

HOUSE BILL No. 4774

June 10, 1999, Introduced by Reps. Mead, Pumford, Birkholz, Jellema and Allen 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 9112 and 9121 (MCL 324.9112 and 324.9121), section 9112 as added by 1995 PA 60 and section 9121 as amended by 1996 PA 173, and by adding section 9111a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9111A. (1) A PERSON SHALL NOT UNDERTAKE OR MAINTAIN A
2 LAND USE OR AN EARTH CHANGE REGULATED UNDER THIS PART UNLESS THE
3 PERSON HAS APPLIED FOR AND RECEIVED A PERMIT FROM THE AUTHORIZED
4 PUBLIC AGENCY AND, IF REQUIRED UNDER SUBSECTION (2), THE
5 DEPARTMENT.

6 (2) IF AN APPLICATION IS SUBMITTED FOR A PERMIT THAT
7 INCLUDES A PROPOSED LAND USE OR EARTH CHANGE THAT MEETS ANY OF
8 THE FOLLOWING, THE AUTHORIZED PUBLIC AGENCY SHALL FORWARD THE
9 APPLICATION TO THE DEPARTMENT FOR ITS REVIEW:

1 (A) THE PROPOSED LAND USE OR EARTH CHANGE IS WITHIN 500 FEET
2 OF THE ORDINARY HIGH-WATER MARK OF THE GREAT LAKES OR THEIR CON-
3 NECTING WATERS.

4 (B) THE PROPOSED LAND USE OR EARTH CHANGE IS WITHIN A
5 HIGH-RISK AREA AS DEFINED IN SECTION 32301.

6 (C) THE PROPOSED LAND USE OR EARTH CHANGE IS WITHIN A CRITI-
7 CAL DUNE AREA AS DEFINED IN SECTION 35301.

8 (D) THE PROPOSED LAND USE OR EARTH CHANGE WILL CAUSE A DIS-
9 TURBANCE OF MORE THAN 50 ACRES.

10 (3) THE DEPARTMENT SHALL NOT APPROVE A PERMIT RECEIVED UNDER
11 SUBSECTION (1) IF THE DEPARTMENT BELIEVES THE PROPOSED LAND USE
12 OR EARTH CHANGE WILL CAUSE SOIL EROSION THAT WILL RESULT IN THE
13 SEDIMENTATION OF THE WATERS OF THE STATE.

14 Sec. 9112. ~~(1) A person shall not maintain or undertake a~~
15 ~~land use or earth change governed by this part or the rules or~~
16 ~~governed by an applicable local ordinance, except in accordance~~
17 ~~with this part and the rules or with the applicable local ordi-~~
18 ~~nance and pursuant to a permit approved by the appropriate county~~
19 ~~or local enforcing agency. A person who violates this subsection~~
20 ~~is guilty of a misdemeanor.~~

21 ~~(2)~~ If in the opinion of the department a person or a
22 state, local, county, or public agency violates this part, the
23 rules, or an applicable local ordinance, or an appropriate local
24 agency fails to enforce this part, the rules, or an applicable
25 local ordinance, the department may notify the alleged offender
26 of its determination. The notice shall contain, in addition to a
27 statement of the specific violation that the department believes

1 to exist, a proposed form of order, stipulation for agreement, or
2 other action that the department considers appropriate to assure
3 timely correction of the violation, and the notice shall set a
4 date for a hearing not less than 4 nor more than 8 weeks from the
5 date of the notice of determination. Extensions of the date of
6 the hearing may be granted by the department or on request. At
7 the hearing, any interested party may appear, present witnesses,
8 and submit evidence. A person or a state, local, county, or
9 public agency that has been served with a notice of determination
10 may file a written answer to the notice of determination before
11 the date set for hearing or at the hearing may appear and present
12 oral or written testimony and evidence on the charges and pro-
13 posed requirements of the department to assure correction of the
14 violation. If a person or a state, local, county, or public
15 agency served with the notice of determination agrees with the
16 proposed requirements of the department and notifies the depart-
17 ment of that agreement before the date set for the hearing, dis-
18 position of the case may be made with the approval of the depart-
19 ment by stipulation or consent order without further hearing.
20 The final order of determination following the hearing, or the
21 stipulation or consent order as authorized by this section and
22 approved by the department, is conclusive unless reviewed in
23 accordance with the administrative procedures act of 1969, ~~Act~~
24 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
25 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
26 24.328, in the circuit court of Ingham county, or of the county
27 in which the violation occurred, upon petition filed within 15

1 days after the service upon the person or the state, local,
2 county, or public agency of the final order of determination.

3 Sec. 9121. ~~A person who owns land that is not in compli-~~
4 ~~ance with this part and who, after notice, refuses to implement~~
5 ~~and maintain soil erosion and sedimentation control measures in~~
6 ~~conformance with this part is responsible for a state civil~~
7 ~~infraction and may be ordered to pay a civil fine of not more~~
8 ~~than \$500.00.~~

9 (1) A PERSON WHO VIOLATES THIS PART, THE RULES PROMULGATED
10 UNDER THIS PART, OR A PERMIT ISSUED UNDER THIS PART IS RESPONSI-
11 BLE FOR A STATE CIVIL INFRACTION AND IS SUBJECT TO A CIVIL FINE
12 OF NOT MORE THAN \$2,500.00.

13 (2) A PERSON WHO KNOWINGLY VIOLATES THIS PART, THE RULES
14 PROMULGATED UNDER THIS PART, OR A PERMIT ISSUED UNDER THIS PART
15 IS RESPONSIBLE FOR THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN
16 \$25,000.00 FOR EACH DAY THE VIOLATION OCCURRED. A DEFAULT IN THE
17 PAYMENT OF A CIVIL FINE OR COSTS ORDERED UNDER THIS SUBSECTION OR
18 AN INSTALLMENT OF THE FINE OR COSTS MAY BE REMEDIED BY ANY MEANS
19 AUTHORIZED UNDER THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
20 MCL 600.101 TO 600.9948. CIVIL FINES COLLECTED UNDER THIS SUB-
21 SECTION SHALL BE DEPOSITED AS FOLLOWS:

22 (A) FIFTY PERCENT INTO THE GENERAL FUND OF THE STATE.

23 (B) FIFTY PERCENT WITH THE AUTHORIZED PUBLIC AGENCY WITH
24 JURISDICTION AT THE LOCATION OF THE VIOLATION TO BE USED BY THE
25 AUTHORIZED PUBLIC AGENCY TO ADMINISTER AND ENFORCE THIS PART.

26 (3) IN ADDITION TO A FINE ASSESSED UNDER THIS SECTION, A
27 PERSON WHO VIOLATES THIS PART, THE RULES PROMULGATED UNDER THIS

1 PART, OR A PERMIT ISSUED UNDER THIS PART IS LIABLE TO THE STATE
2 FOR DAMAGES FOR INJURY TO, DESTRUCTION OF, OR LOSS OF NATURAL
3 RESOURCES RESULTING FROM THE VIOLATION.