

ALLOW BEACH GROOMING WITHOUT A PERMIT

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Senate Bill 1052 (Substitute H-1)

Sponsor: Sen. Tom Casperson

House Committee: Natural Resources, Tourism, and Outdoor Recreation

Senate Committee: Natural Resources, Environment, and Great Lakes

Complete to 6-13-12

A SUMMARY OF SENATE BILL 1052 AS REPORTED FROM HOUSE COMMITTEE 6-12-12

The bill would amend Parts 303 (Wetlands Protection) and 325 (Great Lakes Submerged Lands) of the Natural Resources and Environmental Protection Act to remove a provision that requires individuals to obtain a permit to mow or remove vegetation between the ordinary high-water mark and the water's edge.

Specifically, the bill would prohibit state or local units of government from regulating the following activities under Parts 303 or 325:

- Leveling sand, removing vegetation, grooming soil, or removing debris, in an area of unconsolidated material predominantly composed of sand, rock, or pebbles, located between the ordinary high-water mark and the water's edge.
- Mowing vegetation between the ordinary high-water mark and the water's edge.

Under the bill, this prohibition would not apply to lands included in the survey of the delta of the St. Clair River, known as the St. Clair flats, located within Clay Township, St. Clair County.

The bill would also require the Aquatic Invasive Species Advisory Council (created through 2011 PA 285) to review and provide recommendations on phragmites australis control measures to the DNR and to the House and Senate committees dealing with natural resources.

Additionally, the bill allows, rather than requires, a proposed use or development of a wetland to be covered by a single permit application if the scope, extent, and purpose of a use is made known at the time of the application.

The bill would also repeal Section 32516, enacted in 2003, which required the director of the Department of Environmental Quality to initially designate two areas of shoreline on the Great Lakes and Lake St. Clair where the mowing and removal of vegetation was allowed without obtaining a permit and allowed the director to designate other areas within one year.

MCL 324.30301 et al.

FISCAL IMPACT:

Senate Bill 1052 would have an indeterminate fiscal impact on the Department of Environmental Quality. The bill would eliminate the requirement that a person obtain a permit for mowing or removing vegetation and leveling sand on beaches under Part 303 (Wetlands Protection) and Part 325 (Great Lakes Submerged Lands). Any fiscal impact on the Department would result from DEQ no longer receiving fees for permits of relevant activities and any savings realized from reduced administrative activities by the Department for the processing of those permits.

BACKGROUND INFORMATION AND DISCUSSION:

Part 323 of NREPA allows the DEQ to protect areas determined to be areas necessary for the preservation and maintenance of fish and wildlife. Subsequently, many shoreline areas have been designated as high erosion, flood risk, or environmental areas and thus regulated under Part 323. However, the DEQ regulates other beaches (the ones not protected under Part 323) under Parts 303 (Wetlands) and 325 (Submerged Lands). According to testimony, many shoreline property owners want to be able to groom their beaches, remove debris, and mow certain vegetation without having to first obtain a permit from the DEQ. They contend that beaches composed of sand, rock, or pebbles should not be regulated as wetlands or submerged lands.

There is concern that mowing vegetation and grooming beaches could have adverse environmental impacts and enhance the spread of invasive species. Additionally, opponents believe the permitting program is working well. According to the DEQ, only four permits in the state have been denied over the previous five years.

It is important to note the bill would only affect beaches currently regulated under Parts 303 and 325. The bill would not affect beaches regulated under Part 323. Additionally, in most cases, the activities being exempted from permitting under this bill still require a permit from the U.S. Army Corp of Engineers.

POSITIONS:

Michigan Association of Conservation Districts supports the bill. (6-12-12)

Michigan Association of Realtors supports the bill. (6-5-12)

Several representatives of Save Our Shoreline indicated support of the bill. (6-12-12)

Michigan Department of Environmental Quality is neutral on the bill. (6-12-12)

Michigan United Conservation Clubs is neutral on the bill. (6-5-12)

Michigan Environmental Council opposes the bill. (6-12-12)

Michigan League of Conservation Voters opposes the bill. (6-5-12)

Michigan Municipal League opposes the bill. (6-5-12)

Sierra Club opposes the bill. (6-12-12)

Tip of the Mitt Watershed Council opposes the bill. (6-5-12)

West Michigan Environmental Action Council opposes the bill. (6-12-12)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.