



HOUSE BILL No. 5970

June 7, 1996, Introduced by Reps. McNutt, Middleton, Llewellyn, Green, Baade and Randall and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 30305 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," as added by Act No. 59 of the Public Acts of 1995, being section 324.30305 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 30305 of Act No. 451 of the Public Acts
2 of 1994, as added by Act No. 59 of the Public Acts of 1995, being
3 section 324.30305 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 30305. (1) Activities which require a permit under
6 part 325, ~~or~~ part 301, OR A DISCHARGE THAT REQUIRES A NATIONAL
7 POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT UNDER PART 31 do
8 not require a permit under this part.

1 (2) The following uses are allowed in a wetland without a
2 permit subject to other laws of this state and the owner's
3 regulation:

4 (a) Fishing, trapping, or hunting.

5 (b) Swimming or boating.

6 (c) Hiking.

7 (d) Grazing of animals.

8 (e) Farming, horticulture, silviculture, lumbering, and
9 ranching activities, including plowing, irrigation, irrigation
10 ditching, seeding, cultivating, minor drainage, harvesting for
11 the production of food, fiber, and forest products, or upland
12 soil and water conservation practices. Wetland altered under
13 this subdivision shall not be used for a purpose other than a
14 purpose described in this subsection without a permit from the
15 department.

16 (f) Maintenance or operation of serviceable structures in
17 existence on October 1, 1980 or constructed pursuant to this part
18 or former Act No. 203 of the Public Acts of 1979.

19 (g) Construction or maintenance of farm or stock ponds.

20 (h) Maintenance, operation, or improvement which includes
21 straightening, widening, or deepening of the following which is
22 necessary for the production or harvesting of agricultural
23 products:

24 (i) An existing private agricultural drain.

25 (ii) That portion of a drain legally established pursuant to
26 the drain code of 1956, Act No. 40 of the Public Acts of 1956,

1 being sections 280.1 to 280.630 of the Michigan Compiled Laws,
2 which has been constructed or improved for drainage purposes.

3 (iii) A drain constructed pursuant to other provisions of
4 this part or former Act No. 203 of the Public Acts of 1979.

5 (i) Construction or maintenance of farm roads, forest roads,
6 or temporary roads for moving mining or forestry equipment, if
7 the roads are constructed and maintained in a manner to assure
8 that any adverse effect on the wetland will be otherwise
9 minimized.

10 (j) Drainage necessary for the production and harvesting of
11 agricultural products if the wetland is owned by a person who is
12 engaged in commercial farming and the land is to be used for the
13 production and harvesting of agricultural products. Except as
14 otherwise provided in this part, wetland improved under this sub-
15 division after October 1, 1980 shall not be used for nonfarming
16 purposes without a permit from the department. This subdivision
17 shall not apply to a wetland which is contiguous to a lake or
18 stream, or to a tributary of a lake or stream, or to a wetland
19 that the department has determined by clear and convincing evi-
20 dence to be a wetland that is necessary to be preserved for the
21 public interest, in which case a permit is required.

22 (k) Maintenance or improvement of public streets, highways,
23 or roads, within the right-of-way and in such a manner as to
24 assure that any adverse effect on the wetland will be otherwise
25 minimized. Maintenance or improvement does not include adding
26 extra lanes, increasing the right-of-way, or deviating from the
27 existing location of the street, highway, or road.

1 (l) Maintenance, repair, or operation of gas or oil
2 pipelines and construction of gas or oil pipelines having a diam-
3 eter of 6 inches or less, if the pipelines are constructed, main-
4 tained, or repaired in a manner to assure that any adverse effect
5 on the wetland will be otherwise minimized.

6 (m) Maintenance, repair, or operation of electric transmis-
7 sion and distribution power lines and construction of distribu-
8 tion power lines, if the distribution power lines are con-
9 structed, maintained, or repaired in a manner to assure that any
10 adverse effect on the wetland will be otherwise minimized.

11 (n) Operation or maintenance, including reconstruction of
12 recently damaged parts, of serviceable dikes and levees in exis-
13 tence on October 1, 1980 or constructed pursuant to this part or
14 former Act No. 203 of the Public Acts of 1979.

15 (o) Construction of iron and copper mining tailings basins
16 and water storage areas.

17 (3) ~~After October 1, 1980 but immediately prior to the~~
18 ~~approval of a state program under section 404 of title IV of the~~
19 ~~federal water pollution control act, chapter 758, 86 Stat. 884,~~
20 ~~33 U.S.C. 1344, where a project solely involves the discharge of~~
21 ~~fill material subject to the individual permit requirements of~~
22 ~~section 404 of title IV of the federal water pollution control~~
23 ~~act, an additional permit is not required by this part. A WET-~~
24 ~~LAND RESTORED AND ENROLLED UNDER A FEDERAL RESERVE PROGRAM OR~~
25 ~~VOLUNTARILY DONE UNDER A LIMITED TERM EASEMENT OR AGREEMENT PRO-~~
26 ~~GRAM, WHERE THE WETLAND WAS NOT UNDER JURISDICTION PRIOR TO~~
27 ~~RESTORATION, DOES NOT FALL UNDER THE JURISDICTION OF THIS PART.~~

1 (4) ACTIVITIES IN WETLANDS THAT WERE EFFECTIVELY DRAINED
2 PRIOR TO OCTOBER 1, 1980 AND THAT CONTINUE TO BE EFFECTIVELY
3 DRAINED AS PART OF AN ONGOING FARMING OPERATION DO NOT FALL UNDER
4 THE JURISDICTION OF THIS PART.

5 (5) WETLANDS THAT ARE INCIDENTALY CREATED AS A RESULT OF 1
6 OR MORE OF THE FOLLOWING ACTIVITIES DO NOT FALL UNDER THE JURIS-
7 DICTION OF THIS PART:

8 (A) EXCAVATION FOR MINERAL OR SAND MINING, PROVIDED THAT THE
9 AREA WAS NOT WETLAND PRIOR TO EXCAVATION. THIS EXEMPTION DOES
10 NOT INCLUDE EMERGENT WETLANDS ON WATER BODIES OF 5 ACRES OR MORE
11 IN SIZE.

12 (B) DEVELOPMENT OF WATER TREATMENT PONDS OR LAGOONS DESIGNED
13 TO MEET THE REQUIREMENTS OF STATE OR FEDERAL WATER POLLUTION CON-
14 TROL REGULATIONS.

15 (C) DIKED AREAS ASSOCIATED WITH LANDFILL OPERATIONS PROVIDED
16 THAT THE AREA WAS NOT WETLAND PRIOR TO DIKING.

17 (D) FAILURE OF PUBLIC TRANSPORTATION AGENCIES TO MAINTAIN
18 ROADWAY DRAINAGE SYSTEMS, IF THE WETLAND WILL NOT PERSIST FOLLOW-
19 ING MAINTENANCE OF ROAD DITCHES AND CULVERTS TO PREVIOUSLY ESTAB-
20 LISHED GRADES AND ELEVATIONS.