

SUBSTITUTE FOR  
HOUSE BILL NO. 5125

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 80110, 80111, and 80112 (MCL 324.80110,  
324.80111, and 324.80112), as added by 1995 PA 58.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 80110. **(1)** The department may initiate investigations and  
2 inquiries into the need for special rules for the use of vessels,  
3 water skis, water sleds, aquaplanes, surfboards, or other similar  
4 contrivances on any of the waters of this state **TO ASSURE**  
5 **COMPATIBILITY OF USES OR TO PROTECT PUBLIC SAFETY.** ~~If controls for~~  
6 ~~such activities are considered necessary, or changes or amendments~~  
7 ~~to or repeal of an existing local ordinance is required, a local~~

1 ~~ordinance shall be prepared.~~ IF THE DEPARTMENT RECEIVES A  
2 RESOLUTION PURSUANT TO SECTION 80112, THE DEPARTMENT SHALL INITIATE  
3 AN INVESTIGATION AND INQUIRY UNDER THIS SUBSECTION.

4 (2) THE DEPARTMENT'S INVESTIGATION AND INQUIRY UNDER  
5 SUBSECTION (1) INTO WHETHER SPECIAL RULES ARE NEEDED ON A  
6 PARTICULAR WATER BODY SHALL INCLUDE A CONSIDERATION OF ALL OF THE  
7 FOLLOWING:

8 (A) WHETHER THE ACTIVITIES SUBJECT TO THE PROPOSED SPECIAL  
9 RULES POSE ANY ISSUES OF SAFETY TO LIFE OR PROPERTY.

10 (B) THE PROFILE OF THE WATER BODY, INCLUDING LOCAL  
11 JURISDICTION, SIZE, GEOGRAPHIC LOCATION, AND AMOUNT OF VESSEL  
12 TRAFFIC.

13 (C) THE CURRENT AND HISTORICAL DEPTH OF THE WATER BODY,  
14 INCLUDING WHETHER THERE IS AN ESTABLISHED LAKE LEVEL FOR THE WATER  
15 BODY.

16 (D) WHETHER ANY IDENTIFIABLE SPECIAL PROBLEMS OR CONDITIONS  
17 EXIST ON THE WATER BODY FOR THE ACTIVITIES SUBJECT TO THE PROPOSED  
18 SPECIAL RULES, SUCH AS ROCKS, PIER HEADS, SWIMMING AREAS, PUBLIC  
19 ACCESS SITES, SHALLOW WATERS, AND SUBMERGED OBSTACLES.

20 (E) WHETHER THE PROPOSED SPECIAL RULES WOULD UNREASONABLY  
21 INTERFERE WITH NORMAL NAVIGATIONAL TRAFFIC.

22 (F) WHETHER USER CONFLICTS EXIST ON THE WATER BODY.

23 (G) COMPLAINTS RECEIVED BY LOCAL LAW ENFORCEMENT AGENCIES  
24 REGARDING ACTIVITIES ON THE WATER BODY.

25 (H) THE STATUS OF ANY ACCIDENTS THAT HAVE OCCURRED ON THE  
26 WATER BODY.

27 (I) HISTORICAL USES OF THE WATER BODY AND POTENTIAL FUTURE

1 USES OF THE WATER BODY.

2 (J) WHETHER THE WATER BODY IS PUBLIC OR PRIVATE.

3 (K) WHETHER EXISTING LAW ADEQUATELY REGULATES THE ACTIVITIES  
4 SUBJECT TO THE PROPOSED SPECIAL RULES.

5 (3) FOLLOWING COMPLETION OF THE DEPARTMENT'S INVESTIGATION AND  
6 INQUIRY, THE DEPARTMENT SHALL PREPARE A PRELIMINARY REPORT THAT  
7 INCLUDES THE DEPARTMENT'S EVALUATION OF THE ITEMS LISTED IN  
8 SUBSECTION (2) AND THE DEPARTMENT'S PRELIMINARY RECOMMENDATION AS  
9 TO WHETHER SPECIAL RULES ARE NEEDED FOR THE WATER BODY.

