RIGHT TO FOREST ACT

Act 676 of 2002

AN ACT to provide for circumstances under which certain forestry operations shall not be found to be a public or private nuisance; to provide for certain forestry management practices; to provide for certain powers and duties for certain state agencies and departments; and to provide remedies.

History: 2002, Act 676, Eff. Mar. 31, 2003

The People of the State of Michigan enact:

CAUTION! This document is from an archive and may contain outdated information

320.2031 Short title.

Sec. 1.

This act shall be known and may be cited as the "right to forest act".

History: 2002, Act 676, Eff. Mar. 31, 2003
Compiler's Notes: For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

320.2032 Legislative findings.

Sec. 2.

The legislature finds:

(a) That forestry operations are valuable to the state's economy, provide jobs to its citizens, can be an effective wildlife management tool, are essential to the manufacture of forestry products that are used and enjoyed by the people of the state, and benefit the general welfare of the people of the state.

(b) That forestry operations are adversely affected by the random encroachment of urban and residential land uses throughout rural areas of the state.

(c) That, as a result of random encroachment, conflicts have arisen between traditional forestry land uses and urban and residential land uses.

(d) That conflicts between forestry and urban land uses threaten to permanently convert forestland to other uses, whereby the forestland resources are permanently lost to the economy and the human and physical environments of the state.

(e) That it is in the best interest of the state to ensure that forestry operations using generally accepted forestry management practices are not subject to public and private nuisance actions arising out of conflicts between the forestry operations and urban and residential land uses.

History: 2002, Act 676, Eff. Mar. 31, 2003
Compiler's Notes: For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

320.2033 Definitions.

Sec. 3.

As used in this act:

(a) “Commission” means the commission of natural resources.

(b) “Department” means the department of natural resources.

(c) “Forest” means a tract of land that is at least 10% stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not currently developed for nonforest use, including woodlands, woodlots, windbreaks, and shelter belts.

(d) “Forestry operations” means activities related to the harvesting, reforestation, and other management activities, including, but not limited to, thinning, pest control, fertilization, and wildlife management, that are consistent with principles of sustainable forestry.

(e) “Generally accepted forestry management practices” means those forest management practices as prescribed by the commission. In prescribing generally accepted forestry management practices, the commission shall give due consideration to available department information, written recommendations, and comments from the department and other interested persons that may include, but are not limited to, all of the following:

(i) The department of agriculture.

(ii) The Michigan state university extension.

(iii) The United States department of agriculture agencies, services, and programs.

(iv) College and university forestry programs.

(v) Professional, industry, and conservation organizations.

(f) “Landowner” means the possessor of a fee interest in land or a tenant, lessee, occupant, or other person in lawful control of land.

(g) “Sustainable forestry” means forestry practices that are designed to meet present and future wood product needs by employing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual changes.

(h) “Timber” means live or dead trees, including, but not limited to, bark, foliage, wood, and firewood.

History: 2002, Act 676, Eff. Mar. 31, 2003

Compiler's Notes: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

320.2034 Forestry operations as public or private nuisance.

Sec. 4.

(1) Forestry operations shall not be found to be a public or private nuisance if the forestry operations alleged to be a nuisance conform to generally accepted forestry management practices. Generally accepted forestry management practices shall be reviewed annually by the commission and revised as considered necessary.

(2) Forestry operations voluntarily using sustainable forestry practices as approved by the commission shall not be found to be a public or private nuisance if the forestry operations existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the forestland, and if before that change in land use or occupancy, the forestry operations would not have been a nuisance.

(3) Forestry operations that are in conformance with generally accepted forestry management practices shall not be found to be a public or private nuisance as a result of any of the following:

CAUTION! This document is from an archive and may contain outdated information.

(a) A change in ownership or size.
(b) Cessation or interruption of forestry operations.
(c) Enrollment in governmental forestry or conservation programs.
(d) Adoption of new forestry technology.
(4) As used in this section, a public or private nuisance includes, but is not limited to, allegations of nuisance based on any of the following:
(a) Visual changes due to the removal of vegetation or timber.
(b) Noise from forestry equipment used in normal, generally accepted forestry management practices.
(c) Removal of vegetation or timber on a forest adjoining the property of another landowner.
(d) The use of chemicals normally utilized in forestry operations, and applied under generally accepted forestry management practices.

History: 2002, Act 676, Eff. Mar. 31, 2003
Compiler's Notes: For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

CAUTION! This document is from an archive and may contain outdated information.

320.2035 Recovery of costs and attorney fees.

Sec. 5.

In any nuisance action in which forestry operations are alleged to be a nuisance, if the defendant landowner or forestry operation prevails, the landowner or forestry operation may recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the landowner or forestry operation in connection with the defense of the action, together with reasonable and actual attorney fees.

History: 2002, Act 676, Eff. Mar. 31, 2003
Compiler's Notes: For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

320.2036 Land, farms, or farming operations subject to MCL 286.471 to 286.474.

Sec. 6.

This act does not supersede, negate, or determine any protection of land, farms, or farming operations that are subject to the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

History: 2002, Act 676, Eff. Mar. 31, 2003
Compiler's Notes: For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.