

SENATE BILL No. 840

February 22, 2018, Introduced by Senator CASPERSON and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 30103 (MCL 324.30103), as amended by 2014 PA 253.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30103. (1) A permit is not required under this part for
2 any of the following:

3 (a) Any fill or structure existing before April 1, 1966, in
4 waters covered by former 1965 PA 291, and any fill or structures
5 existing before January 9, 1973, in waters covered for the first
6 time by former 1972 PA 346.

7 (b) A seasonal structure placed on bottomland to facilitate
8 private noncommercial recreational use of the water if it does not

1 unreasonably interfere with the use of the water by others entitled
2 to use the water or interfere with water flow.

3 (c) Reasonable sanding of beaches to the existing water's edge
4 by the riparian owner or a person authorized by the riparian owner.

5 (d) Maintenance of an agricultural drain, regardless of
6 outlet, if all of the following requirements are met:

7 (i) The maintenance includes only activities that maintain the
8 location, depth, and bottom width of the drain as constructed or
9 modified at any time before July 1, 2014.

10 (ii) The maintenance is performed by the landowner or pursuant
11 to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

12 (e) ~~A MAINTENANCE AND OPERATION OF A~~ waste collection or
13 treatment facility that ~~is WAS~~ ordered to be constructed or ~~is WAS~~
14 approved for ~~construction~~ **OPERATION AS A WASTE TREATMENT FACILITY**
15 under **A** state or **A** federal water pollution control law ~~, if~~
16 ~~constructed in upland.~~ **AND THIS PART. FOR PURPOSES OF THIS**
17 **SUBSECTION, "OPERATION" INCLUDES FILLING THE WASTE COLLECTION OR**
18 **TREATMENT FACILITY IN COMPLIANCE WITH THIS ACT.**

19 (F) **ANY DREDGING, FILLING, OR ALTERATION OF BOTTOMLAND, OR**
20 **CONSTRUCTION OR PLACEMENT OF ANY STRUCTURE ON BOTTOMLAND, OF A**
21 **WASTE COLLECTION OR TREATMENT FACILITY NECESSARY TO COMPLY WITH**
22 **STATE OR FEDERAL WATER POLLUTION CONTROL LAW.**

23 (G) ~~(f)~~ Construction and maintenance of minor drainage
24 structures and facilities ~~which~~ **THAT** are identified by rule
25 promulgated by the department ~~pursuant to~~ **UNDER** section 30110.
26 Before ~~such~~ a rule is promulgated **PURSUANT TO THIS SUBSECTION**, the
27 rule ~~shall~~ **MUST** be approved by the majority of a committee

1 consisting of the director of the department, the director of the
2 department of agriculture and rural development, and the director
3 of the state transportation department or their designated
4 representatives. The rules shall be reviewed at least annually.

5 (H) ~~(g)~~ Maintenance of a drain that either was legally
6 established and constructed before January 1, 1973, pursuant to the
7 drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, except those
8 legally established drains constituting mainstream portions of
9 certain natural watercourses identified in rules promulgated by the
10 department under section 30110, or was constructed or modified
11 under a permit issued pursuant to this part. As used in this
12 subdivision, "maintenance of a drain" means the physical
13 preservation of the location, depth, and bottom width of a drain
14 and appurtenant structures to restore the function and approximate
15 capacity of the drain as constructed or modified at any time before
16 July 1, 2014, and includes, but is not limited to, the following
17 activities if performed with best management practices:

18 (i) Excavation of accumulated sediments back to original
19 contours.

20 (ii) Reshaping of the side slopes.

21 (iii) Bank stabilization where reasonably necessary to prevent
22 erosion. Materials used for stabilization must be compatible with
23 existing bank or bed materials.

24 (iv) Armoring, lining, or piping if a previously armored,
25 lined, or piped section is being repaired and all work occurs
26 within the footprint of the previous work.

27 (v) Replacement of existing control structures, if the

1 original function of the drain is not changed and the original
2 approximate capacity of the drain is not increased.

3 (vi) Repair of stabilization structures.

4 (vii) Culvert replacement, including culvert extensions of not
5 more than 24 additional feet per culvert.

6 (viii) Emergency reconstruction of recently damaged parts of
7 the drain. Emergency reconstruction must occur within a reasonable
8 period of time after damage occurs in order to qualify for this
9 exemption.

10 (I) ~~(h)~~ Projects constructed under the watershed protection
11 and flood prevention act, ~~chapter 656, 68 Stat. 666,~~ 16 USC 1001 to
12 ~~1008, 1010, and 1011.~~ **1012.**

13 (J) ~~(i)~~ Construction and maintenance of privately owned
14 cooling or storage ponds used in connection with a public utility
15 except at the interface with public waters.

16 (K) ~~(j)~~ Maintenance of a structure constructed under a permit
17 issued pursuant to this part and identified by rule promulgated
18 under section 30110, if the maintenance is in place and in kind
19 with no design or materials modification.

20 (L) ~~(k)~~ A water withdrawal.

21 (M) ~~(l)~~ Annual installation of a seasonal dock or docks,
22 pilings, mooring buoys, or other mooring structures previously
23 authorized by and in accordance with a permit issued under this
24 part.

25 (N) ~~(m)~~ Controlled access of livestock to streams for watering
26 or crossing if constructed in accordance with applicable practice
27 standards set by the United States ~~department of agriculture,~~

1 ~~natural resources conservation service.~~ **DEPARTMENT OF AGRICULTURE,**
2 **NATURAL RESOURCES CONSERVATION SERVICE.**

3 (O) ~~(n)~~—Temporary drawdowns of impoundments at hydroelectric
4 projects licensed by the federal energy regulatory commission
5 (FERC) and subject to FERC's authority if both of the following
6 apply:

7 (i) The FERC licensee has consulted this state during the
8 drawdown plan development and this state's concerns have been
9 addressed in the drawdown plan as FERC considers appropriate.

10 (ii) Adverse environmental impacts, including stream flow,
11 aquatic resources, and timing, have been avoided and minimized to
12 the extent practical.

13 (P) ~~(e)~~—Removal, by the riparian owner or a person authorized
14 by the riparian owner, of plants that are an aquatic nuisance as
15 defined in section 3301, if the removal is accomplished by hand-
16 pulling without using a powered or mechanized tool and all plant
17 fragments are removed from the water and properly disposed of on
18 land above the ordinary high-water mark as defined in section
19 30101.

20 (Q) ~~(p)~~—Raking of lake bottomlands by the riparian owner or a
21 person authorized by the riparian owner. To minimize effects on the
22 lake bottomlands, the areas raked shall be unvegetated before
23 raking and predominantly composed of sand or pebbles, and the
24 raking shall be performed without using a powered or mechanized
25 tool. For the purposes of this subdivision, the pulling of a
26 nonpowered, nonmechanized tool with a boat is not the use of a
27 powered or mechanized tool.

1 (2) As used in this section, "water withdrawal" means the
2 removal of water from its source for any purpose.

3 (3) As used in this part, "agricultural drain" means a human-
4 made conveyance of water that meets all of the following
5 requirements:

6 (a) Does not have continuous flow.

7 (b) Flows primarily as a result of precipitation-induced
8 surface runoff or groundwater drained through subsurface drainage
9 systems.

10 (c) Serves agricultural production.

11 (d) Was constructed before January 1, 1973, or was constructed
12 in compliance with this part or former 1979 PA 203.

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.