

# HOUSE BILL No. 6469

(As amended December 5, 2006)

September 14, 2006, Introduced by Reps. Amos, Taub and Stakoe and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1956 PA 40, entitled  
"The drain code of 1956,"  
by amending section 421 (MCL 280.421).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 421. (1) ~~Whenever any person shall obstruct any~~  
2 ~~established drain, it shall be the duty of the commissioner to~~  
3 ~~cause such obstruction to be removed. Any lessening of the area of~~  
4 ~~a drain, which area shall be a cross section of the drain, shall be~~  
5 ~~deemed to be an obstruction.~~ A PERSON SHALL NOT OBSTRUCT, PERMIT  
6 AN OBSTRUCTION, OR OTHERWISE INTERFERE WITH OR ENCROACH UPON A  
7 DRAIN OR A DRAIN RIGHT-OF-WAY. OBSTRUCTION IS ANY LESSENING OF THE  
8 CROSS-SECTION OF A DRAIN, INCLUDING, BUT NOT LIMITED TO, THAT  
9 RESULTING FROM ANY [                    ] BRIDGE, CABLE, PIPELINE, SEWER,

House Bill No. 6469 as amended November 30, 2006

as amended December 5, 2006

1 CONDUIT, ROADWAY, CULVERT, [RAILROAD TIES,] OR OTHER STRUCTURE.  
OBSTRUCTION DOES NOT

2 INCLUDE CONSTRUCTION OF A STRUCTURE AS APPROVED BY THE DRAIN  
3 COMMISSIONER OR THE DRAINAGE BOARD. INTERFERE MEANS ANY ACTION  
4 TAKEN THAT HINDERS OR IMPEDES THE INTENDED PURPOSE, DESIGN, OR  
5 OPERATION OF THE DRAIN OR THAT WILL INCREASE THE COST TO THE  
6 DISTRICT OF PERFORMING ANY OF ITS WORK ON THE DRAIN OR THAT IS  
7 CONSIDERED INCONSISTENT WITH THE DISTRICT'S EASEMENT. [ENCROACH MEANS ANY  
8 ACTION WHICH ADVANCES UPON THE PROPER, ESTABLISHED, OR USUAL LIMITS OF  
9 THE DRAIN OR DRAIN RIGHT-OF-WAY.] The person causing ~~such~~ OR PERMITTING  
THE

10 obstruction OR OTHERWISE INTERFERING WITH OR ENCROACHING UPON A  
11 DRAIN OR DRAIN RIGHT-OF-WAY shall be liable for the expense  
12 attendant upon ~~RESULTING FROM~~ the removal thereof, together with  
13 the charges of the commissioner. ~~and the same~~ THE EXPENSE shall  
14 be a lien upon the lands of the party causing or permitting ~~such~~  
15 THE obstruction, ~~and all of the expense shall by the commissioner~~  
16 ~~be reported~~ INTERFERENCE, OR ENCROACHMENT. THE COMMISSIONER SHALL  
17 REPORT THE EXPENSE to the board of ~~supervisors~~ COMMISSIONERS,  
18 together with the report of his OR HER doings in the premises. ~~and by said board ordered~~ IF THE EXPENSE REMAINS UNPAID, THE BOARD  
19 OF COMMISSIONERS SHALL ORDER THE EXPENSE spread upon the land of  
20 the offending party. ~~should the same remain unpaid: Provided,~~  
21 ~~That the~~ THE offending party causing ~~such~~ THE obstruction shall  
22 be given a notice in writing of at least 5 days to remove ~~such~~  
23 THE obstruction. [IF AN EMERGENCY EXISTS THAT ENDANGERS THE PUBLIC  
HEALTH, SAFETY, WELFARE, OR PROPERTY WITHIN A DRAINAGE DISTRICT, THE  
DRAIN COMMISSIONER OR THE DRAINAGE BOARD MAY TAKE IMMEDIATE ACTION TO  
ALLEVIATE THE EMERGENCY CONDITION AND WAIVE THE 5-DAY NOTICE.]

25 (2) This provision as to obstruction, INTERFERENCE, OR  
26 ENCROACHMENT of any drain OR DRAIN RIGHT-OF-WAY shall not apply  
27 where the obstruction was caused by natural causes, but the owner

1 of ~~the stock~~ **LIVESTOCK** who ~~shall permit~~ **PERMITS** his **OR HER**  
2 horses, cattle, pigs, and other ~~stock~~ **LIVESTOCK** to obstruct any  
3 drain by tramping in it ~~shall be deemed~~ **IS CONSIDERED** to be the  
4 party causing ~~such~~ **THE** obstruction.

5 (3) Nothing contained in this section shall in any way impede  
6 or bar the right of any person to make criminal complaint under any  
7 existing law for any obstruction, **INTERFERENCE, OR ENCROACHMENT** of  
8 a drain **OR DRAIN RIGHT-OF-WAY**.