



**House
Legislative
Analysis
Section**

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MINING RIGHTS IN COMMERCIAL FORESTS

Senate Bill 379 as passed by the Senate
First Analysis (6-15-89)

Sponsor: Sen. Frederick Dillingham
Senate Committee: Commerce and Technology
House Committee: Forestry and Minerals

THE APPARENT PROBLEM:

The Commercial Forest Act (CFA) was enacted in 1925 on the heels of massive timbering in the state at the turn of the century, particularly in the northern Lower and Upper Peninsulas. The act is intended to ensure development of merchantable timber by allowing forest property owners to have their woodlands exempted from property tax levies if the Department of Natural Resources (DNR) certifies the land as having enough growth to produce marketable lumber within a reasonable period of time. If an owner of merchantable forest chooses to operate under the act, he or she must obtain permits from the department and pay a "yield tax." In addition, the act provides that local governments are to be reimbursed for lost tax revenues by property owners operating under the act and by the state according to the total acreage used for commercial forestry purposes. Once land is certified as a commercial forest, its owners cannot use it for industrial, recreational, or other commercial uses, and if a land owner withdraws land certified under the act he or she must pay certain penalty fees.

Although the act allows for the exploration of mineral deposits on certified land, it specifies that if minerals are discovered and extraction is planned, the land affected must be removed from the act's provisions and penalties paid by the owner. This provision, while protecting commercial forest land from improper use, was included without considering the commercial value of certain minerals located throughout the state, primarily in the north. Some people believe certain minerals, for instance natural gas, could provide even greater commercial benefits than timber, and in many cases could be extracted without affecting the commercial value of surrounding commercial forest land. While the state has obvious interests in protecting its available merchantable timber lands, some feel the act should be amended to allow for mineral extraction in cases where mining operations would not affect on the commercial value of a forest.

THE CONTENT OF THE BILL:

The bill would amend the Commercial Forest Act to specify that, after January 1, 1989, a commercial forest could be used for mineral extraction if the operations would not "substantially affect" the commercial value of the forest. For purposes of determining the types of mineral extraction operations that would not substantially affect a forest's commercial value, the Department of Natural Resources would promulgate rules pursuant to the Administrative Procedures Act.

MCL 320.302

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, the bill would not affect state expenditures. (6-14-89)

ARGUMENTS:

For:

The bill would permit persons who own land designated as commercial forest under the act to use the land for the purpose of extracting minerals if the extraction would not affect the commercial value of the forest. By permitting private forest land owners operating under the CFA to extract such things as natural gas from their commercial timber land, the bill could provide an economic boost to certain areas of the state, particularly in the northern Lower and Upper Peninsulas where large sections of forested land may be covering valuable mineral resources.

Against:

By allowing mineral extraction to occur on land operated under the CFA, the bill could make the owner of surface rights to land liable for penalties and unable to obtain the applicable tax exemption. In fact, in many cases the owner of surface rights is not also the owner of underground, or mineral, rights to land. The bill might encourage owners of mineral rights to go ahead with extraction procedures even if doing so would "substantially affect" the commercial value of the forest, at the expense of the surface rights owner.

POSITIONS:

The Department of Natural Resources supports the concept of the bill. (6-14-89)

A representative of Michigan Farm Bureau testified before the House Committee on Forestry and Minerals in support of the bill. (6-8-89)