

HOUSE BILL No. 4082

January 29, 2003, Introduced by Reps. Sheltroun and Brown and referred to the Committee on Agriculture and Resource Management.

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
3 discharge permit under section 3112 or 3113 do not require a
4 permit 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.

10 (c) Hiking.

1 (d) Grazing of animals.

2 (e) Farming, horticulture, silviculture, lumbering, and
3 ranching activities, including plowing, irrigation, irrigation
4 ditching, seeding, cultivating, minor drainage, harvesting for
5 the production of food, fiber, and forest products, ~~or~~ upland
6 soil and water conservation practices **and activities reasonably**
7 **necessary to commence and continue farming or to bring land into**
8 **agricultural production.** Wetland altered under this subdivision
9 shall not be used for a purpose other than a purpose described in
10 this subsection without a permit from the department.

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

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

15 (h) Maintenance, operation, or improvement, ~~which includes~~
16 **including** straightening, widening, or deepening, of the following
17 which is necessary for the production or harvesting of
18 agricultural products:

19 (i) An existing private agricultural drain.

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

25 (iii) A drain constructed pursuant to other provisions of
26 this part or former ~~Act No. 203 of the Public Acts of 1979~~ **1979**
27 **PA 203.**

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

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

19 (k) Maintenance or improvement of public streets, highways,
20 or roads, within the right-of-way and in such a manner as to
21 ~~assure~~ **ensure** that any adverse effect on the wetland will be
22 otherwise minimized. Maintenance or improvement does not include
23 adding extra lanes, increasing the right-of-way, or deviating
24 from the existing location of the street, highway, or road.

25 (l) Maintenance, repair, or operation of gas or oil pipelines
26 and construction of gas or oil pipelines having a diameter of 6
27 inches or less, if the pipelines are constructed, maintained, or

1 repaired in a manner to ~~assure~~ **ensure** that any adverse effect
2 on the wetland will be otherwise minimized.

3 (m) Maintenance, repair, or operation of electric
4 transmission and distribution power lines and construction of
5 distribution power lines, if the distribution power lines are
6 constructed, maintained, or repaired in a manner to ~~assure~~
7 **ensure** that any adverse effect on the wetland will be otherwise
8 minimized.

9 (n) Operation or maintenance, including reconstruction of
10 recently damaged parts, of serviceable dikes and levees in
11 existence on October 1, 1980 or constructed pursuant to this part
12 or former ~~Act No. 203 of the Public Acts of 1979~~ **1979 PA 203**.

13 (o) Construction of iron and copper mining tailings basins
14 and water storage areas.

15 (3) An activity in a wetland that was effectively drained for
16 farming before October 1, 1980 and that on and after October 1,
17 1980 has continued to be effectively drained as part of an
18 ongoing farming operation is not subject to regulation under this
19 part.

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

23 (a) Excavation for mineral or sand mining, if the area was
24 not a wetland before excavation. This exemption does not include
25 a wetland on or adjacent to a water body of 1 acre or more in
26 size.

27 (b) Construction and operation of a water treatment pond or

1 lagoon in compliance with the requirements of state or federal
2 water pollution control regulations.

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