

HOUSE BILL No. 4463

March 14, 2007, Introduced by Reps. Gillard, Sheltroun, Ball, Ward, Mayes, Farrah and Steil and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 30106 (MCL 324.30106), as added by 1995 PA 59, and by adding section 30106a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30106. (1) ~~The~~ **SUBJECT TO SUBSECTION (2), THE** department
2 shall issue a permit if it finds that the structure or project will
3 not adversely affect the public trust or riparian rights. In
4 passing upon an application, the department shall consider the
5 possible effects of the proposed action upon the inland lake or
6 stream and upon waters from which or into which its waters flow and
7 the uses of all such waters, including uses for recreation, fish

1 and wildlife, aesthetics, local government, agriculture, commerce,
2 and industry. The department shall not grant a permit if the
3 proposed project or structure will unlawfully impair or destroy any
4 of the waters or other natural resources of the state. This part
5 does not modify the rights and responsibilities of any riparian
6 owner to the use of his or her riparian water. A permit shall
7 specify that a project completed in accordance with this part shall
8 not cause unlawful pollution as defined by part 31.

9 (2) THE DEPARTMENT SHALL ISSUE A PERMIT UNDER THIS PART FOR A
10 MARINA IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

11 (A) THE APPLICANT IS A LOCAL UNIT OF GOVERNMENT AND THE
12 LOCATION OF THE MARINA IS A ROAD END UNDER THE JURISDICTION OF THE
13 LOCAL UNIT OF GOVERNMENT THAT PROVIDES PUBLIC ACCESS TO AN INLAND
14 LAKE OR STREAM.

15 (B) THE LOCAL UNIT OF GOVERNMENT IS APPLYING FOR THE MARINA
16 PERMIT FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OR MAINTAINING
17 A SEASONAL DOCK.

18 (C) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED AN ORDINANCE IN
19 COMPLIANCE WITH SECTION 30106A.

20 SEC. 30106A. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT AN
21 ORDINANCE THAT, SUBJECT TO THE PERMIT REQUIREMENT UNDER SECTION
22 30106, AUTHORIZES A MARINA AT A ROAD END UNDER THE JURISDICTION OF
23 THE LOCAL UNIT OF GOVERNMENT.

24 (2) AN ORDINANCE ADOPTED UNDER SUBSECTION (1) SHALL PROVIDE
25 FOR ALL OF THE FOLLOWING:

26 (A) NOT MORE THAN 1 NONEXCLUSIVE PUBLIC DOCK SHALL BE ALLOWED
27 AT THE END OF ANY PUBLIC LATERAL ROAD.

1 (B) THE LOCAL UNIT OF GOVERNMENT SHALL SPECIFY THE EXACT
2 LOCATION OF THE DOCK TO ENSURE THAT THE DOCK REMAINS WITHIN THE
3 RIGHT-OF-WAY OF THE ROAD AS EXTENDED INTO THE WATERS OF THE INLAND
4 LAKE OR STREAM AND DOES NOT ENCROACH ONTO OR OVER THE RIPARIAN
5 BOTTOMLAND OF ADJACENT PROPERTY.

6 (C) THE DOCK SHALL NOT BE INSTALLED PRIOR TO MAY 1 AND SHALL
7 BE REMOVED NOT LATER THAN SEPTEMBER 30 OF EACH YEAR.

8 (D) THE DOCK SHALL NOT EXCEED 250 FEET IN LENGTH.

9 (E) THE DOCK SHALL BE NOT MORE THAN 4 FEET IN WIDTH OR THE
10 WIDTH REQUIRED BY STATE OR FEDERAL LAW, WHICHEVER IS GREATER.

11 (F) THE DOCK SHALL BE CONSTRUCTED WITH AN INVERTED "L" OR A
12 "T" DESIGN AT THE END OF THE DOCK TO ALLOW ACCESS FOR LAW
13 ENFORCEMENT OR EMERGENCY PERSONNEL.

14 (G) THE LENGTH OF THE DOCK SHALL NOT UNREASONABLY INTERFERE
15 WITH THE SAFETY AND NAVIGABILITY OF THE WATERS OF THE INLAND LAKE
16 OR STREAM.

17 (H) THE AUGERING OR DRIVING OF ANY BOAT MOORING POST OR THE
18 PLACEMENT OF ANY PERMANENT OR SEASONAL BOAT ANCHORING DEVICE, OTHER
19 THAN A PERMITTED BOAT HOIST, WITHIN THE AREA OF ANY PUBLIC LATERAL
20 ROAD AS EXTENDED INTO THE INLAND LAKE OR STREAM SHALL BE
21 PROHIBITED.

