

SENATE BILL No. 741

September 30, 2003, Introduced by Senators BIRKHOLZ, JOHNSON, BRATER and SWITALSKI 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 sections 35301 and 35311 (MCL 324.35301 and 324.35311), section 35301 as amended by 1995 PA 262 and section 35311 as added by 1995 PA 59, and by adding section 35303a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 35301. As used in this part:

(a) "Contour change" includes any grading, filling, digging, or excavating that significantly alters the physical characteristic of a critical dune area, except that which is involved in sand dune mining as defined in part 637.

(b) "Crest" means the line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 1-foot vertical rise in a 5-1/2-foot horizontal plane for a

1 distance of at least 20 feet, if the areal extent where this
2 break occurs is greater than 1/10 acre in size.

3 (c) "Critical dune area" means a geographic area designated
4 in the "atlas of critical dune areas" dated February 1989 that
5 was prepared by the department — **modified as follows:**

6 (i) Including all additional geographic areas located on
7 public lands that were proposed for inclusion in the designation
8 of critical dune areas as provided in the document "Proposed
9 Changes to Existing Critical Dune Areas, May 1997" prepared by
10 the center for remote sensing at Michigan state university.

11 (ii) Excluding all geographic areas identified in the
12 document referenced in subparagraph (i) that were proposed to be
13 removed from designation as critical dune areas.

14 (d) "Department" means the department of environmental
15 quality.

16 (e) "Foredune" means 1 or more low linear dune ridges that
17 are parallel and adjacent to the shoreline of a Great Lake and
18 are rarely greater than 20 feet in height. The lakeward face of
19 a foredune is often gently sloping and may be vegetated with dune
20 grasses and low shrub vegetation or may have an exposed sand
21 face.

22 (f) "Model zoning plan" means the model zoning plan provided
23 for in sections 35312 to 35324.

24 (g) "Planning commission" means the body or entity within a
25 local government that is responsible for zoning and land use
26 planning for the local unit of government.

27 (h) "Restabilization" means restoration of the natural

1 contours of a critical dune to the extent practicable, and the
2 restoration of the protective vegetative cover of a critical dune
3 through the establishment of indigenous vegetation, and the
4 placement of snow fencing or other temporary sand trapping
5 measures for the purpose of preventing erosion, drifting, and
6 slumping of sand.

7 (i) "Special use project" means any of the following:

8 (i) A proposed use in a critical dune area for an industrial
9 or commercial purpose regardless of the size of the site.

10 (ii) A multifamily use of more than 3 acres.

11 (iii) A multifamily use of 3 acres or less if the density of
12 use is greater than 4 individual residences per acre.

13 (iv) A proposed use in a critical dune area, regardless of
14 size of the use, that the planning commission, or the department
15 if a local unit of government does not have an approved zoning
16 ordinance, determines would damage or destroy features of
17 archaeological or historical significance.

18 (j) "Use" means a developmental, silvicultural, or
19 recreational activity done or caused to be done by a person that
20 significantly alters the physical characteristic of a critical
21 dune area or a contour change done or caused to be done by a
22 person. Use does not include sand dune mining as defined in part
23 637.

24 (k) "Zoning ordinance" means an ordinance of a local unit of
25 government that regulates the development of critical dune areas
26 within the local unit of government pursuant to the requirements
27 of this part.

1 Sec. 35303a. (1) The department shall notify by mail each
2 local unit of government that has within its jurisdiction 1 or
3 more geographic areas that have been designated as critical dune
4 areas by virtue of the change in the definition of a critical
5 dune area provided for in the amendatory act that added this
6 section.

7 (2) The department shall notify by mail each property owner
8 of record who owns property within a geographic area that is no
9 longer designated as a critical dune area by virtue of the change
10 in the definition of a critical dune area provided for in the
11 amendatory act that added this section.

12 Sec. 35311. ~~By May 23, 1995, the~~ **At least every 10 years,**
13 **the** department shall appoint a team of qualified ecologists who
14 may be employed by the department or may be persons with whom the
15 department enters into contracts who shall review ~~"the atlas of~~
16 **the designations of** critical dune areas. ~~"dated February 1989.~~
17 The review team shall evaluate the accuracy of the designations
18 of critical dune areas ~~within the atlas~~ and shall recommend to
19 the legislature any changes to the ~~atlas or underlying criteria~~
20 ~~revisions to the atlas~~ **critical dune areas** that would provide
21 more precise protection to the targeted resource. ~~In addition,~~
22 ~~the review team shall recommend whether the slope criteria in~~
23 ~~section 35330(1)(a) and (b) are appropriate and supported by the~~
24 ~~best available technical data and whether stairways and driveways~~
25 ~~in critical dune areas should be subject to the same criteria as~~
26 ~~other constructed uses.~~

27 Enacting section 1. Section 35303 of the natural resources

1 and environmental protection act, 1994 PA 451, MCL 324.35303, is
2 repealed.