10 (4) UPON PREPARATION OF THE PRELIMINARY REPORT, THE DEPARTMENT  
11 SHALL PROVIDE A COPY OF THE PRELIMINARY REPORT TO THE LOCAL  
12 POLITICAL SUBDIVISION THAT HAS WATERS SUBJECT TO ITS JURISDICTION  
13 FOR WHICH THE PROPOSED SPECIAL RULES ARE BEING CONSIDERED AND SHALL  
14 SCHEDULE A PUBLIC HEARING IN THE VICINITY OF THE WATER BODY TO  
15 GATHER PUBLIC INPUT ON THE PRELIMINARY REPORT AND THE NEED FOR  
16 SPECIAL RULES. Notice of ~~a~~ THE public hearing shall be made in a  
17 newspaper of general circulation in the area ~~in which the local~~  
18 ~~ordinance is to be imposed, amended, or repealed~~ WHERE THE WATER  
19 BODY IS LOCATED, not less than 10 calendar days before the hearing.  
20 ~~Interested~~ AT THE PUBLIC HEARING, INTERESTED persons shall be  
21 afforded an opportunity to present their views on the ~~proposed~~  
22 ~~local ordinance~~ PRELIMINARY REPORT AND THE NEED FOR SPECIAL RULES,  
23 either orally or in writing.

24 (5) WITHIN 90 DAYS FOLLOWING THE PUBLIC HEARING UNDER  
25 SUBSECTION (4), IF THE DEPARTMENT DETERMINES THAT THERE IS A NEED  
26 FOR SPECIAL RULES FOR THE WATER BODY, THE DEPARTMENT SHALL PROPOSE  
27 A LOCAL ORDINANCE OR APPROPRIATE CHANGES TO A LOCAL ORDINANCE. IF

1 THE DEPARTMENT DETERMINES THAT THERE IS NOT A NEED FOR SPECIAL  
2 RULES, THE DEPARTMENT SHALL NOTIFY THE POLITICAL SUBDIVISION THAT  
3 HAS WATERS SUBJECT TO ITS JURISDICTION AND SHALL PROVIDE THE  
4 SPECIFIC REASONS FOR ITS DETERMINATION.

5 (6) A DETERMINATION BY THE DEPARTMENT THAT THERE IS NOT A NEED  
6 FOR SPECIAL RULES FOR A WATER BODY MAY BE APPEALED TO THE  
7 COMMISSION BY THE POLITICAL SUBDIVISION THAT HAS WATERS SUBJECT TO  
8 ITS JURISDICTION. THE COMMISSION SHALL MAKE THE FINAL AGENCY  
9 DECISION ON THE NEED FOR SPECIAL RULES FOR A WATER BODY.

10 (7) AS USED IN THIS SECTION, "WATER BODY" INCLUDES ALL OR A  
11 PORTION OF A WATER BODY.

12 Sec. 80111. A local ordinance proposed pursuant to section  
13 80110 shall be submitted to the governing body of the political  
14 subdivision in which the ~~controlled waters lie~~ **WATER BODY SUBJECT**  
15 **TO THE PROPOSED SPECIAL RULES IS LOCATED**. Within 60 calendar days,  
16 the governing body shall inform the department that it approves or  
17 disapproves of the proposed local ordinance. If the required  
18 information is not received within the time specified, the  
19 department shall consider the proposed local ordinance disapproved  
20 by the governing body. If the governing body disapproves the  
21 proposed local ordinance, or if the 60-day period has elapsed  
22 without a reply having been received from the governing body, no  
23 further action shall be taken. If the governing body approves the  
24 proposed local ordinance, the local ordinance shall be enacted  
25 identical in all respects to the local ordinance proposed by the  
26 department. **AFTER THE LOCAL ORDINANCE IS ENACTED, THE LOCAL**  
27 **ORDINANCE SHALL BE ENFORCED AS PROVIDED FOR IN SECTION 80113.**

1       Sec. 80112. Local political subdivisions that believe that  
2 special local ordinances of the type authorized by this part are  
3 needed on waters subject to their jurisdiction shall inform the  
4 department and request assistance. All such requests shall be in  
5 the form of an official resolution approved by a majority of the  
6 governing body of the concerned political subdivision **FOLLOWING A**  
7 **PUBLIC HEARING ON THE RESOLUTION.** Upon receipt of ~~such resolutions~~  
8 **A RESOLUTION UNDER THIS SECTION,** the department shall proceed as  
9 required by sections 80110 and 80111.

10       Enacting section 1. This amendatory act takes effect January  
11 1, 2007.