

**SUBSTITUTE FOR
HOUSE BILL NO. 5118**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 502, 32503, and 33938 (MCL 324.502,
324.32503, and 324.33938), section 502 as amended by 1998 PA 114
and sections 32503 and 33938 as added by 1995 PA 59, and by
adding sections 501a and 61505a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 501A. THE GREAT LAKES ARE A BINATIONAL PUBLIC TREASURE
2 AND ARE HELD IN TRUST BY THE GREAT LAKES STATES AND PROVINCES.
3 MANAGEMENT OF THE WATER RESOURCES OF THE GREAT LAKES AND THE
4 GREAT LAKES BASIN IS SUBJECT TO THE JURISDICTION, RIGHTS, AND
5 RESPONSIBILITIES OF THE GREAT LAKES STATES AND PROVINCES.
6 EFFECTIVE MANAGEMENT OF THE WATER RESOURCES OF THE GREAT LAKES
7 REQUIRES THE IN-BASIN EXERCISE OF SUCH JURISDICTION, RIGHTS, AND

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1 RESPONSIBILITIES IN THE INTEREST OF ALL THE PEOPLE OF THE GREAT
2 LAKES BASIN.

3 Sec. 502. (1) The commission may promulgate rules, not
4 inconsistent with law, governing its organization and procedure.

5 (2) The department may ~~promulgate~~ DO 1 OR MORE OF THE
6 FOLLOWING:

7 (A) PROMULGATE and enforce reasonable rules concerning the
8 use and occupancy of lands and property under its control in
9 accordance with section 504. ~~it may provide~~

10 (B) PROVIDE and develop facilities for outdoor recreation.
11 ~~it may conduct~~

12 (C) CONDUCT investigations it considers necessary for the
13 proper administration of this part. ~~it may remove~~

14 (D) REMOVE and dispose of forest products as required for
15 the protection, reforestation, and proper development and conser-
16 vation of the lands and property under THE control of the
17 department. ~~it and may require~~

18 (E) REQUIRE the payment of a fee as provided by law for a
19 daily permit or other authorization that allows the person to
20 hunt and take waterfowl on a public hunting area managed and
21 developed for waterfowl.

22 (3) ~~-(2)-~~ Except as provided in subsection ~~-(3)-~~ (4), the
23 department may enter into contracts for the taking of coal, oil,
24 gas, and other mineral products from state owned lands, upon a
25 royalty basis or upon another basis, and upon the terms the
26 department considers just and equitable subject to section 502a.
27 This contract power includes authorization to enter into

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1 contracts for the storage of gas or other mineral products in or
2 upon state owned lands, if the consent of the state agency having
3 jurisdiction and control of the state owned land is first
4 obtained. A contract permitted under this section for the taking
5 of coal, oil, gas, or metallic mineral products, or for the stor-
6 age of gas or other mineral products, is not valid unless the
7 contract is approved by the state administrative board. Money
8 received from a contract for the storage of gas or other mineral
9 products in or upon state lands shall be transmitted to the state
10 treasurer for deposit in the general fund of the state to be used
11 for the purpose of defraying the expenses incurred in the admin-
12 istration of this act and other purposes provided by law. Other
13 money received from a contract permitted under this subsection,
14 except money received from lands acquired with money from the
15 game and fish protection fund created in section 43553, shall be
16 transmitted to the state treasurer for deposit in the Michigan
17 natural resources trust fund created in section 35 of article IX
18 of the state constitution of 1963 AND PROVIDED FOR IN PART 19.
19 However, the money received from the payment of service charges
20 by a person using areas managed for waterfowl shall be credited
21 to the game and fish protection fund and used only for the pur-
22 poses provided by law. Money received from bonuses, rentals,
23 delayed rentals, royalties, and the direct sale of resources,
24 including forest resources, from lands acquired with money from
25 the game and fish protection fund shall be credited to the game
26 and fish protection trust fund created in section 43702, except
27 as otherwise provided by law.

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1 (4) ~~-(3)-The~~ BEGINNING ON THE EFFECTIVE DATE OF THE 2002
2 AMENDATORY ACT THAT AMENDED THIS SECTION, SUBJECT TO SECTIONS
3 32503 AND 61505A, THE department shall not enter into a contract
4 that permits drilling operations for the taking of oil or gas
5 from the lake bottomlands of the Great Lakes or THE connecting or
6 connected bays, harbors, or waterways ~~-, unless all drilling~~
7 ~~operations originate from locations above and inland of the ordi-~~
8 ~~nary high-water mark. The~~ OF THE GREAT LAKES. BEGINNING ON THE
9 EFFECTIVE DATE OF THE 2002 AMENDATORY ACT THAT AMENDED THIS SEC-
10 TION, SUBJECT TO SECTIONS 32503 AND 61505A, THE department shall
11 not enter into a contract for exploration of the lake bottomlands
12 of the Great Lakes or THE connecting or connected bays, harbors,
13 or waterways OF THE GREAT LAKES that permits drilling operations.
14 ~~unless all drilling operations originate from locations above~~
15 ~~and inland of the ordinary high-water mark.~~

16 (5) ~~-(4)-~~ This section does not permit a contract for the
17 taking of gravel, sand, coal, oil, gas, or other metallic mineral
18 products that does not comply with applicable local ordinances
19 and state law.

