

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5953 (Substitute H-5 as passed by the House)
Sponsor: Representative Kenneth Bradstreet
House Committee: Agriculture and Resource Management
Senate Committee: Hunting, Fishing and Forestry

Date Completed: 12-3-02

CONTENT

The bill would create the "Right to Forest Act", which would exclude certain forestry operations from being considered a public or private nuisance.

Specifically, forestry operations could not be found to be a public or private nuisance if the operations conformed to generally accepted forestry management practices, which would have to be reviewed annually by the Natural Resources Commission. Forestry operations also could not be considered a nuisance if they existed before a change in the land use or occupancy of land within one mile of the boundaries of the forestland, and the forestry operations would not have been a nuisance before that change. Forestry operations conforming with accepted forestry management practices could not be considered a nuisance as a result of: a change in ownership or size, cessation or interruption of forestry operations, enrollment in governmental forestry or conservation programs, or adoption of new forestry technology.

"Public or private nuisance" would include allegations of nuisance based on: visual changes due to the removal of timber or vegetation; noise from forestry equipment used for generally accepted forestry practices; removal of timber or vegetation on a forest adjoining the property of another landowner; or the use of chemicals normally used in forestry operations and applied under generally accepted forestry management practices.

Any defendant landowner or forestry operation prevailing in a nuisance action could recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the landowner or forestry operation in defense of the action, plus attorney fees.

The bill would define "forestry operations" as activities related to the harvesting, reforestation, and other management activities, including thinning, pest control, fertilization, and wildlife management, that are consistent with principles of sustainable forestry. "Sustainable forestry" would mean forestry practices designed to meet present and future wood product needs by employing a land stewardship ethic that integrates the reforestation, management, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual changes.

"Generally accepted forestry management practices" would be prescribed by the Natural Resources Commission. The Commission would have to give due consideration to available Department of Natural Resources (DNR) information, written recommendations, and comments from the DNR and other interested persons, which could include the Michigan Department of Agriculture, the Michigan State University extension, U.S. Department of Agriculture agencies, services, and programs, college and university forestry programs, and professional, industry, and conservation programs.

The bill states that it would not supersede, negate, or determine any protection of land, farms, or farming operations that are subject to the Michigan Right to Farm Act.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Pam Graham