

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4363

(As passed the House, April 2, 1998)

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 78101 and 78110 (MCL 324.78101 and
324.78110), as added by 1995 PA 58, and by adding sections 78113,
78114, 78115, and 78116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78101. As used in this part:

2 (A) "ADVISORY COMMITTEE" MEANS THE PUBLIC BOATING ACCESS
3 SITE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 78113.

4 (B) ~~(a)~~ "Commission" means the Michigan state waterways
5 commission.

6 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

7 (D) ~~(b)~~ "Director" means the administrative director of
8 the commission.

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

2

1 (E) ~~(c)~~ "Diesel motor fuel" means any liquid fuel used in
2 the operation of engines of the diesel type in motor vehicles or
3 watercraft.

4 (F) ~~(d)~~ "Gasoline" means gasoline, casing head or natural
5 gasoline, benzole, benzine, and naphtha; also, any liquid pre-
6 pared, advertised, offered for sale, sold for use as, or used
7 for, the generation of power for the propulsion of motor vehicles
8 or watercraft, including any product obtained by blending
9 together any 1 or more products of petroleum, with or without
10 other products, and regardless of the original character of the
11 petroleum products blended, if the resultant product obtained is
12 capable of use for the generation of power for the propulsion of
13 motor vehicles or watercraft, it being the intention that the
14 blending of the products, regardless of name or characteristics,
15 shall conclusively be presumed to produce motor fuel, unless the
16 resultant product is entirely incapable for use as motor fuel.
17 Gasoline does not include diesel fuel, liquefied petroleum gas,
18 or commercial or industrial naphthas or solvents manufactured,
19 imported, received, stored, distributed, sold, or used exclu-
20 sively for purposes other than as a fuel for motor vehicles or
21 watercraft.

22 (G) ~~(e)~~ "Harbor" means a portion of a lake or other body
23 of water either naturally or artificially protected so as to be a
24 place of safety for watercraft, including contrivances used or
25 designed for navigation on water and used or owned by the United
26 States.

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

3

1 (H) ~~(f)~~ "Harbor facilities" means the structures at a
2 harbor constructed to protect the lake or body of water and the
3 facilities provided within the harbor and ashore for the mooring
4 and servicing of watercraft and the servicing of crews and
5 passengers.

6 (I) ~~(g)~~ "Liquefied petroleum gas" means gases derived from
7 petroleum or natural gases which are in the gaseous state at
8 normal atmospheric temperature and pressure, but which may be
9 maintained in the liquid state at normal atmospheric temperature
10 by suitable pressure. Liquefied petroleum gas includes those
11 products predominately composed of propane, propylene, butylene,
12 butane, and similar products which are not covered in chapters 1
13 and 2 of ~~Act No. 150 of the Public Acts of 1927, being sections~~
14 ~~207.101 to 207.134 of the Michigan Compiled Laws~~ 1927 PA 150,
15 MCL 207.101 TO 207.134.

16 (J) ~~(h)~~ "Marina" means a site which contains harbor
17 facilities.

18 (K) ~~(i)~~ "Navigable water" means any waterway navigable by
19 vessels, or capable of being made navigable by vessels through
20 artificial improvements, and includes the structures and facili-
21 ties created to facilitate navigation.

22 (L) ~~(j)~~ "Person" includes any individual, partnership,
23 corporation, association, or body politic, except the United
24 States and this state, and includes any trustee, receiver,
25 assignee, or other similar representative of those entities.

26 (M) "PUBLIC BOATING ACCESS SITE" MEANS A PUBLICLY OWNED SITE
27 FOR THE LAUNCHING OF RECREATIONAL WATERCRAFT.

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

4

1 (N) ~~(k)~~ "Retail fuel dealer" includes any person or
2 persons, both private and municipal, who engage in the business
3 of selling or distributing fuel within the state.

4 (O) ~~(l)~~ "Secretary of state" means the secretary of state
5 of this state, acting directly or through a duly authorized
6 deputy, investigators, agents, and employees.

7 (P) ~~(m)~~ "Vessel" means all watercraft except the
8 following:

9 (i) Watercraft used for commercial fishing.

10 (ii) Watercraft used by the sea scout department of the boy
11 scouts of America chiefly for training scouts in seamanship.

12 (iii) Watercraft owned by this state, any political subdivi-
13 sion of this state, or the federal government.

14 (iv) Watercraft when used in interstate or foreign commerce
15 and watercraft used or owned by any railroad company or railroad
16 car ferry company.

17 (v) Watercraft when used in trade, including watercraft when
18 used in connection with an activity that constitutes a person's
19 chief business or means of livelihood.

20 (Q) ~~(n)~~ "Watercraft" means any contrivance used or
21 designed for navigation on water, including but not limited to
22 any vessel, ship, boat, motor vessel, steam vessel, vessel oper-
23 ated by machinery, motorboat, sailboat, barge, scow, tugboat, and
24 rowboat, but does not include contrivances used or owned by the
25 United States.

26 (R) ~~(o)~~ "Waterway" means any body of water.

