

# SENATE BILL No. 736

August 18, 2009, Introduced by Senator BASHAM and referred to the Committee on Government Operations and Reform.

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 department shall issue a permit if it  
2 finds that the structure or project will not adversely affect the  
3 public trust or riparian rights. In passing upon an application,  
4 the department shall consider the possible effects of the proposed  
5 action upon the inland lake or stream and upon waters from which or  
6 into which its waters flow and the uses of all such waters,  
7 including uses for recreation, fish and wildlife, aesthetics, local  
8 government, agriculture, commerce, and industry. The department

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

8 (2) AS A PILOT PROJECT, THE DEPARTMENT SHALL ISSUE A PERMIT  
9 UNDER THIS PART FOR A MARINA IF, IN ADDITION TO THE CONDITIONS IN  
10 SUBSECTION (1), ALL OF THE FOLLOWING CONDITIONS ARE MET:

11 (A) THE APPLICANT IS A LOCAL UNIT OF GOVERNMENT OF NOT MORE  
12 THAN 2,000 RESIDENTS AND THE LOCATION OF THE MARINA IS A ROAD END  
13 OF MORE THAN 30 FEET IN WIDTH UNDER THE JURISDICTION OF THE LOCAL  
14 UNIT OF GOVERNMENT THAT PROVIDES PUBLIC ACCESS TO AN INLAND LAKE  
15 THAT IS LARGER THAN 10,150 ACRES IN SIZE BUT LESS THAN 10,200 ACRES  
16 IN SIZE.

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

20 (C) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED AN ORDINANCE IN  
21 COMPLIANCE WITH SECTION 30106A AND THE PROPOSED MARINA WILL  
22 OTHERWISE BE IN COMPLIANCE WITH ALL LOCAL ORDINANCES.

23 (3) THE DEPARTMENT, IN CONJUNCTION WITH ANY LOCAL UNITS OF  
24 GOVERNMENT RECEIVING PERMITS UNDER SUBSECTION (2), SHALL SUBMIT A  
25 REPORT TO THE LEGISLATURE NOT LATER THAN NOVEMBER 1, 2010 ON THE  
26 FINDINGS AND OPERATIONS OF THE MARINAS SUBJECT TO SUBSECTION (2)  
27 AND THE DEPARTMENT'S ASSESSMENT AS TO WHETHER SUBSECTION (2) SHOULD

1 BE EXPANDED.

2 SEC. 30106A. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT AN  
3 ORDINANCE, SUBJECT TO THE PERMIT REQUIREMENT UNDER SECTION 30106,  
4 THAT AUTHORIZES A MARINA AT A ROAD END UNDER THE JURISDICTION OF  
5 THE LOCAL UNIT OF GOVERNMENT.

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

8 (A) NOT MORE THAN 1 NONEXCLUSIVE PUBLIC DOCK SHALL BE ALLOWED  
9 AT THE ROAD END. THE LOCAL UNIT OF GOVERNMENT SHALL CONDUCT A  
10 RIPARIAN INTEREST SURVEY TO DETERMINE THE LOCATION OF THE DOCK TO  
11 ENSURE THAT THE DOCK REMAINS WITHIN THE RIGHT-OF-WAY OF THE ROAD AS  
12 EXTENDED INTO THE WATERS OF THE INLAND LAKE OR STREAM AND DOES NOT  
13 ENCROACH ONTO OR OVER THE RIPARIAN BOTTOMLAND OF ADJACENT PROPERTY.  
14 THE SURVEY SHALL BE PERFORMED BY A PROFESSIONAL LAND SURVEYOR  
15 LICENSED IN THIS STATE. IF A RIPARIAN INTEREST SURVEY WAS  
16 PREVIOUSLY CONDUCTED AT THE ROAD END AND THE SURVEY STAKES AND  
17 DRAWING FROM THAT SURVEY ARE IDENTIFIABLE, THAT SURVEY MAY BE USED  
18 TO MAKE THE DETERMINATION UNDER THIS SUBDIVISION.

