

HOUSE BILL No. 4555

April 16, 2013, Introduced by Reps. Tlaib, Irwin and Robinson and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 639.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 639 BLASTING IN MINING OPERATIONS

SEC. 63901. AS USED IN THIS PART:

(A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
QUALITY.

(B) "MINERAL" MEANS GYPSUM, STONE, SALT, OR A SIMILAR SOLID
MATERIAL OR SUBSTANCE TO BE EXCAVATED FROM NATURAL DEPOSITS ON OR
IN THE EARTH FOR COMMERCIAL, INDUSTRIAL, OR CONSTRUCTION USES.
MINERAL DOES NOT INCLUDE METALLIC ORE OR MATERIAL MINED FOR ITS
METALLIC CONTENT.

(C) "MINING" MEANS THE EXCAVATION OR REMOVAL OF EARTH MATERIAL
IN THE REGULAR OPERATION OF A BUSINESS FOR THE PURPOSE OF

1 EXTRACTING A MINERAL OR MINERALS BY 1 OR BOTH OF THE FOLLOWING:

2 (i) REMOVING THE OVERBURDEN LYING ABOVE NATURAL DEPOSITS OF A
3 MINERAL AND EXCAVATING DIRECTLY FROM THE NATURAL DEPOSITS THUS
4 EXPOSED OR BY EXCAVATING DIRECTLY FROM DEPOSITS LYING EXPOSED IN
5 THEIR NATURAL STATE.

6 (ii) EXCAVATING FROM BELOW THE SURFACE OF THE GROUND BY MEANS
7 OF SHAFTS, TUNNELS, OR OTHER SUBSURFACE OPENINGS.

8 (D) "MINING AREA" MEANS AN AREA OF LAND FROM WHICH EARTH
9 MATERIAL IS REMOVED IN CONNECTION WITH MINING, ON WHICH MATERIAL
10 FROM THAT MINING IS STORED OR DEPOSITED, OR ON WHICH WATER
11 RESERVOIRS USED IN THAT MINING OR BENEFICIATING OR TREATMENT PLANTS
12 OR AUXILIARY FACILITIES ARE LOCATED, AND AUXILIARY LAND USED IN
13 CONNECTION WITH THE MINING.

14 (E) "OPERATOR" MEANS A PERSON WHO IS ENGAGED IN, OR WHO IS
15 PREPARING TO ENGAGE IN, MINING, WHETHER INDIVIDUALLY OR JOINTLY, OR
16 THROUGH AGENTS, EMPLOYEES, OR CONTRACTORS.

17 (F) "PROTECTED STRUCTURE" MEANS ANY DWELLING, PUBLIC BUILDING,
18 SCHOOL, CHURCH, OR COMMERCIAL OR INSTITUTIONAL BUILDING NOT OWNED
19 BY THE OPERATOR.

20 (G) "SCALED DISTANCE" MEANS THE DISTANCE, IN FEET, FROM
21 EXPLOSIVES DETONATED IN A BLAST TO A SPECIFIED LOCATION, DIVIDED BY
22 THE SQUARE ROOT OF THE MAXIMUM WEIGHT OF THE EXPLOSIVES, IN POUNDS,
23 TO BE DETONATED IN ANY 8-MILLISECOND PERIOD.

24 SEC. 63903. (1) AN OPERATOR SHALL LIMIT THE TYPE OF EXPLOSIVES
25 AND DETONATING EQUIPMENT AND THE SIZE, TIMING, AND FREQUENCY OF
26 BLASTS USED IN MINING BASED UPON THE PHYSICAL CONDITIONS OF THE
27 AREA SO AS TO PREVENT INJURY TO PERSONS AND DAMAGE TO PUBLIC OR

1 PRIVATE PROPERTY OUTSIDE THE BLASTING SITE.

2 (2) AN OPERATOR SHALL NOT ENGAGE IN BLASTING UNLESS THE
3 BLASTING EFFECTS WILL MEET 1 OR MORE OF THE FOLLOWING STANDARDS:

4 (A) THE MAXIMUM PEAK PARTICLE VELOCITY FROM BLASTING DOES NOT
5 EXCEED THE FOLLOWING LIMITS AT THE LOCATION OF ANY PROTECTED
6 STRUCTURE, AS VERIFIED BY SEISMOGRAPH MEASUREMENTS IN 3 MUTUALLY
7 PERPENDICULAR DIRECTIONS:

8 (i) 1.25 INCHES PER SECOND FOR PROTECTED STRUCTURES LESS THAN
9 300 FEET FROM THE BLASTING SITE.

10 (ii) 1.00 INCHES PER SECOND FOR PROTECTED STRUCTURES 300 FEET
11 TO 5,000 FEET FROM THE BLASTING SITE.

12 (iii) 0.75 INCHES PER SECOND FOR PROTECTED STRUCTURES MORE THAN
13 5,000 FEET FROM THE BLASTING SITE.

14 (B) THE SCALED DISTANCE IS NOT LESS THAN THE FOLLOWING AS
15 CALCULATED AT THE LOCATION OF ANY PROTECTED STRUCTURE:

16 (i) FOR PROTECTED STRUCTURES LESS THAN 300 FEET FROM THE
17 BLASTING SITE, 50.

18 (ii) FOR PROTECTED STRUCTURES 300 FEET TO 5,000 FEET FROM THE
19 BLASTING SITE, 55.

20 (iii) FOR PROTECTED STRUCTURES MORE THAN 5,000 FEET FROM THE
21 BLASTING SITE, 65.

