

**SENATE 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 department shall not enter into a contract
2 that ~~permits~~ ALLOWS drilling operations ~~for the taking of oil~~
3 ~~or gas from~~ BENEATH the lake bottomlands of the Great Lakes, ~~or~~
4 ~~connecting or~~ THE connected bays ~~,~~ OR harbors OF THE GREAT
5 LAKES, or THE CONNECTING waterways ~~,~~ ~~unless all drilling opera-~~
6 ~~tions originate from locations above and inland of the ordinary~~
7 ~~high-water mark~~ AS DEFINED IN SECTION 32301, FOR THE EXPLORATION
8 OR PRODUCTION OF OIL OR GAS. ~~The department shall not enter~~
9 ~~into a contract for exploration of the lake bottomlands of the~~
10 ~~Great Lakes or connecting or connected bays, harbors, or water-~~
11 ~~ways that permits drilling operations, unless all drilling opera-~~
12 ~~tions originate from locations above and inland of the ordinary~~
13 ~~high-water mark.~~

14 (5) ~~—(4)—~~ This section does not permit a contract for the
15 taking of gravel, sand, coal, oil, gas, or other metallic mineral
16 products that does not comply with applicable local ordinances
17 and state law.

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

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

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

9 (3) The department shall not enter into a lease or deed ~~of~~
10 ~~unpatented lands that permits~~ ALLOWS drilling operations ~~for~~
11 ~~the taking of oil or gas, unless all drilling operations origi-~~
12 ~~nate from locations above and inland of the ordinary high-water~~
13 ~~mark~~ BENEATH UNPATENTED LANDS FOR THE EXPLORATION OR PRODUCTION
14 OF OIL OR GAS. ~~The department shall not enter into a lease or~~
15 ~~deed of unpatented lands that permits drilling for exploration~~
16 ~~purposes, unless the drilling operations originate from locations~~
17 ~~above and inland of the ordinary high-water mark.~~

18 (4) An agreement, lease, or deed entered into under this
19 part by the department with the United States shall be entered
20 into and executed pursuant to the property rights acquisition
21 act, ~~Act No. 201 of the Public Acts of 1986, being section 3.251~~
22 ~~to 3.262 of the Michigan Compiled Laws~~ 1986 PA 201, MCL 3.251 TO
23 3.262.

24 Sec. 33938. (1) A person shall not remove metallic miner-
25 als, marl, stone, rock, sand, gravel, or earth from or ~~under~~
26 BENEATH the ~~beds~~ LAKE BOTTOMLANDS of the Great Lakes or the
27 bays and harbors connected with the Great Lakes without first

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1 obtaining a written lease from the department granting the right
2 to take the material.

3 (2) A person shall not conduct drilling operations ~~for the~~
4 ~~removal of oil or gas from under~~ BENEATH the ~~beds~~ LAKE
5 BOTOMLANDS of the Great Lakes, ~~or connecting or~~ THE connected
6 bays ~~,~~ OR harbors OF THE GREAT LAKES, or THE CONNECTING water-
7 ways ~~,~~ unless all drilling operations originate from locations
8 above and inland of the ordinary high-water mark and are con-
9 ducted pursuant to the terms of a written lease obtained from the
10 department. ~~A person shall not conduct drilling operations for~~
11 ~~the purpose of exploring for oil and gas under the beds of the~~
12 ~~Great Lakes or connecting or connected bays, harbors, or water-~~
13 ~~ways, unless all drilling operations originate from locations~~
14 ~~above and inland of the high-water mark.~~ AS DEFINED IN SECTION
15 32301, FOR THE EXPLORATION OR PRODUCTION OF OIL OR GAS, UNLESS
16 EITHER OR BOTH OF THE FOLLOWING CONDITIONS ARE MET:

17 (A) THE DRILLING OPERATIONS BEGAN PRIOR TO THE EFFECTIVE
18 DATE OF THE 2002 AMENDATORY ACT THAT ADDED THIS SUBDIVISION.

19 (B) THE PERSON HOLDS A LEASE THAT WAS IN EFFECT PRIOR TO THE
20 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION
21 AND THAT ALLOWS THE DRILLING OPERATIONS.

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

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1 ~~harbors, or waterways~~ . THE CONNECTED BAYS OR HARBORS
OF THE GREAT LAKES, OR THE CONNECTING WATERWAYS AS DEFINED IN SECTION
2 32301, that is damaged as a
result of the violation.

3 SEC. 61505A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
4 PART OR THE RULES PROMULGATED UNDER THIS PART, BEGINNING ON THE
5 EFFECTIVE DATE OF THIS SECTION, THE SUPERVISOR SHALL NOT ISSUE A
6 PERMIT FOR DRILLING, OR AUTHORIZE THE DRILLING OF, A WELL BENEATH
7 THE LAKE BOTTOMLANDS OF THE GREAT LAKES, THE CONNECTED BAYS OR
8 HARBORS OF THE GREAT LAKES, OR THE CONNECTING WATERWAYS AS
9 DEFINED IN SECTION 32301, FOR THE EXPLORATION OR PRODUCTION OF
10 OIL OR GAS UNLESS THE APPLICANT HOLDS A LEASE THAT WAS IN EFFECT
11 PRIOR TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
12 SECTION THAT ALLOWS THE WELL TO BE DRILLED.