

SENATE 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; and to repeal
acts and parts of acts.

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 AND TO PROTECT PUBLIC SAFETY.** ~~—If controls~~
6 ~~for such activities are considered necessary, or changes or~~

1 ~~amendments to or repeal of an existing local ordinance is required,~~
2 ~~a local ordinance shall be prepared.~~ IF THE DEPARTMENT RECEIVES A
3 RESOLUTION PURSUANT TO SECTION 80112, THE DEPARTMENT SHALL INITIATE
4 AN INVESTIGATION AND INQUIRY UNDER THIS SUBSECTION.

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

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

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

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

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

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

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

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

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

1 (I) HISTORICAL USES OF THE WATER BODY AND POTENTIAL FUTURE
2 USES OF THE WATER BODY.

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

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

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

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

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

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

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

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

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

1 **ORDINANCE SHALL BE ENFORCED AS PROVIDED FOR IN SECTION 80113.**

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

11 Enacting section 1. Section 80110 of the natural resources and
12 environmental protection act, 1994 PA 451, MCL 324.80110, is
13 repealed effective 3 years after the effective date of this
14 amendatory act.