



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 714 (as introduced 1-9-20)  
Sponsor: Senator Roger Victory  
Committee: Environmental Quality

Date Completed: 1-28-20

### **CONTENT**

**The bill would amend Part 323 (Shoreland Protection and Management) and Part 325 (Great Lakes Submerged Lands) of the Natural Resources and Environmental Protection Act to do the following:**

- **Specify that a permit would not be required under Part 323 or 325 for construction of a temporary erosion control structure if certain conditions were met.**
- **Require, within 78 weeks after filing a notice to the Department of Environment, Great Lakes, and Energy (EGLE), an owner of property at which a temporary erosion control structure was installed to file an application for any permit required under Part 323 or Part 325 for a permanent erosion control structure to replace or remove the temporary structure.**
- **Require a property owner to remove the temporary structure within 90 days if the application described above were denied.**
- **Require a property owner to notify EGLE in writing of a removal of a temporary structure within 14 days.**
- **Specify penalties for violating the bills' provisions.**

#### Temporary Erosion Control Structure; Shoreland

Under the Section 32312a of the Act, EGLE must allow above grade walls to be constructed with movable brick. The bill would move this provision to a different section.

Under Section 32312a, instead, a permit would not be required under Part 323 for construction of a temporary erosion control structure if all of the following conditions were met:

- The structure was installed on shoreland of one of the following bodies of water when the level of that body of water was not less than the following applicable distance above sea level: Lake Superior, 603.1 feet; Lake Michigan, 581.5 feet; Lake Huron, 581.5 feet; Lake St. Clair, 576.7 feet; Lake Erie, 573.8 feet.
- The structure was constructed of materials approved by EGLE.
- The structure was constructed by a licensed contractor.
- Before installation of the structure began, the property owner notified EGLE in writing of all of the following: the e-mail address, if any, name, address, and telephone number of the property owner; the location of the proposed structure; and the type and approximate amount of material of which the structure would be composed.

Within 78 weeks after filing the notice, the owner of property at which a temporary erosion control structure was installed would have to file an application for any permit required under Part 323 for a permanent erosion control structure to replace the temporary structure or would have to remove the temporary structure. If the application were denied, the property owner would have to, within 90 days after the denial, remove the temporary structure. Within 14 days after the removal of a temporary structure, the property owner would have to notify EGLE in writing of the removal. The notice would have to state both of the following:

- The e-mail address, if any, name, address, and telephone number of the property owner.
- The location of the former structure.

Under the Act, a circuit court, upon petition and a showing by EGLE that a rule pertaining to the use and development of high-risk areas, flood risk areas, and environmental areas has been violated, must issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule. The bill would include in this provision a violation of Section 32312a.

A person who violated Section 32312a could be ordered to pay a civil fine of not more than \$2,000. The violation could be prosecuted by the prosecutor of the county in which the violation occurred or by the Attorney General.

#### Temporary Erosion Structure; Bottomlands

The bill would create Section 32517, which would make similar changes to Part 325 of the Act as described above under Section 32312a, except with application to temporary erosion structures installed on the bottomlands of those bodies of water listed above. However, the penalties would be different.

Currently, a person who excavates or fills or in any manner alters or modifies any of the land or waters subject to Part 325 without the approval of EGLE is guilty of a misdemeanor punishable by imprisonment for not more than one year or a fine of not more than \$1,000, or both. The bill would include in this provision a violation of Section 32517.

Under Part 325, a person who commits a minor offense is guilty of a misdemeanor punishable by a fine of not more than \$500. A law enforcement officer may issue and serve an appearance ticket on a person for a minor offense as described under Chapter IV (Arrest) of the Code of Criminal Procedure. "Minor offense" means either of the following violations of Part 325 of the Natural Resources and Environmental Protection Act if EGLE determines that restoration of the affected property is not required:

- The failure to obtain a permit under Part 325.
- A violation of a permit issued under Part 325.

The bill would also include in the definition a violation of Section 32517.

In addition, the bill specifies that the removal of a temporary erosion control structure under these provisions would not require a permit under Part 325.

MCL 324.32312 et al.

Legislative Analyst: Drew Krogulecki

#### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. The bill would allow temporary erosion control structures to be built under certain conditions without a permit, resulting in no impact on departmental revenue or administrative costs.

New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Fiscal Analyst: Joe Carrasco  
Abbey Frazier

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.