19 (B) THE DOCK SHALL NOT BE INSTALLED PRIOR TO MAY 1 AND SHALL  
20 BE REMOVED NOT LATER THAN SEPTEMBER 30 OF EACH YEAR.

21 (C) THE DOCK SHALL NOT EXCEED 200 FEET IN LENGTH.

22 (D) THE DOCK SHALL BE NOT MORE THAN 5 FEET IN WIDTH OR THE  
23 WIDTH REQUIRED BY STATE OR FEDERAL LAW, WHICHEVER IS GREATER.

24 (E) THE DOCK SHALL BE CONSTRUCTED TO ALLOW ACCESS FOR LAW  
25 ENFORCEMENT OR EMERGENCY PERSONNEL.

26 (F) THE LENGTH OF THE DOCK SHALL NOT UNREASONABLY INTERFERE  
27 WITH THE SAFETY AND NAVIGABILITY OF THE WATERS OF THE INLAND LAKE

1 OR STREAM.

2 (G) THE AUGERING OR DRIVING OF ANY BOAT MOORING POST OR THE  
3 PLACEMENT OF ANY PERMANENT OR SEASONAL BOAT ANCHORING DEVICE, OTHER  
4 THAN A PERMITTED BOAT HOIST, WITHIN THE AREA OF THE ROAD END AS  
5 EXTENDED INTO THE INLAND LAKE OR STREAM SHALL BE PROHIBITED.

6 (H) THE CONSTRUCTION, INSTALLATION, OR MAINTENANCE OF BOAT  
7 HOISTS ON THE ROAD END AND IN THE ADJACENT WATERS TO ESTABLISH  
8 SEASONAL OVERNIGHT MOORING OR DOCKING OF UNOCCUPIED VESSELS,  
9 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING REQUIREMENTS:

10 (i) BOAT HOISTS SHALL BE PLACED IN A UNIFORM STRAIGHT LINE  
11 RUNNING AWAY FROM AND PARALLEL TO THE SHORELINE IN SUCH A MANNER AS  
12 TO ASSURE THAT THE HOIST AND ASSOCIATED MOORED WATERCRAFT REMAIN  
13 WITHIN THE RIGHT-OF-WAY OF THE PUBLIC ROAD AS EXTENDED INTO THE  
14 WATERS OF THE INLAND LAKE OR STREAM. THE ORDINANCE SHALL REQUIRE  
15 THAT, WHEN MOORED IN ITS HOIST, A WATERCRAFT SHALL NOT ENCROACH  
16 ONTO OR OVER THE RIPARIAN BOTTOMLAND OF ADJACENT PROPERTY.

17 (ii) BOAT HOISTS SHALL BE PLACED A MINIMUM OF 50 FEET OFFSHORE  
18 AND SHALL NOT UNREASONABLY INTERFERE WITH THE INGRESS, EGRESS,  
19 SAFETY, AND NAVIGABILITY OF THE WATERS OF THE INLAND LAKE OR  
20 STREAM. A HOIST SHALL NOT BE LOCATED FARTHER THAN 200 FEET  
21 OFFSHORE.

22 (iii) BOAT HOISTS SHALL NOT BE PLACED IN SUCH A WAY AS TO IMPEDE  
23 ACCESS FOR LAW ENFORCEMENT OR EMERGENCY PERSONNEL.

24 (iv) BOAT HOISTS SHALL NOT BE INSTALLED PRIOR TO MAY 1 AND  
25 SHALL BE REMOVED NOT LATER THAN SEPTEMBER 30 OF EACH YEAR.

26 (I) A ROAD END SHALL NOT BE ALTERED, IMPROVED, OR MAINTAINED  
27 IN ANY MANNER WITHOUT FIRST OBTAINING AN APPROPRIATE LAND USE

1 PERMIT FOR THE DESIRED ACTIVITY. THE ORDINANCE MAY REQUIRE THAT  
2 ADDITIONAL PERMITS BE OBTAINED FROM THE COUNTY ROAD COMMISSION OR  
3 DRAIN COMMISSION.

