsection.

(2) The department's investigation and inquiry under subsection (1) into whether special rules are needed on a particular water body shall include a consideration of all of the following:

- (a) Whether the activities subject to the proposed special rules pose any issues of safety to life or property.
- (b) The profile of the water body, including local jurisdiction, size, geographic location, and amount of vessel traffic.
- (c) The current and historical depth of the water body, including whether there is an established lake level for the water body.
- (d) Whether any identifiable special problems or conditions exist on the water body for the activities subject to the proposed special rules, such as rocks, pier heads, swimming areas, public access sites, shallow waters, and submerged obstacles.
- (e) Whether the proposed special rules would unreasonably interfere with normal navigational traffic.
- (f) Whether user conflicts exist on the water body.
- (g) Complaints received by local law enforcement agencies regarding activities on the water body.
- (h) The status of any accidents that have occurred on the water body.
- (i) Historical uses of the water body and potential future uses of the water body.
- (j) Whether the water body is public or private.
- (k) Whether existing law adequately regulates the activities subject to the proposed special rules.

(3) Following completion of the department's investigation and inquiry, the department shall prepare a preliminary report that includes the department's evaluation of the items listed in subsection (2) and the department's preliminary recommendation as to whether special rules are needed for the water body.

(4) Upon preparation of the preliminary report, the department shall provide a copy of the preliminary report to the local political subdivision that has waters subject to its jurisdiction for which the proposed special rules are being considered and shall schedule a public hearing in the vicinity of the water body to gather public input on the preliminary report and the need for special rules. Notice of the public hearing shall be made in a newspaper of general circulation in the area where the water body is located, not less than 10 calendar days before the hearing. At the public hearing, interested persons shall be afforded an opportunity to present their views on the preliminary report and the need for special rules, either orally or in writing.

(5) Within 90 days following the public hearing under subsection (4), if the department determines that there is a need for special rules for the water body, the department shall propose a local ordinance or appropriate changes to a local ordinance. If the department determines that there is not a need for special rules, the department shall notify the political subdivision that has waters subject to its jurisdiction and shall provide the specific reasons for its determination.

(6) A determination by the department that there is not a need for special rules for a water body may be appealed to the commission by the political subdivision that has waters subject to its jurisdiction. The commission shall make the final agency decision on the need for special rules for a water body.

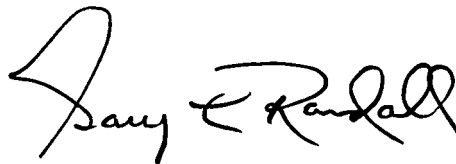
(7) As used in this section, "water body" includes all or a portion of a water body.

Sec. 80111. A local ordinance proposed pursuant to section 80110 shall be submitted to the governing body of the political subdivision in which the water body subject to the proposed special rules is located. Within 60 calendar days, the governing body shall inform the department that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the department shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in all respects to the local ordinance proposed by the department. After the local ordinance is enacted, the local ordinance shall be enforced as provided for in section 80113.

Sec. 80112. Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision following a public hearing on the resolution. Upon receipt of a resolution under this section, the department shall proceed as required by sections 80110 and 80111.

Enacting section 1. Section 80110 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80110, is repealed effective 3 years after the effective date of this amendatory act.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor