

SUBSTITUTE FOR
HOUSE BILL NO. 4644

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 AN**
6 **OBSTRUCTION, OR OTHERWISE INTERFERE WITH OR ENCROACH UPON A DRAIN**
7 **OR A DRAIN RIGHT-OF-WAY. OBSTRUCTION IS ANY LESSENING OF THE CROSS-**
8 **SECTION OF A DRAIN, INCLUDING, BUT NOT LIMITED TO, THAT RESULTING**
9 **FROM ANY BRIDGE, CABLE, PIPELINE, SEWER, CONDUIT, ROADWAY, CULVERT,**

House Bill No. 4644 (H-3) as amended July 25, 2007

1 OR OTHER STRUCTURE UNLESS THE CONSTRUCTION OF THE STRUCTURE WAS
 2 APPROVED BY THE COMMISSIONER OR DRAINAGE BOARD. OBSTRUCTION DOES
 3 NOT INCLUDE A STRUCTURE THAT IS PROPERLY DESIGNED AND CONSTRUCTED
 4 WHICH FALLS UNDER [AN ESTABLISHED ROAD OR ROAD RIGHT-OF-WAY AND IS UNDER]
 THE AUTHORITY OF THE STATE DEPARTMENT OF
 5 TRANSPORTATION, A COUNTY ROAD AGENCY, OR A MUNICIPALITY WHICH DOES
 6 NOT REDUCE THE EXISTING HYDRAULIC CAPACITY OF THE DRAIN. INTERFERE
 7 MEANS ANY ACTION THAT IS INCONSISTENT WITH THE DISTRICT'S EASEMENT
 8 AND THAT HINDERS OR IMPEDES THE INTENDED PURPOSE, DESIGN,
 9 OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE DRAIN OR THAT WILL
 10 INCREASE THE COST TO THE DISTRICT OF PERFORMING ANY OF ITS WORK ON
 11 THE DRAIN. The person causing ~~such~~ OR PERMITTING THE obstruction OR
 12 OTHERWISE INTERFERING WITH OR ENCROACHING UPON AN ESTABLISHED DRAIN
 13 OR DRAIN RIGHT-OF-WAY shall be liable for the expense attendant
 14 ~~upon~~ RESULTING FROM the removal thereof, together with the charges
 15 of the commissioner. ~~and the same~~ THE EXPENSE shall be a lien
 16 upon the lands of the party causing or permitting ~~such~~ THE
 17 obstruction, ~~and all of the expense shall by the commissioner be~~
 18 ~~reported~~ INTERFERENCE, OR ENCROACHMENT. THE COMMISSIONER SHALL
 19 REPORT THE EXPENSE to the board of ~~supervisors~~ COMMISSIONERS,
 20 together with the report of his OR HER doings in the premises. ~~and by said board ordered~~ IF THE EXPENSE REMAINS UNPAID, THE BOARD
 21 OF COMMISSIONERS SHALL ORDER THE EXPENSE spread upon the land of
 22 the offending party. ~~should the same remain unpaid: Provided,~~
 23 That ~~the~~ THE offending party causing ~~such~~ THE obstruction shall be
 24 given a notice in writing of at least 5-10 BUSINESS days to remove
 25 ~~such~~ THE obstruction. IF AN EMERGENCY EXISTS THAT ENDANGERS THE
 26 PUBLIC HEALTH, SAFETY, OR PROPERTY WITHIN A DRAINAGE DISTRICT, THE
 27

1 DRAIN COMMISSIONER OR THE DRAINAGE BOARD MAY TAKE IMMEDIATE ACTION
2 TO ALLEVIATE THE EMERGENCY CONDITION AND WAIVE THE 10-BUSINESS-DAY
3 NOTICE.

4 (2) This provision as to obstruction, INTERFERENCE, OR
5 ENCROACHMENT of any drain OR DRAIN RIGHT-OF-WAY shall not apply
6 where the obstruction was caused by natural causes, but the owner
7 of ~~the stock~~ LIVESTOCK who ~~shall permit~~ PERMITS his OR HER horses,
8 cattle, pigs, and other ~~stock~~ LIVESTOCK to obstruct any drain by
9 tramping in it ~~shall be deemed~~ IS CONSIDERED to be the party
10 causing ~~such~~ THE obstruction.

11 (3) THE DRAIN COMMISSIONER SHALL CONSIDER ANY ENVIRONMENTAL
12 IMPACT BEFORE COMMENCING ANY WORK TO REMOVE AN OBSTRUCTION.

13 (4) Nothing contained in this section shall in any way impede
14 or bar the right of any person to make criminal complaint under any
15 existing law for any obstruction, INTERFERENCE, OR ENCROACHMENT of
16 a drain OR DRAIN RIGHT-OF-WAY.