4 (J) PROVISIONS FOR THE USE OF A LOTTERY TO ALLOCATE THE USE OF  
5 BOAT HOISTS AND BOAT SLIPS IF THE DEMAND FOR THE USE OF THESE  
6 FACILITIES IS GREATER THAN THE SUPPLY.

7 (K) IF FEES ARE TO BE CHARGED FOR THE USE OF MARINA  
8 FACILITIES, AN ITEMIZATION OF THE SPECIFIC FEES. FEES FOR USE OF  
9 BOAT SLIPS AND BOAT HOISTS AT THE MARINA SHALL BE EQUIVALENT TO  
10 FEES FOR SIMILAR SERVICES CHARGED AT OTHER MARINAS ON THAT INLAND  
11 LAKE OR STREAM OR AT A COMPARABLE INLAND LAKE OR STREAM. FEES  
12 ASSESSED UNDER THIS SUBDIVISION SHALL BE USED BY THE LOCAL UNIT OF  
13 GOVERNMENT ONLY TO PAY FOR THE INSTALLATION, REMOVAL, AND  
14 MAINTENANCE OF DOCKS AND BOAT HOISTS, FOR NECESSARY SURVEYS RELATED  
15 TO THE MARINA OR ROAD END, AND FOR LAW ENFORCEMENT ACTIVITIES.

16 (L) PROVISIONS FOR VIOLATIONS CONSISTENT WITH SUBSECTION (4).

17 (3) AN ORDINANCE ADOPTED UNDER SUBSECTION (1) MAY ALLOW FOR  
18 USE OF THE WATERFRONT WITHIN THE BOUNDARIES OF THE ROAD END FOR  
19 SUNBATHING AND LOUNGING ACTIVITIES. ANY ALLOWANCE OF SUCH  
20 ACTIVITIES SHALL BE ACCOMPANIED BY RULES SPECIFYING WHAT USES ARE  
21 PERMITTED AND WHAT USES ARE PROHIBITED. ANY ALLOWANCE OF SUCH  
22 ACTIVITIES SHALL ALSO BE ACCOMPANIED BY RULES SPECIFYING THE HOURS  
23 OF OPERATION FOR THESE ACTIVITIES. THE HOURS OF OPERATION FOR THESE  
24 ACTIVITIES SHALL NOT EXCEED SUNRISE TO SUNSET.

25 (4) A PERSON WHO VIOLATES AN ORDINANCE ADOPTED UNDER THIS  
26 SECTION IS RESPONSIBLE FOR A MUNICIPAL INFRACTION AND MAY BE  
27 ORDERED TO PAY A FINE OF NOT MORE THAN \$500.00 PER VIOLATION.

1           (5) A MARINA OPERATED BY A LOCAL UNIT OF GOVERNMENT IN  
2 COMPLIANCE WITH THIS SECTION SHALL NOT BE FOUND TO BE A PUBLIC OR  
3 PRIVATE NUISANCE.

4           (6) AS USED IN THIS SECTION, "ROAD END" MEANS THE END OF A  
5 ROAD, STREET, OR ALLEY THAT TERMINATES AT AN INLAND LAKE OR STREAM,  
6 OR TERMINATES AT A COMMON AREA, A RIGHT-OF-WAY, OR A PUBLIC PARK  
7 THAT IS CONTIGUOUS TO THE SHORELINE OF AN INLAND LAKE OR STREAM.  
8 HOWEVER, ROAD END DOES NOT INCLUDE A ROAD, STREET, OR ALLEY, OR A  
9 PORTION OF A ROAD, STREET, OR ALLEY, THAT RUNS Laterally ALONG AN  
10 INLAND LAKE OR STREAM.