

SENATE BILL NO. 397

March 2, 1999, Introduced by Senators MC MANUS, KOIVISTO, GAST, BYRUM, VAN REGENMORTER, STILLE, SIKKEMA, SHUGARS, NORTH and SCHWARZ and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30305 (MCL 324.30305), as amended by 1996 PA 550.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30305. (1) Activities that require a permit under
2 part 325 or part 301 or a discharge that is authorized by a dis-
3 charge permit under section 3112 or 3113 do not require a permit
4 under this part.

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

8 (a) Fishing, trapping, or hunting.

9 (b) Swimming or boating.

1 (c) Hiking.

2 (d) Grazing of animals.

3 (e) Farming, horticulture, silviculture, lumbering, and
4 ranching activities, including, BUT NOT LIMITED TO, plowing,
5 irrigation, irrigation ditching, seeding, cultivating, minor
6 drainage, harvesting for the production of food, fiber, and
7 forest products, ~~or~~ upland soil and water conservation prac-
8 tices AND ACTIVITIES REASONABLY NECESSARY TO COMMENCE AND CON-
9 TINUE FARMING OR TO BRING LAND INTO AGRICULTURAL PRODUCTION.
10 Wetland altered under this subdivision shall not be used for a
11 purpose other than a purpose described in this subsection without
12 a permit from the department.

13 (f) Maintenance or operation of serviceable structures in
14 existence on October 1, 1980 or constructed pursuant to this part
15 or former ~~Act No. 203 of the Public Acts of 1979~~ 1979 PA 203.

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

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

21 (i) An existing private agricultural drain.

22 (ii) That portion of a drain legally established pursuant to
23 the drain code of 1956, ~~Act No. 40 of the Public Acts of 1956,~~
24 ~~being sections 280.1 to 280.630 of the Michigan Compiled Laws~~
25 1956 PA 40, MCL 280.1 TO 280.630, which has been constructed or
26 improved for drainage purposes.

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

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

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

21 (k) Maintenance or improvement of public streets, highways,
22 or roads, within the right-of-way and in such a manner as to
23 assure that any adverse effect on the wetland will be otherwise
24 minimized. Maintenance or improvement does not include adding
25 extra lanes, increasing the right-of-way, or deviating from the
26 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
3 diameter of 6 inches or less, if the pipelines are constructed,
4 maintained, or repaired in a manner to ~~assure~~ ENSURE that any
5 adverse effect 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~~ ENSURE
10 that any adverse effect on the wetland will be otherwise
11 minimized.

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

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

18 (3) An activity in a wetland that was effectively drained
19 for farming before October 1, 1980 and that on and after October
20 1, 1980 has continued to be effectively drained as part of an
21 ongoing farming operation is not subject to regulation under this
22 part.

23 (4) A wetland that is incidentally created as a result of 1
24 or more of the following activities is not subject to regulation
25 under this part:

26 (a) Excavation for mineral or sand mining, if the area was
27 not a wetland before excavation. This exemption does not include

1 a wetland on or adjacent to a water body of 1 acre or more in
2 size.

3 (b) Construction and operation of a water treatment pond or
4 lagoon in compliance with the requirements of state or federal
5 water pollution control regulations.

6 (c) A diked area associated with a landfill if the landfill
7 complies with the terms of the landfill construction permit and
8 if the diked area was not a wetland before diking.