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

5

1 Sec. 78110. (1) The Michigan state waterways fund is
2 created in the state treasury. The fund shall be administered by
3 the state treasurer and shall be used by the department solely
4 for the construction, operation, and maintenance of recreational
5 boating facilities, the acquisition of property for the purposes
6 of this part, FOR GRANTS TO LOCAL UNITS OF GOVERNMENT TO ACQUIRE
7 AND DEVELOP HARBORS OF REFUGE AND PUBLIC BOATING ACCESS SITES
8 UNDER SECTION 78115, and for the administration of this part.
9 The fund shall receive such revenues as the legislature may
10 provide.

11 (2) The Michigan harbor development fund is created in the
12 state treasury. The fund shall be administered by the state
13 treasurer and shall be used by the department solely for the pur-
14 poses provided in part 791 and for the administration of that
15 part. The fund shall receive revenues as provided in part 791
16 and such other revenues as the legislature may provide.

17 SEC. 78113. (1) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF
18 THIS SECTION, THE DEPARTMENT SHALL ESTABLISH A PUBLIC BOATING
19 ACCESS SITE ADVISORY COMMITTEE TO ADVISE THE DEPARTMENT AND THE
20 LEGISLATURE ON THE STATE'S METHOD OF ACQUIRING PUBLIC BOATING
21 ACCESS SITES. THE ADVISORY COMMITTEE SHALL CONSIST OF NOT MORE
22 THAN 20 MEMBERS REPRESENTING THE BOATING INDUSTRY, RECREATIONAL
23 USERS, RIPARIAN OWNERS, LOCAL PUBLIC OFFICIALS WHO HAVE PUBLIC
24 BOATING ACCESS SITES WITHIN THEIR LOCAL UNIT OF GOVERNMENT,
25 EXPERTS FROM MICHIGAN INSTITUTIONS OF HIGHER EDUCATION, AND OTHER
26 INTERESTED PARTIES AS APPOINTED BY THE DEPARTMENT. AT LEAST 2
27 MEMBERS OF THE ADVISORY COMMITTEE SHALL BE REPRESENTATIVES OF THE

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

6

1 GENERAL PUBLIC. THE ADVISORY COMMITTEE SHALL REVIEW AND MAKE
2 RECOMMENDATIONS REGARDING THE CURRENT METHOD OF ACQUIRING AND
3 OPERATING PUBLIC BOATING ACCESS SITES. ADDITIONALLY, THE COMMIT-
4 TEE SHALL MAKE RECOMMENDATIONS ON ALL OF THE FOLLOWING:

5 (A) THE PROTECTION OF THE ECOLOGICAL INTEGRITY OF LAKES FROM
6 DEGRADATION.

7 (B) THE PROTECTION OF THE BOATING PUBLIC AND OTHER LAKE
8 USERS, INCLUDING BUT NOT LIMITED TO RIPARIAN OWNERS, FROM OVERLY
9 INTENSE USE OF LAKES.

10 (C) THE PROVISION OF RECREATIONAL BOATING OPPORTUNITIES FOR
11 MEMBERS OF THE GENERAL PUBLIC.

12 (D) OTHER ISSUES THE ADVISORY COMMITTEE CONSIDERS RELEVANT.

13 (2) A MEETING OF THE ADVISORY COMMITTEE SHALL BE HELD IN
14 COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
15 15.275.

16 (3) WITHIN 6 MONTHS AFTER THE ADVISORY COMMITTEE IS ESTAB-
17 LISHED UNDER SUBSECTION (1), THE ADVISORY COMMITTEE SHALL DELIVER
18 A REPORT TO THE DEPARTMENT, THE COMMISSION, AND THE LEGISLATURE
19 ON ADMINISTRATIVE AND ANY LEGISLATIVE CHANGES THAT THE STATE
20 SHOULD CONSIDER IN ACQUIRING AND OPERATING PUBLIC BOATING ACCESS
21 SITES.

22 (4) NOT LATER THAN 1 YEAR AFTER THE ADVISORY COMMITTEE IS
23 ESTABLISHED UNDER SUBSECTION (1), THE ADVISORY COMMITTEE SHALL BE
24 DISBANDED.

25 SEC. 78114. (1) PRIOR TO ACQUIRING A PUBLIC BOATING ACCESS
26 SITE, THE DEPARTMENT SHALL OBTAIN A 90-DAY OPTION ON THE LAND
27 PROPOSED FOR ACQUISITION. IN OBTAINING THIS OPTION, THE

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HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

7

1 DEPARTMENT SHALL ATTEMPT TO NEGOTIATE AN OPTION THAT MAY BE
2 TRANSFERRED TO A LOCAL UNIT OF GOVERNMENT. UPON PLACING THE
3 OPTION ON THE LAND, THE DEPARTMENT SHALL NOTIFY THE MUNICIPALITY
4 AND THE COUNTY IN WHICH THE LAND IS LOCATED OF THE OPTION AND
5 WHETHER THE DEPARTMENT PLANS TO HOLD A PUBLIC HEARING ON THE PRO-
6 POSED PURCHASE AND DEVELOPMENT OF THE LAND AS A PUBLIC BOATING
7 ACCESS SITE. THE MUNICIPALITY OR COUNTY IN WHICH THE PROPOSED
8 PUBLIC BOATING ACCESS SITE IS LOCATED MAY HOLD A PUBLIC HEARING
9 ON THE PROPOSED PURCHASE AND DEVELOPMENT OF THE LAND AS A PUBLIC
10 BOATING ACCESS SITE. IF A MUNICIPALITY OR COUNTY HOLDS A PUBLIC
11 HEARING UNDER THIS SUBSECTION, THE MUNICIPALITY OR COUNTY SHALL
12 NOTIFY THE DEPARTMENT, AND A REPRESENTATIVE OF THE DEPARTMENT
13 SHALL ATTEND THE PUBLIC HEARING.

