

HOUSE BILL No. 6469

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 RAILROAD, BRIDGE, CABLE, PIPELINE, SEWER,

1 CONDUIT, ROADWAY, CULVERT, 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
 8 MEANS ANY ACTION TAKEN TO ADVANCE BEYOND THE USUAL OR PROPER LIMITS
 9 OF THE DRAIN. 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.

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**.