20 Sec. 32503. (1) Except as otherwise provided in this sec-
21 tion, the department, after finding that the public trust in the
22 waters will not be impaired or substantially affected, may enter
23 into agreements pertaining to waters over and the filling in of
24 submerged patented lands, or to lease or deed unpatented lands,
25 after approval of the state administrative board. Quitclaim
26 deeds, leases, or agreements covering unpatented lands may be
27 issued or entered into by the department with any person, and

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1 shall contain such terms, conditions, and requirements as the
2 department determines to be just and equitable and in conformance
3 with the public trust. The department shall reserve to the state
4 all mineral rights, including, but not limited to, coal, oil,
5 gas, sand, gravel, stone, and other materials or products located
6 or found in those lands, except where lands are occupied or to be
7 occupied for residential purposes at the time of conveyance.

8 (2) A riparian owner shall obtain a permit from the depart-
9 ment before dredging or placing spoil or other materials on
10 bottomland.

11 (3) ~~The~~ BEGINNING ON THE EFFECTIVE DATE OF THE 2002 AMEN-
12 DATORY ACT THAT AMENDED THIS SECTION, SUBJECT TO SUBSECTIONS (5)
13 AND (6), THE department shall not enter into a lease or deed of
14 unpatented lands that permits drilling operations for the taking
15 of oil or gas. ~~—, unless all drilling operations originate from~~
16 ~~locations above and inland of the ordinary high-water mark. The~~
17 BEGINNING ON THE EFFECTIVE DATE OF THE 2002 AMENDATORY ACT THAT
18 AMENDED THIS SECTION, SUBJECT TO SUBSECTIONS (5) AND (6), THE
19 department shall not enter into a lease or deed of unpatented
20 lands that permits drilling for exploration purposes. ~~—unless the~~
21 ~~drilling operations originate from locations above and inland of~~
22 ~~the ordinary high-water mark.~~

23 (4) An agreement, lease, or deed entered into under this
24 part by the department with the United States shall be entered
25 into and executed pursuant to the property rights acquisition
26 act, ~~Act No. 201 of the Public Acts of 1986, being section 3.251~~

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1 ~~to 3.262 of the Michigan Compiled Laws~~ 1986 PA 201, MCL 3.251 TO
2 3.262.

3 (5) THE DEPARTMENT MAY ENTER INTO A LEASE OR DEED OF UNPAT-
4 ENTED LANDS THAT PERMITS DRILLING OPERATIONS FOR THE EXPLORATION
5 OR TAKING OF OIL OR GAS IF THE LEGISLATURE BY CONCURRENT RESOLU-
6 TION ADOPTED BY A MAJORITY OF MEMBERS ELECTED TO AND SERVING IN
7 EACH HOUSE OF THE LEGISLATURE DECLARES THERE TO BE A STATE ENERGY
8 EMERGENCY.

9 (6) PRIOR TO ENTERING INTO A LEASE OR DEED UNDER SUBSECTION
10 (5), THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

11 (A) CONSULT WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN
12 EVALUATING PROSPECTIVE BOTTOMLAND LEASES TO DETERMINE WHETHER
13 THERE ARE APPROPRIATE OPTIONS FOR DEVELOPMENT THAT WOULD PROTECT
14 THE ENVIRONMENT.

15 (B) CONSIDER COASTAL ZONE ENVIRONMENTAL INVENTORIES TO IDEN-
16 TIFY SENSITIVE ENVIRONMENTAL FEATURES AND DETERMINE IF ACCEPTABLE
17 DEVELOPMENT SITES EXIST.

18 (C) CONSIDER ANY ENVIRONMENTAL LAND USE IMPACTS AND CON-
19 Flicts RELATED TO POTENTIAL DRILLING OPERATIONS.

20 (D) REQUIRE THE LEASE APPLICANT TO CONDUCT AN ENVIRONMENTAL
21 IMPACT ASSESSMENT.

22 (E) PROVIDE AN OPPORTUNITY FOR PUBLIC INPUT.

23 (7) IF THE DEPARTMENT ENTERS INTO A LEASE UNDER SUBSECTION
24 (5) THAT WOULD ALLOW DRILLING OPERATIONS TO TAKE PLACE ON STATE
25 LAND, THE LEASE SHALL PROHIBIT ANY NEW INFRASTRUCTURE FROM BEING
26 LOCATED IN VIRGIN OR UNDISTURBED AREAS.

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1 Sec. 33938. (1) A person shall not remove metallic
2 minerals, marl, stone, rock, sand, gravel, or earth from or under
3 the beds of the Great Lakes or the bays and harbors connected
4 with the Great Lakes without first obtaining a written lease from
5 the department granting the right to take the material.

