

HOUSE BILL No. 4448

March 3, 2005, Introduced by Reps. Gosselin, Garfield, Robertson, Shaffer, Drolet, Marleau, Caswell, Stahl, LaJoy, Baxter, Green and Hoogendyk and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30305 (MCL 324.30305), as amended by 2003 PA
14.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30305. (1) Activities that require a permit under part
2 325 or part 301 or a discharge that is authorized by a discharge
3 permit under section 3112 or 3113 ~~do~~ **DOES** not require a permit
4 under this part.

5 (2) The following uses are allowed in a wetland without a
6 permit subject to other laws of this state and the owner's
7 regulation:

8 (a) Fishing, trapping, or hunting.

9 (b) Swimming or boating.

1 (c) Hiking.

2 (d) Grazing of animals.

3 (e) Farming, horticulture, silviculture, lumbering, and
4 ranching activities, including plowing, irrigation, irrigation
5 ditching, seeding, cultivating, minor drainage, harvesting for the
6 production of food, fiber, and forest products, or upland soil and
7 water conservation practices. Wetland altered under this
8 subdivision shall not be used for a purpose other than a purpose
9 described in this subsection without a permit from the department.

10 (f) Maintenance or operation of serviceable structures in
11 existence on October 1, 1980 or constructed pursuant to this part
12 or former 1979 PA 203.

13 (g) Construction or maintenance of farm or stock ponds.

14 (h) Maintenance, operation, or improvement which includes
15 straightening, widening, or deepening of the following which is
16 necessary for the production or harvesting of agricultural
17 products:

18 (i) An existing private agricultural drain.

19 (ii) That portion of a drain legally established pursuant to
20 the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, ~~which~~
21 **THAT** has been constructed or improved for drainage purposes.

22 (iii) A drain constructed pursuant to other provisions of this
23 part or former 1979 PA 203.

24 (i) Construction or maintenance of farm roads, forest roads,
25 or temporary roads for moving mining or forestry equipment, if the
26 roads are constructed and maintained in a manner to assure that any
27 adverse effect on the wetland will be otherwise minimized.

1 (j) Drainage necessary for the production and harvesting of
2 agricultural products if the wetland is owned by a person who is
3 engaged in commercial farming and the land is to be used for the
4 production and harvesting of agricultural products. Except as
5 otherwise provided in this part, wetland improved under this
6 subdivision after October 1, 1980 shall not be used for nonfarming
7 purposes without a permit from the department. This subdivision
8 does not apply to a wetland that is contiguous to a lake or stream,
9 or to a tributary of a lake or stream, or to a wetland that the
10 department has determined by clear and convincing evidence to be a
11 wetland that is necessary to be preserved for the public interest,
12 in which case a permit is required.

13 (k) Maintenance or improvement of public streets, highways, or
14 roads, within the right-of-way and in such a manner as to assure
15 that any adverse effect on the wetland will be ~~otherwise~~
16 minimized. Maintenance or improvement does not include adding extra
17 lanes, increasing the right-of-way, or deviating from the existing
18 location of the street, highway, or road.

19 (l) Maintenance, repair, or operation of gas or oil pipelines
20 and construction of gas or oil pipelines having a diameter of 6
21 inches or less, if the pipelines are constructed, maintained, or
22 repaired in a manner to assure that any adverse effect on the
23 wetland will be ~~otherwise~~ minimized.

24 (m) Maintenance, repair, or operation of electric transmission
25 and distribution power lines and construction of distribution power
26 lines, if the distribution power lines are constructed, maintained,
27 or repaired in a manner to assure that any adverse effect on the

1 wetland will be ~~otherwise~~ minimized.

2 (n) Operation or maintenance, including reconstruction of
3 recently damaged parts, of serviceable dikes and levees in
4 existence on October 1, 1980 or constructed pursuant to this part
5 or former 1979 PA 203.

6 (o) Construction of iron and copper mining tailings basins and
7 water storage areas.

8 (p) Until November 1, 2007, beach maintenance activities that
9 meet all of the following conditions:

10 (i) The activities ~~shall~~ **DO** not occur in environmental areas
11 and ~~shall~~ **DO** not violate part 365 or rules promulgated under that
12 part ~~—~~ or the endangered species act of 1973, ~~Public Law 93-205,~~
13 ~~87 Stat. 884~~ **16 USC 1531 TO 1544**, or rules promulgated under that
14 act.

15 (ii) The width of any mowing of vegetation ~~shall~~ **DOES** not
16 exceed the width of the riparian property or 100 feet, whichever is
17 less.

18 (iii) All collected debris ~~shall be~~ **IS** disposed of properly
19 outside of any wetland.

20 (q) Until ~~3 years after the effective date of the amendatory~~
21 ~~act that added this subdivision~~ **JUNE 5, 2006**, removal of
22 vegetation as authorized under section 32516.

23 (3) An activity in a wetland that was effectively drained for
24 farming before October 1, 1980 and that on and after October 1,
25 1980 has continued to be effectively drained as part of an ongoing
26 farming operation is not subject to regulation under this part.

27 (4) A wetland that is ~~incidentally~~ **INITIALLY** created as a

1 result of ~~1 or more of the following activities~~ **HUMAN ACTIVITY,**
2 **OTHER THAN A WETLAND CREATED FOR PURPOSES OF MITIGATION UNDER THIS**
3 **PART,** is not subject to regulation under this part. —÷

4 ~~—— (a) Excavation for mineral or sand mining, if the area was not~~
5 ~~a wetland before excavation. This exemption does not include a~~
6 ~~wetland on or adjacent to a water body of 1 acre or more in size.~~

7 ~~—— (b) Construction and operation of a water treatment pond or~~
8 ~~lagoon in compliance with the requirements of state or federal~~
9 ~~water pollution control regulations.~~

10 ~~—— (c) A diked area associated with a landfill if the landfill~~
11 ~~complies with the terms of the landfill construction permit and if~~
12 ~~the diked area was not a wetland before diking.~~