

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5065

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32721, 32722, and 32727 (MCL 324.32721,
324.32722, and 324.32727), as added by 2006 PA 33.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32721. (1) A person shall not make a new or increased
2 large quantity withdrawal from the waters of the state that causes
3 an adverse resource impact. ~~to a designated trout stream.~~

4 ~~—— (2) Beginning 2 years after the effective date of the~~
5 ~~amendatory act that added this section, a person shall not make a~~
6 ~~new or increased large quantity withdrawal from the waters of the~~
7 ~~state that causes an adverse resource impact.~~

8 (2) ~~(3)~~ This section does not apply to the baseline capacity

1 of a large quantity withdrawal or a well capable of making a large
2 quantity withdrawal that existed on ~~the effective date of the~~
3 ~~amendatory act that added this section~~ **FEBRUARY 28, 2006.**

4 (3) ~~(4)~~ This section does not apply to a withdrawal that is
5 utilized solely for fire suppression.

6 (4) **A PERSON WHO DEVELOPED THE CAPACITY TO MAKE A NEW OR**
7 **INCREASED LARGE QUANTITY WITHDRAWAL ON OR AFTER FEBRUARY 28, 2006**
8 **AND PRIOR TO FEBRUARY 1, 2009 OR WHO RECEIVED A DETERMINATION UNDER**
9 **FORMER SECTION 32724 DURING THAT PERIOD IS SUBJECT TO THE**
10 **DEFINITION OF ADVERSE RESOURCE IMPACT THAT EXISTED ON FEBRUARY 28,**
11 **2006.**

12 Sec. 32722. (1) ~~Until a water withdrawal assessment tool~~
13 ~~becomes effective upon legislative enactment pursuant to the~~
14 ~~recommendations of the groundwater conservation advisory council~~
15 ~~under section 32803~~ **FOR NEW OR INCREASED LARGE QUANTITY WITHDRAWALS**
16 **DEVELOPED ON OR AFTER FEBRUARY 28, 2006 AND PRIOR TO THE**
17 **IMPLEMENTATION DATE OF THE ASSESSMENT TOOL UNDER SECTION 32706A,**
18 there is a rebuttable presumption that ~~a new or increased large~~
19 ~~quantity~~ **THE** withdrawal will not cause an adverse resource impact
20 in violation of section 32721 under either of the following
21 circumstances:

22 (a) The location of the withdrawal is more than 1,320 feet
23 from the banks of ~~a designated trout~~ **AN AFFECTED** stream **REACH.**

24 (b) The withdrawal depth of the well is at least 150 feet.

25 (2) **IF THE ASSESSMENT TOOL DETERMINES THAT A WITHDRAWAL IS A**
26 **ZONE A OR A ZONE B WITHDRAWAL AND IS NOT LIKELY TO CAUSE AN ADVERSE**
27 **RESOURCE IMPACT, THERE IS A REBUTTABLE PRESUMPTION THAT THE**

1 WITHDRAWAL UNDER THE CONDITIONS THAT WERE THE BASIS FOR THE
2 ASSESSMENT TOOL'S DETERMINATION WILL NOT CAUSE AN ADVERSE RESOURCE
3 IMPACT IN VIOLATION OF SECTION 32721.

4 (3) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC
5 REVIEW, OR IN CONNECTION WITH A PERMIT OR APPROVAL ISSUED UNDER
6 SECTION 32723 OR THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL
7 325.1001 TO 325.1023, THAT A WITHDRAWAL IS NOT LIKELY TO CAUSE AN
8 ADVERSE RESOURCE IMPACT, THERE IS A REBUTTABLE PRESUMPTION THAT THE
9 WITHDRAWAL UNDER THE CONDITIONS THAT WERE THE BASIS OF THE
10 DEPARTMENT'S DETERMINATION WILL NOT CAUSE AN ADVERSE RESOURCE
11 IMPACT IN VIOLATION OF SECTION 32721.

12 (4) ~~(2)~~—A PRESUMPTION UNDER THIS SECTION IS NOT VALID IF THE
13 CAPACITY TO MAKE THE WITHDRAWAL IS NOT DEVELOPED WITHIN 18 MONTHS
14 AFTER THE WITHDRAWAL IS REGISTERED. A presumption under ~~subsection~~
15 ~~(1)~~—THIS SECTION may be rebutted by a preponderance of evidence
16 that a new or increased large quantity withdrawal from the waters
17 of the state has caused or is likely to cause an adverse resource
18 impact.