6 (2) ~~—A— BEGINNING ON THE EFFECTIVE DATE OF THE 2002 AMENDA-~~
7 ~~TORY ACT THAT AMENDED THIS SECTION, SUBJECT TO SECTIONS 32503 AND~~
8 ~~61505A, A person shall not conduct drilling operations for the~~
9 ~~removal of oil or gas from under the beds of the Great Lakes or~~
10 ~~THE connecting or connected bays, harbors, or waterways —, unless~~
11 ~~all drilling operations originate from locations above and inland~~
12 ~~of the ordinary high-water mark and are conducted pursuant to the~~
13 ~~terms of a written lease obtained from the department. —A— OF THE~~
14 ~~GREAT LAKES UNLESS THE DRILLING OPERATIONS BEGAN PRIOR TO THE~~
15 ~~EFFECTIVE DATE OF THE 2002 AMENDATORY ACT THAT AMENDED THIS~~
16 ~~SECTION. BEGINNING ON THE EFFECTIVE DATE OF THE 2002 AMENDATORY~~
17 ~~ACT THAT AMENDED THIS SECTION, SUBJECT TO SECTIONS 32503 AND~~
18 ~~61505A, A person shall not conduct drilling operations for the~~
19 ~~purpose of exploring for oil and gas under the beds of the Great~~
20 ~~Lakes or THE connecting or connected bays, harbors, or waterways~~
21 ~~—, unless all drilling operations originate from locations above~~
22 ~~and inland of the high-water mark— OF THE GREAT LAKES.~~

23 (3) A person who violates subsection (1) or (2) is liable to
24 this state for an amount equal to 3 times the value of the mate-
25 rials taken plus an amount equal to the cost of restoring the
26 waters, beds, bottomlands, adjacent uplands, or any natural
27 resource of the Great Lakes or THE connecting or connected bays,

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1 harbors, or waterways OF THE GREAT LAKES that is damaged as a
2 result of the violation.

3 SEC. 61505A. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS
4 SECTION, NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART OR THE
5 RULES PROMULGATED UNDER THIS PART, THE SUPERVISOR SHALL NOT ISSUE
6 A PERMIT FOR DRILLING, OR AUTHORIZE THE DRILLING OF, AN OIL OR
7 GAS WELL, INCLUDING AN EXPLORATORY WELL, THAT EXTENDS UNDER THE
8 GREAT LAKES OR THE CONNECTING OR CONNECTED BAYS, HARBORS, OR
9 WATERWAYS OF THE GREAT LAKES EXCEPT AS PROVIDED IN SUBSECTION
10 (2).

11 (2) THE SUPERVISOR MAY ISSUE A PERMIT FOR DRILLING, OR MAY
12 AUTHORIZE THE DRILLING OF, AN OIL OR GAS WELL, INCLUDING AN
13 EXPLORATORY WELL [,] THAT EXTENDS UNDER THE GREAT LAKES OR THE CON-
14 NECTING OR CONNECTED BAYS, HARBORS, OR WATERWAYS OF THE GREAT
15 LAKES IF THE LEGISLATURE BY CONCURRENT RESOLUTION ADOPTED BY A
16 MAJORITY OF MEMBERS ELECTED TO AND SERVING IN EACH HOUSE OF THE
17 LEGISLATURE DECLARES THERE TO BE A STATE ENERGY EMERGENCY.

18 (3) IF THE SUPERVISOR ISSUES A PERMIT OR AUTHORIZES THE
19 DRILLING OF AN OIL OR GAS WELL UNDER SUBSECTION (2), THE SUPERVI-
20 SOR SHALL DO ALL OF THE FOLLOWING:

21 (A) REQUIRE THAT ALL DRILLING OPERATIONS ORIGINATE FROM
22 LOCATIONS AT LEAST 1,500 FEET ABOVE AND INLAND OF THE ORDINARY
23 HIGH-WATER MARK OF THE GREAT LAKES AS DESCRIBED IN SECTION
24 32502.

25 (B) PROHIBIT DRILLING EQUIPMENT FROM BEING LOCATED IN SENSI-
26 TIVE OR UNIQUE AREAS.

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1 (C) REQUIRE THE PERMITTEE TO USE ADVANCED BUT PROVEN
2 TECHNOLOGY AS DETERMINED BY THE DEPARTMENT.

3 (D) IF GEOLOGIC UNITS ARE TO BE RELIED UPON FOR SEALING A
4 BORE HOLE, REQUIRE VERIFICATION THAT THE CONFINING STRATA WILL
5 ADEQUATELY CONTAIN ANY FLUIDS.

6 (E) REQUIRE THAT DRILLING MUDS ACCUMULATED IN THE DRILLING
7 PROCESS SHALL NOT BE DISPOSED OF AT THE DRILLING LOCATION.

[Enacting section 1. This amendatory act takes effect March 1,
2002.]

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