22 (I) THE CONSTRUCTION, INSTALLATION, OR MAINTENANCE OF BOAT
23 HOISTS ON THE ROAD END AND IN THE ADJACENT WATERS TO ESTABLISH
24 SEASONAL OVERNIGHT MOORING OR DOCKING OF UNOCCUPIED VESSELS,
25 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING REQUIREMENTS:

26 (i) LATERAL ROAD-END HOISTS SHALL BE PLACED IN A UNIFORM
27 STRAIGHT LINE RUNNING AWAY FROM AND PARALLEL TO THE SHORELINE IN

1 SUCH A MANNER AS TO ASSURE THAT THE HOIST AND ASSOCIATED MOORED
2 WATERCRAFT REMAIN WITHIN THE RIGHT-OF-WAY OF THE PUBLIC ROAD AS
3 EXTENDED INTO THE WATERS OF THE INLAND LAKE OR STREAM. THE
4 ORDINANCE SHALL REQUIRE THAT, WHEN MOORED IN ITS HOIST, A
5 WATERCRAFT NOT ENCROACH ONTO OR OVER THE RIPARIAN BOTTOMLAND OF
6 ADJACENT PROPERTY.

7 (ii) LATERAL ROAD-END HOISTS SHALL BE PLACED A MINIMUM OF 20
8 FEET OFFSHORE AND SHALL NOT UNREASONABLY INTERFERE WITH THE
9 INGRESS, EGRESS, SAFETY, AND NAVIGABILITY OF THE WATERS OF THE
10 INLAND LAKE OR STREAM. A HOIST SHALL NOT BE LOCATED FARTHER THAN
11 200 FEET OFFSHORE.

12 (iii) BOAT HOISTS SHALL NOT BE PLACED ALONG THE LAKEWARD EDGE OF
13 THE INVERTED "L" OR "T" AT THE END OF THE DOCK.

14 (J) A LATERAL ROAD TERMINATING AT THE WATER'S EDGE OF THE
15 INLAND LAKE OR STREAM SHALL NOT BE ALTERED, IMPROVED, OR MAINTAINED
16 IN ANY MANNER WITHOUT FIRST OBTAINING ANY APPLICABLE LAND USE
17 PERMIT FROM THE LOCAL UNIT OF GOVERNMENT ON THE DESIRED ACTIVITY.
18 THE PROVISIONS MAY REQUIRE THAT ADDITIONAL PERMITS BE OBTAINED FROM
19 THE COUNTY ROAD COMMISSION OR DRAIN COMMISSION.

20 (K) PROVISIONS FOR VIOLATIONS CONSISTENT WITH SUBSECTION (4).

21 (3) AN ORDINANCE ADOPTED UNDER SUBSECTION (1) MAY INCLUDE THE
22 FOLLOWING:

23 (A) PROVISIONS FOR THE MARINA TO BE SUBCONTRACTED FROM THE
24 LOCAL UNIT OF GOVERNMENT TO A LOCAL NEIGHBORHOOD ASSOCIATION OR
25 CIVIC GROUP.

26 (B) PROVISIONS THAT ANY INDIVIDUAL OR GROUP OF INDIVIDUALS
27 SUBCONTRACTED BY THE LOCAL UNIT OF GOVERNMENT TO CONSTRUCT,

1 INSTALL, MAINTAIN, OPERATE, AND REMOVE A DOCK ACCORDING TO THE
2 ORDINANCE ASSUMES ANY LIABILITY FOR THE DOCK AND SPURS OR HOISTS IF
3 ATTACHED AND AGREES BY THE ERECTION OF THE DOCK TO HOLD THE LOCAL
4 UNIT OF GOVERNMENT AND ITS OFFICIALS HARMLESS FROM ANY LIABILITY
5 FOR THE DOCK.

6 (C) A REQUIREMENT THAT ANY INDIVIDUAL OR GROUP OF INDIVIDUALS
7 ERECTING A DOCK ACCORDING TO THE ORDINANCE SHALL, BEFORE RECEIVING
8 A PERMIT AND INSTALLING THE DOCK, PROVIDE TO THE CLERK OF THE LOCAL
9 UNIT OF GOVERNMENT PROOF OF LIABILITY INSURANCE IN AN AMOUNT OF AT
10 LEAST \$1,000,000.00 PER INCIDENT, WITH THE LOCAL UNIT OF GOVERNMENT
11 NAMED AS AN ADDITIONAL INSURED.

12 (D) A PROVISION DESIGNATING A VIOLATION OF THE ORDINANCE AS A
13 MUNICIPAL CIVIL INFRACTION SUBJECT TO A CIVIL FINE OF NOT MORE THAN
14 \$500.00.