19 Sec. 32727. (1) ~~A withdrawal pursuant to part 111, 115, 201,~~
20 ~~or 213 is~~—THE FOLLOWING WITHDRAWALS ARE exempt from the
21 requirements of this part —UNLESS THEY RESULT IN A DIVERSION:

22 (A) A WITHDRAWAL UNDERTAKEN AS PART OF AN ACTIVITY AUTHORIZED
23 BY THE DEPARTMENT UNDER PART 111, 115, 201, 213, OR 615.

24 (B) A WITHDRAWAL UNDERTAKEN AS PART OF AN ACTIVITY AUTHORIZED
25 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER EITHER
26 OF THE FOLLOWING:

27 (i) THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND

1 LIABILITY ACT OF 1980, PUBLIC LAW 96-510.

2 (ii) THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, PUBLIC
3 LAW 94-580.

4 (C) A WITHDRAWAL THAT IS UNDERTAKEN FOR HYDROELECTRIC
5 GENERATION AT SITES CERTIFIED, LICENSED, OR PERMITTED BY THE
6 FEDERAL ENERGY REGULATORY COMMISSION.

7 (D) A HYDROELECTRIC FACILITY AUTHORIZED UNDER SECTION 12 OF
8 CHAPTER 264 OF THE ACT OF MARCH 3, 1909, COMMONLY KNOWN AS THE
9 RIVER AND HARBOR ACT OF 1909, 35 STAT. 821.

10 (E) A HYDROELECTRIC FACILITY AUTHORIZED UNDER SECTION 1075(C)
11 OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991,
12 PUBLIC LAW 102-240.

13 (F) A HYDROELECTRIC FACILITY AUTHORIZED UNDER PUBLIC LAW 85,
14 CHAPTER 1368, 34 STAT. 102.

15 (G) REMOVAL OF WATER FROM AN ARTIFICIALLY CREATED SURFACE
16 WATER BODY THAT HAS AS ITS PRIMARY SOURCE OF WATER EITHER OF THE
17 FOLLOWING:

18 (i) A WITHDRAWAL THAT IS NOT A NEW OR INCREASED LARGE QUANTITY
19 WITHDRAWAL.

20 (ii) A REGISTERED NEW OR INCREASED LARGE QUANTITY WITHDRAWAL
21 THAT HAS BEEN DETERMINED BY THE ASSESSMENT TOOL, A SITE-SPECIFIC
22 REVIEW, OR A PERMIT ISSUED UNDER SECTION 32723 TO BE A WITHDRAWAL
23 THAT IS NOT LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

24 (H) A WITHDRAWAL FROM A NONCOMMERCIAL WELL LOCATED ON THE
25 FOLLOWING RESIDENTIAL PROPERTY:

26 (i) SINGLE-FAMILY RESIDENTIAL PROPERTY UNLESS THAT WELL IS A
27 LAKE AUGMENTATION WELL.

1 (ii) MULTIFAMILY RESIDENTIAL PROPERTY NOT EXCEEDING 4
2 RESIDENTIAL UNITS AND NOT MORE THAN 3 ACRES IN SIZE UNLESS THAT
3 WELL IS A LAKE AUGMENTATION WELL.

4 (2) THE DIRECTOR OF THE DEPARTMENT SHALL ENSURE THAT DATA IN
5 THE POSSESSION OF THE STATE RELATED TO WITHDRAWALS THAT ARE NOT
6 REGULATED UNDER THIS PART ARE COMPILED AND SHARED WITH DEPARTMENTAL
7 PERSONNEL RESPONSIBLE FOR IMPLEMENTING THIS PART.

8 Enacting section 1. This amendatory act does not take effect
9 unless all of the following bills of the 94th Legislature are
10 enacted into law:

- 11 (a) Senate Bill No. 212.
- 12 (b) Senate Bill No. 723.
- 13 (c) Senate Bill No. 727.
- 14 (d) Senate Bill No. 858.
- 15 (e) Senate Bill No. 859.
- 16 (f) Senate Bill No. 860.
- 17 (g) House Bill No. 4343.
- 18 (h) House Bill No. 5066.
- 19 (i) House Bill No. 5067.
- 20 (j) House Bill No. 5069.
- 21 (k) House Bill No. 5073.