

SENATE BILL NO. 714

January 09, 2020, Introduced by Senator VICTORY and referred to the Committee on Environmental Quality.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 32312, 32312a, and 32510 (MCL 324.32312, 324.32312a, and 324.32510), section 32312 as amended by 2019 PA 84, section 32312a as added by 1997 PA 126, and section 32510 as added by 1995 PA 59, and by adding sections 32312c and 32517.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32312. (1) To regulate the uses and development of high-

1 risk areas, flood risk areas, and environmental areas and to
2 implement the purposes of this part, the department shall
3 promulgate rules. If **the rules require** permits, ~~are required under~~
4 ~~rules promulgated under this part,~~ the permits shall be issued
5 pursuant to the rules and part 13. Except as provided under
6 subsection (2), until October 1, 2023, if permits are required
7 pursuant to rules promulgated under this part, an application for a
8 permit shall be accompanied by a fee as follows:

9 (a) For a commercial or multifamily residential project,
10 \$500.00.

11 (b) For a single-family home construction, \$100.00.

12 (c) For an addition to an existing single-family home or for a
13 project that has a minor impact on fish and wildlife resources in
14 environmental areas as determined by the department, \$50.00.

15 (2) A project that requires review and approval under this
16 part and under 1 or more of the following is subject to only the
17 single highest permit fee required under this part or the
18 following:

19 (a) Part 301.

20 (b) Part 303.

21 (c) Part 325.

22 (d) Section 3104.

23 (e) Section 117 of the land division act, 1967 PA 288, MCL
24 560.117.

25 (3) The department shall forward fees collected under this
26 section to the state treasurer for deposit in the land and water
27 management permit fee fund created in section 30113.

28 (4) A circuit court, upon petition and a showing by the
29 department that **section 32312a** or a rule promulgated under

1 subsection (1) has been violated, shall issue any necessary order
2 to the defendant to correct the violation or to restrain the
3 defendant from further violation of **section 32312a** or the rule.

4 **(5) A person that violates section 32312a may be ordered to**
5 **pay a civil fine of not more than \$2,000.00. A violation of section**
6 **32312a may be prosecuted by the prosecutor of the county in which**
7 **the violation occurred or by the attorney general.**

8 Sec. 32312a. ~~(1) Notwithstanding any other provision of this~~
9 ~~part or the rules promulgated under this part, the department shall~~
10 ~~allow above grade walls to be constructed with movable brick.~~**A**
11 **permit is not required under this part for construction of a**
12 **temporary erosion control structure if all of the following**
13 **conditions are met:**

14 **(a) The structure is installed on shoreland of 1 of the**
15 **following bodies of water when the level of that body of water is**
16 **not less than the following applicable distance above sea level:**

17 **(i) Lake Superior, 603.1 feet.**

18 **(ii) Lake Michigan, 581.5 feet.**

19 **(iii) Lake Huron, 581.5 feet.**

20 **(iv) Lake St. Clair, 576.7 feet.**

21 **(v) Lake Erie, 573.8 feet.**

22 **(b) The structure is constructed of materials approved by the**
23 **department.**

24 **(c) The structure is constructed by a licensed contractor.**

25 **(d) Before installation of the structure commences, the**
26 **property owner notifies the department in writing of all of the**
27 **following:**

28 **(i) The electronic mail address, if any, name, address, and**
29 **telephone number of the property owner.**

1 (ii) The location of the proposed structure.

2 (iii) The type and approximate amount of material of which the
3 structure will be composed.

4 (2) Within 78 weeks after filing notice under subsection (1),
5 the owner of property at which a temporary erosion control
6 structure is installed shall file an application for any permit
7 required under this part for a permanent erosion control structure
8 to replace the temporary structure or shall remove the temporary
9 structure. If the application is denied, the property owner shall,
10 within 90 days after the denial, remove the temporary structure.
11 Within 14 days after the removal of a temporary structure under
12 this subsection, the property owner shall notify the department in
13 writing of the removal. The notice shall state both of the
14 following:

15 (a) The electronic mail address, if any, name, address, and
16 telephone number of the property owner.

17 (b) The location of the former structure.

18 (3) Removal of a temporary erosion control structure under
19 subsection (2) does not require a permit under this part.

20 Sec. 32312c. Notwithstanding any other provision of this part
21 or the rules promulgated under this part, the department shall
22 allow above-grade walls to be constructed with movable brick.

23 Sec. 32510. (1) Except as provided in subsection (2), a person
24 who excavates or fills or in any manner alters or modifies any of
25 the land or waters subject to this part without the approval of the
26 department **or who violates section 32517** is guilty of a misdemeanor
27 ~~r~~-punishable by imprisonment for not more than 1 year or a fine of
28 not more than \$1,000.00, or both. Land altered or modified in
29 violation of this part shall not be sold to any person convicted

1 under this section at less than fair, cash market value.

2 (2) A person who commits a minor offense is guilty of a
 3 misdemeanor ~~—~~ punishable by a fine of not more than \$500.00. ~~for~~
 4 ~~each violation.~~ A law enforcement officer may issue and serve an
 5 appearance ticket upon a person for a minor offense pursuant to
 6 sections 9a to 9g of chapter IV of the code of criminal procedure,
 7 ~~Act No. 175 of the Public Acts of 1927, being sections 1927 PA 175,~~
 8 **MCL 764.9a to 764.9g. of the Michigan Compiled Laws.**

9 (3) As used in this section, "minor offense" means ~~either~~ **any**
 10 of the following violations of this part if the department
 11 determines that restoration of the affected property is not
 12 required:

13 (a) The failure to obtain a permit under this part.

14 (b) A violation of a permit issued under this part.

15 (c) **A violation of section 32517.**

16 **Sec. 32517. (1) A permit is not required under this part for**
 17 **construction of a temporary erosion control structure if all of the**
 18 **following conditions are met:**

19 (a) **The structure is installed on bottomlands of 1 of the**
 20 **following bodies of water when the level of that body of water is**
 21 **not less than the following applicable distance above sea level:**

22 (i) **Lake Superior, 603.1 feet.**

23 (ii) **Lake Michigan, 581.5 feet.**

24 (iii) **Lake Huron, 581.5 feet.**

25 (iv) **Lake St. Clair, 576.7 feet.**

26 (v) **Lake Erie, 573.8 feet.**

27 (b) **The structure is constructed of materials approved by the**
 28 **department.**

29 (c) **The structure is constructed by a licensed contractor.**

1 (d) Before installation of the structure commences, the
2 property owner notifies the department in writing of all of the
3 following:

4 (i) The electronic mail address, if any, name, address, and
5 telephone number of the property owner.

6 (ii) The location of the proposed structure.

7 (iii) The type and approximate amount of material of which the
8 structure will be composed.

9 (2) Within 78 weeks after filing notice under subsection (1),
10 the owner of property for which a temporary erosion control
11 structure is installed shall file an application for any permit
12 required under this part for a permanent erosion control structure
13 to replace the temporary structure or shall remove the temporary
14 structure. If the application is denied, the property owner shall,
15 within 90 days after the denial, remove the temporary structure.
16 Within 14 days after the removal of a temporary structure under
17 this subsection, the property owner shall notify the department in
18 writing of the removal. The notice shall state both of the
19 following:

20 (a) The electronic mail address, if any, name, address, and
21 telephone number of the property owner.

22 (b) The location of the former structure.

23 (3) Removal of a temporary erosion control structure under
24 subsection (2) does not require a permit under this part.