

HOUSE BILL NO. 5463

February 04, 2020, Introduced by Reps. Lilly and O'Malley and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 80110 and 80112 (MCL 324.80110 and 324.80112),
as amended by 2006 PA 237, and by adding section 80112a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80110. (1) ~~The~~ **Except as provided under section 80112a,**
2 **the** department may initiate ~~investigations~~ **an investigation** and
3 ~~inquiries~~ **inquiry** into the need for ~~a special rules~~ **rule** for the
4 use of vessels, water skis, water sleds, aquaplanes, surfboards, or



1 other similar contrivances on any of the waters of this state to
2 assure compatibility of uses and to protect public safety. If the
3 department receives a resolution ~~pursuant to~~ **under** section 80112,
4 the department shall initiate an investigation and inquiry under
5 this subsection.

6 (2) The department's investigation and inquiry under
7 subsection (1) into whether ~~a special rules are~~ **rule is** needed on a
8 ~~particular water body shall~~ **must** include ~~a~~ consideration of all of
9 the following:

10 (a) Whether the activities subject to the proposed ~~special~~
11 ~~rules~~ **rule** pose any issues of safety to life or property.

12 (b) The profile of the water body, including ~~local~~ **the name of**
13 **the political subdivision with** jurisdiction, size, geographic
14 location, and amount of vessel traffic.

15 (c) The current and historical depth of the water body,
16 including whether there is an established lake level. ~~for the water~~
17 ~~body.~~

18 (d) Whether any ~~identifiable~~ special problems or conditions
19 exist on the water body for the activities subject to the proposed
20 ~~special rules,~~ **rule**, such as rocks, pier heads, swimming areas,
21 public access sites, shallow waters, and submerged obstacles.

22 (e) Whether the proposed ~~special rules~~ **rule** would unreasonably
23 interfere with normal navigational traffic.

24 (f) Whether user conflicts exist on the water body.

25 (g) Complaints received by local law enforcement agencies
26 regarding activities on the water body.

27 (h) The status of any accidents that have occurred on the
28 water body.

29 (i) Historical uses of the water body and potential future



1 uses of the water body.

2 (j) Whether the water body is public or private.

3 (k) Whether existing law adequately regulates the activities
4 subject to the proposed ~~special rules~~. **rule**.

5 (3) Following completion of the department's investigation and
6 inquiry **under subsection (1)**, the department shall prepare a
7 preliminary report that includes the department's evaluation of the
8 items listed in subsection (2) and ~~the department's a~~ preliminary
9 recommendation as to whether **a special rules are rule is** needed for
10 the water body.

11 (4) ~~Upon~~ **On** preparation of the preliminary report **under**
12 **subsection (3)**, the department shall provide a copy of the
13 preliminary report to the ~~local~~ political subdivision ~~that has~~
14 ~~waters subject to its jurisdiction for which the proposed special~~
15 ~~rules are being considered and shall schedule a public hearing in~~
16 the vicinity of the water body to gather public input on the
17 preliminary report and the need for **a special rules**. ~~Notice rule~~.
18 **The department shall provide notice** of the public hearing ~~shall be~~
19 ~~made~~ in a newspaper of general circulation in the area where the
20 water body is located, not less than 10 ~~calendar~~ days before the
21 hearing. At the public hearing, **any** interested ~~persons shall be~~
22 ~~afforded an opportunity to present their views~~ **person may comment**
23 on the preliminary report and the need for **a special rules, rule**,
24 either orally or in writing.

25 (5) Within 90 days ~~following~~ **after** the public hearing under
26 subsection (4), if the department determines that ~~there is a need~~
27 ~~for a~~ special ~~rules~~ **rule is needed** for the water body, the
28 department shall propose a local ordinance or appropriate changes
29 to a local ordinance. If the department determines that ~~there is~~



1 ~~not a need for a~~ special rules, **rule is not needed**, the department
 2 shall notify the political subdivision ~~that has waters subject to~~
 3 ~~its jurisdiction and shall provide the specific reasons for its~~ **the**
 4 determination.

5 (6) A determination by the department **under this section** that
 6 ~~there is not a need for a~~ special rules **rule is not needed** for a
 7 **the** water body may be appealed to the commission by the political
 8 subdivision. ~~that has waters subject to its jurisdiction. The~~
 9 commission shall make the final agency decision on ~~the need for~~
 10 **whether a** special rules **rule is needed** for a ~~the~~ water body.

11 (7) As used in this section, "water body" includes all or a
 12 portion of a water body.

13 Sec. 80112. (1) ~~Local~~ **If a** political subdivisions ~~that believe~~
 14 **subdivision believes** that a special ~~local ordinances of the type~~
 15 **rule** authorized by **under** this part ~~are~~ **is** needed on waters subject
 16 to ~~their~~ **the political subdivision's** jurisdiction, **the political**
 17 **subdivision** shall inform the department and request assistance. ~~All~~
 18 ~~such requests shall~~ **Except as provided in section 80112a, a request**
 19 **must** be in the form of an official resolution approved by a
 20 majority of the governing body of the ~~concerned~~ political
 21 subdivision following a public hearing on the resolution. ~~Upon~~

22 (2) **On** receipt of a resolution under ~~this section, subsection~~
 23 **(1)**, the department shall proceed as required by sections 80110 and
 24 80111.

25 Sec. 80112a. (1) **If a** political subdivision believes a
 26 **temporary emergency rule is needed for the use of vessels, water**
 27 **skis, water sleds, aquaplanes, surfboards, or other similar**
 28 **contrivances on a water body subject to its jurisdiction, the**
 29 **political subdivision may submit an application for a temporary**



1 emergency rule to the department.

2 (2) An application for a temporary emergency rule under this
3 section must contain all of the following information:

4 (a) The information required under section 80110(2).

5 (b) The circumstances that justify a temporary emergency rule
6 rather than a special rule under section 80110.

7 (c) A complete list of all local regulations and rules
8 concerning the water body and how the regulations and rules are
9 enforced.

10 (d) If the temporary emergency rule is approved, how the
11 political subdivision will provide for and fund the public notice
12 of the temporary emergency rule, including, but not limited to,
13 buoy placement and signage.

14 (e) If the temporary emergency rule is approved, how the
15 political subdivision will enforce the temporary emergency rule.

16 (f) Any other information the political subdivision believes
17 is relevant or necessary.

18 (3) Within 10 days after receiving an application under
19 subsection (2), the department shall review the application and, if
20 necessary, request additional information. If no additional
21 information is necessary, the department shall conduct an
22 investigation and inquiry into the need for a temporary emergency
23 rule. If the department requests additional information, the
24 department shall conduct an investigation and inquiry into the need
25 for a temporary emergency rule within 10 days after receiving the
26 additional information.

27 (4) Within 10 days after completing the investigation and
28 inquiry under subsection (3), if the department determines that
29 there is a need for a temporary emergency rule, the department



1 shall propose a local ordinance or appropriate changes to a local
2 ordinance. If the department determines that there is not a need
3 for a temporary emergency rule, the department shall notify the
4 political subdivision and provide the specific reasons for the
5 determination.

6 (5) A determination under this section by the department that
7 there is not a need for a temporary emergency rule may be appealed
8 by the political subdivision to the commission. The commission
9 shall make the final agency decision on the need for a temporary
10 emergency rule.

11 (6) A temporary emergency rule authorized under this section
12 expires 6 months after the department proposes a local ordinance or
13 appropriate changes to a local ordinance under subsection (4).

14 (7) As used in this section, "water body" includes all or a
15 portion of a water body.

