

SENATE BILL No. 1227

May 2, 2000, Introduced by Senator STILLE and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 35316 (MCL 324.35316), as amended by 1995 PA
262.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35316. (1) Unless a variance is granted pursuant to
2 section 35317, a zoning ordinance shall not permit the following
3 uses in a critical dune area:

4 (a) A structure and access to the structure on a slope
5 within a critical dune area that has a slope that measures from a
6 1-foot vertical rise in a 4-foot horizontal plane to ~~less than~~
7 a 1-foot vertical rise in a 3-foot horizontal plane, unless the
8 structure and access to the structure are in accordance with
9 plans prepared for the site by a registered professional
10 architect or a licensed professional engineer and the plans

1 provide for the disposal of storm waters without serious soil
2 erosion and without sedimentation of any stream or other body of
3 water. Prior to approval of the plan, the planning commission
4 shall consult with the local soil conservation district.

5 (b) A use on a slope within a critical dune area that has a
6 slope steeper than a 1-foot vertical rise in a 3-foot horizontal
7 plane.

8 (c) A use that is a structure that is not in compliance with
9 subsection (2).

10 (d) A use involving a contour change that is likely to
11 increase erosion, decrease stability, or is more extensive than
12 required to implement a use for which a permit is requested.

13 (e) Silvicultural practices, as described in the "voluntary
14 forest management guidelines for Michigan", prepared by the soci-
15 ety of American foresters in 1987, that are likely to increase
16 erosion, decrease stability, or are more extensive than required
17 to implement a use for which a permit is requested.

18 (f) A use that involves a vegetation removal that is likely
19 to increase erosion, decrease stability, or is more extensive
20 than required to implement a use for which a permit is
21 requested.

22 (g) A use that is not in the public interest. In determin-
23 ing whether a proposed use is in the public interest, the local
24 unit of government shall consider both of the following:

25 (i) The availability of feasible and prudent alternative
26 locations or methods, or both, to accomplish the benefits
27 expected from the use. If a proposed use is 1 single family

1 dwelling on a lot of record owned by the applicant, consideration
2 of feasible and prudent alternative locations shall be limited to
3 the lot of record on which the use is proposed. A lot of record
4 shall not be created strictly for the purpose of avoiding consid-
5 eration of alternative locations under this subparagraph.

6 (ii) The impact that is expected to occur to the critical
7 dune area, and the extent to which the impact may be minimized.

8 (2) ~~A use that is a structure shall be constructed behind~~
9 ~~the crest of the first landward ridge of a critical dune area~~
10 ~~that is not a foredune. However, if construction occurs within~~
11 ~~100 feet measured~~ SUBJECT TO SUBSECTION (3), IF A USE THAT IS A
12 STRUCTURE IS PROPOSED TO BE CONSTRUCTED BETWEEN THE WATER AND A
13 POINT 100 FEET landward from the crest of the first landward
14 ridge that is not a foredune, the applicant shall demonstrate
15 that the proposed use meets all of the following requirements:

16 (a) The use will not destabilize the critical dune area.

17 (b) Contour changes and vegetative removal are limited to
18 that essential to siting the structure and access to the
19 structure.

20 (c) Access to the structure is from the landward side of the
21 dune.

22 (d) The dune is restabilized with indigenous vegetation.

23 (e) Construction techniques and methods are employed that
24 mitigate the impact on the dune.

25 (f) The crest of the dune is not reduced in elevation.

1 (g) If the department is implementing the model zoning plan,
2 the use meets all other applicable requirements of the zoning
3 ordinance or the model zoning plan.

4 (3) A USE THAT IS A BUILDING SHALL BE CONSTRUCTED BEHIND THE
5 CREST OF THE FIRST LANDWARD RIDGE OF A CRITICAL DUNE AREA THAT IS
6 NOT A FOREDUNE.

7 (4) ~~-(3)-~~ If the local unit of government is not certain of
8 the degree of slope on a property for which a use permit is
9 sought, the local unit may require that the applicant supply con-
10 tour maps of the site with 5-foot intervals at or near any pro-
11 posed structure or roadway or consult with the local soil conser-
12 vation district regarding the degree of slope.

13 (5) ~~-(4) Within 60 days after the effective date of this~~
14 ~~section, the~~ THE department shall ~~develop~~ MAINTAIN guidelines
15 to describe the method by which the department and local units of
16 government measure slopes to implement the requirements of the
17 zoning ordinance or the model zoning plan.

18 (6) ~~-(5)-~~ If a person is ordered by the department, or by a
19 local unit of government that is enforcing a zoning ordinance
20 authorized under this part, to restore a critical dune area that
21 has been degraded by that person, the department or local unit of
22 government shall establish a procedure by which the restoration
23 of the critical dune area is monitored to assure that the resto-
24 ration is completed in a satisfactory manner.