14 (2) DURING THE 90-DAY PERIOD IN WHICH THE DEPARTMENT HOLDS
15 AN OPTION UNDER SUBSECTION (1), THE MUNICIPALITY OR COUNTY IN
16 WHICH THE LAND IS LOCATED MAY DO EITHER OF THE FOLLOWING:

17 (A) NOTIFY THE DEPARTMENT THAT IT INTENDS TO OPERATE A
18 PUBLIC BOATING ACCESS SITE ON THAT LAND. IF THE DEPARTMENT
19 RECEIVES A NOTICE PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT
20 SHALL TRANSFER THE OPTION, IF POSSIBLE, TO THE MUNICIPALITY OR
21 COUNTY SO THAT IT MAY EXERCISE THE OPTION AND PURCHASE THE LAND.
22 IF THE MUNICIPALITY EXERCISES THE OPTION AND PURCHASES THE LAND,
23 THE EXERCISE OF THE OPTION SHALL BE CONTINGENT UPON THE MUNICI-
24 PALITY OR COUNTY AND THE DEPARTMENT ENTERING INTO A LEGALLY
25 ENFORCEABLE AGREEMENT THAT SPECIFIES HOW THE PUBLIC BOATING
26 ACCESS SITE WILL BE OPERATED. THE AGREEMENT SHALL PROVIDE THAT
27 THE PUBLIC BOATING ACCESS SITE WILL BE OPERATED IN THE SAME

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

8

1 MANNER AS A PUBLIC BOATING ACCESS SITE THAT IS OPERATED BY THE
2 DEPARTMENT, UNLESS THE DEPARTMENT AGREES TO ALTERNATIVE TERMS.
3 THE AGREEMENT SHALL ALSO PROVIDE THAT IF THE MUNICIPALITY OR
4 COUNTY VIOLATES THE AGREEMENT, THE DEPARTMENT MAY OPERATE THE
5 PUBLIC BOATING ACCESS SITE IN COMPLIANCE WITH THE AGREEMENT.

6 (B) IDENTIFY ANOTHER SUITABLE LOCATION ON THE LAKE THAT THE
7 DEPARTMENT COULD ACQUIRE FOR A PUBLIC BOATING ACCESS SITE. THE
8 PUBLIC BOATING ACCESS SITE SHALL BE COMPARABLE FOR DEVELOPMENT AS
9 THE 1 PROPOSED BY THE DEPARTMENT.

10 SEC. 78115. (1) THE DEPARTMENT SHALL ESTABLISH A PUBLIC
11 BOATING ACCESS SITES GRANT PROGRAM. THE GRANT PROGRAM SHALL PRO-
12 VIDE FUNDING WITH MONEY IN THE MICHIGAN STATE WATERWAYS FUND TO
13 LOCAL UNITS OF GOVERNMENT FOR ALL OR A PORTION OF THE COST OF
14 EITHER OR BOTH OF THE FOLLOWING:

15 (A) THE ACQUISITION OF LAND FOR THE ESTABLISHMENT OF A
16 PUBLIC BOATING ACCESS SITE.

17 (B) THE COST OF DEVELOPING A PUBLIC BOATING ACCESS SITE.

18 (2) A GRANT UNDER SUBSECTION (1)(A) MAY BE USED AS A LOCAL
19 UNIT OF GOVERNMENT'S REQUIRED MATCH UNDER PART 19 OR ANOTHER
20 STATE OR FEDERAL PROGRAM.

21 (3) A LOCAL UNIT OF GOVERNMENT RECEIVING A GRANT UNDER SUB-
22 SECTION (1)(B) MUST AGREE TO OPERATE THE PUBLIC BOATING ACCESS
23 SITE IN ACCORDANCE WITH THE DEPARTMENT'S OPERATIONAL
24 REQUIREMENTS.

25 (4) A LOCAL UNIT OF GOVERNMENT THAT WISHES TO BE CONSIDERED
26 FOR A GRANT UNDER THIS SECTION SHALL SUBMIT AN APPLICATION TO THE

HB 4363, As Passed Senate, June 10, 1998

House Bill No. 4363

9

1 DEPARTMENT IN A MANNER PRESCRIBED BY THE DEPARTMENT AND

2 CONTAINING THE INFORMATION REQUIRED BY THE DEPARTMENT.

3 SEC. 78116. THE DEPARTMENT MAY PROMULGATE RULES TO IMPLE-

4 MENT THIS PART.