

SENATE BILL NO. 123

February 10, 2021, Introduced by Senators BAYER, GEISS, POLEHANKI, BULLOCK, WOJNO, MOSS, IRWIN, ANANICH, SANTANA and BRINKS and referred to the Committee on Environmental Quality.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 34301, 34305, 34307, 34309, 34311, and 34313.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **Sec. 34301. As used in this part:**
2 (a) "Commercial or industrial riparian structure" means a
3 dock, wharf, pier, jetty, or seawall that meets both of the
4 following criteria:

1 (i) Is used for, or protects riparian property that is used
2 for, commercial or industrial purposes.

3 (ii) Is not a high-risk riparian structure.

4 (b) "High-risk riparian structure" means a structure located
5 on riparian property that is classified as high-risk under section
6 34303 and that substantially contributes to that riparian
7 property's high-risk classification.

8 (c) "Owner of a riparian structure" or "owner" means a person
9 who owns, leases, controls, operates, maintains, or manages the
10 riparian structure.

11 (d) "Riparian structure" means any of the following:

12 (i) A high-risk riparian structure.

13 (ii) A commercial or industrial riparian structure.

14 (e) "Waters of the state" means that term as defined in
15 section 3101.

16 Sec. 34305. (1) The owner of a riparian structure shall submit
17 to the department and the municipality where the riparian structure
18 is located reports on inspections of the riparian structure. The
19 inspections shall be conducted and the reports prepared by an
20 environmental consultant who is a licensed professional engineer.
21 An inspection report shall be submitted pursuant to the schedule
22 established under subsection (2) as follows:

23 (a) Not less than once every 3 years for a high-risk riparian
24 structure.

25 (b) Not less than once every 5 years for a commercial or
26 industrial riparian structure.

27 (2) The department shall establish an inspection schedule for
28 riparian structures. The schedule shall commence January 1, 2022
29 and require submission of inspection reports for approximately 1/3

1 of all high-risk riparian structures and 1/5 of all commercial or
2 industrial riparian structures each year. The department shall
3 notify owners of riparian structures in writing when inspection
4 reports are due.

5 (3) The department may require additional inspection reports
6 following an event or change in conditions that could threaten a
7 riparian structure.

8 (4) An inspection report required by this section shall
9 include, at a minimum, all of the following:

10 (a) An evaluation of the riparian structure's structural
11 integrity, taking into consideration reasonably foreseeable water
12 levels.

13 (b) A determination of whether deficiencies exist that could
14 lead to the failure of the riparian structure, including, but not
15 limited to, the failure to prevent the release of any substance
16 that may cause pollution of the waters of the state, if the
17 riparian structure is designed for that purpose.

18 (c) Recommendations for maintenance, repair, and modifications
19 of the riparian structure that are necessary to eliminate any
20 deficiencies.

21 (5) If an inspection report under subsection (1) or (3)
22 discloses the need, the department may require the submission of a
23 report on a more detailed investigation or evaluation of a
24 particular feature of a riparian structure. The investigation or
25 evaluation shall be conducted and the report prepared by an
26 environmental consultant who is a licensed professional engineer.

27 (6) If the owner of a riparian structure does not submit a
28 report as required by subsection (1), (3), or (5), the department
29 may arrange to have an inspection, investigation, or evaluation

1 conducted and a report prepared. The department shall provide a
2 copy of the report to the owner of the riparian structure and the
3 municipality where the riparian structure is located.

4 (7) All inspections, investigations, and evaluations required
5 by this section shall be conducted and all reports required by this
6 section shall be prepared and submitted at the expense of the owner
7 of the riparian structure. The department may recover costs
8 incurred under subsection (6) in a civil action in a court of
9 competent jurisdiction.

10 (8) The owner of a riparian structure shall promptly correct a
11 deficiency in the riparian structure identified in a report under
12 this section.

13 Sec. 34307. If the department determines that a person is in
14 violation of this part or a rule promulgated under this part, the
15 department may issue an order requiring the person to comply with
16 this part or the rule. An order shall state the nature of the
17 violation, the required compliance action, and a time for
18 compliance that the department determines is reasonable, taking
19 into account the seriousness of the violation and the nature of any
20 threat to public health, safety, welfare, property, or natural
21 resources, or the public trust in those natural resources, that may
22 be involved.

23 Sec. 34309. (1) If the department determines that a person is
24 in violation of this part or a rule promulgated or order issued
25 under this part, upon request of the department, the attorney
26 general may commence a civil action for appropriate relief,
27 including injunctive relief.

28 (2) A civil action under this section may be brought in the
29 circuit court for the county of Ingham or for the county in which

1 the riparian structure is located.

2 (3) In addition to any other relief granted under this
3 section, the court shall impose a civil fine of not less than
4 \$2,500.00 or more than \$5,000.00 for each day of violation of this
5 part or a rule promulgated or order issued under this part. A fine
6 collected under this subsection shall be deposited in the Great
7 Lakes and rivers protection fund created in section 3115.

8 Sec. 34311. The department may promulgate rules as necessary
9 to implement and enforce this part.

10 Sec. 34313. This part does not relieve an owner of any legal
11 duty, obligation, or liability incident to the ownership or
12 operation of a riparian structure.