22 (C) THE BLASTING CONFORMS TO AN ALTERNATIVE STANDARD APPROVED
23 BY THE DEPARTMENT. AN OPERATOR SEEKING TO USE AN ALTERNATIVE
24 STANDARD SHALL SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT. THE
25 REQUEST SHALL BE SUPPORTED BY TECHNICAL INFORMATION, WHICH MAY
26 INCLUDE DOCUMENTED APPROVAL OF THE BLASTING METHOD BY AGENCIES IN
27 OTHER STATES THAT REGULATE BLASTING AT MINING OPERATIONS. THE

1 DEPARTMENT SHALL APPROVE THE PROPOSED ALTERNATIVE STANDARD IF THE
2 TECHNICAL INFORMATION SUBMITTED PROVIDES SUFFICIENT JUSTIFICATION
3 FOR THE USE OF THE ALTERNATIVE STANDARD. OTHERWISE, THE DEPARTMENT
4 SHALL DISAPPROVE THE PROPOSED ALTERNATIVE STANDARD. THE DEPARTMENT
5 SHALL NOTIFY THE OPERATOR IN WRITING OF THE DEPARTMENT'S APPROVAL
6 OR DISAPPROVAL OF THE PROPOSED ALTERNATIVE STANDARD.

7 (3) THE DEPARTMENT MAY EXEMPT AN OPERATOR FROM A STANDARD
8 UNDER SUBSECTION (2) AT A PROTECTED STRUCTURE IF THE OPERATOR
9 SUBMITS TO THE DEPARTMENT A WAIVER SIGNED BY THE OWNER OF THE
10 PROTECTED STRUCTURE. THE WAIVER SHALL BE IN WRITING AND IN A FORM
11 APPROVED BY THE DEPARTMENT.

12 (4) AN OPERATOR SHALL MAINTAIN BLASTING RECORDS FOR AT LEAST 1
13 YEAR AND SHALL MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT UPON
14 REQUEST. THE BLASTING RECORDS SHALL INCLUDE ALL OF THE FOLLOWING:

15 (A) THE DATE, TIME, AND LOCATION OF EACH BLAST.

16 (B) THE TYPE AND AMOUNT OF EXPLOSIVES USED.

17 (C) IF THE OPERATOR UTILIZES THE STANDARD DESCRIBED IN
18 SUBSECTION (2) (A), ALL SEISMOGRAPH MEASUREMENTS.

19 (D) IF THE OPERATOR UTILIZES AN ALTERNATIVE STANDARD UNDER
20 SUBSECTION (2) (C), ANY INFORMATION REQUIRED UNDER THE ALTERNATIVE
21 STANDARD.

22 SEC. 63905. (1) THE DEPARTMENT SHALL ADMINISTER AND ENFORCE
23 THIS PART. IN ADMINISTERING AND ENFORCING THIS PART, THE DEPARTMENT
24 MAY DO ANY OF THE FOLLOWING:

25 (A) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
26 1969 PA 306, MCL 24.201 TO 24.328, PROMULGATE RULES TO IMPLEMENT
27 AND ADMINISTER THIS PART.

1 (B) ENTER AT ANY REASONABLE TIME IN OR UPON A MINING AREA FOR
2 THE PURPOSE OF INSPECTING AND INVESTIGATING CONDITIONS RELATING TO
3 BLASTING OPERATIONS AT THE MINING AREA.

4 (2) A LOCAL UNIT OF GOVERNMENT SHALL NOT ENACT, MAINTAIN, OR
5 ENFORCE AN ORDINANCE, REGULATION, OR RESOLUTION THAT DUPLICATES,
6 CONTRADICTS, OR CONFLICTS IN ANY MANNER WITH THIS PART.

7 SEC. 63907. (1) IF THE DEPARTMENT DETERMINES THAT AN OPERATOR
8 HAS VIOLATED THIS PART OR A RULE PROMULGATED UNDER THIS PART AND
9 THAT THE VIOLATION RESULTED IN OR MAY RESULT IN A THREAT OF INJURY
10 TO PERSONS OR DAMAGE TO PUBLIC OR PRIVATE PROPERTY OUTSIDE THE
11 BLASTING SITE, THE DEPARTMENT MAY ORDER AN OPERATOR TO TAKE ACTION
12 NECESSARY TO ABATE OR ELIMINATE THE THREAT, INCLUDING SUSPENDING OR
13 MODIFYING BLASTING OPERATIONS AT THE MINING AREA.

14 (2) SUBJECT TO SUBSECTION (3), BEFORE ISSUING AN ORDER UNDER
15 SUBSECTION (1), THE DEPARTMENT SHALL NOTIFY THE OPERATOR,
16 PERSONALLY OR BY MAIL, AND SHALL PROVIDE THE OPERATOR AN
17 OPPORTUNITY FOR AN EVIDENTIARY HEARING.

18 (3) IF THE DEPARTMENT FINDS THAT EMERGENCY ACTION IS REQUIRED
19 TO PREVENT AN IMMINENT AND SUBSTANTIAL THREAT OF INJURY TO PERSONS
20 OR DAMAGE TO PUBLIC OR PRIVATE PROPERTY OUTSIDE THE BLASTING SITE,
21 THE DEPARTMENT MAY ISSUE WITHOUT A PUBLIC HEARING AN EMERGENCY
22 ORDER REQUIRING AN OPERATOR TO TAKE ACTION NECESSARY TO ABATE OR
23 ELIMINATE THE THREAT, INCLUDING SUSPENDING OR MODIFYING BLASTING
24 OPERATIONS AT THE MINING AREA. AN EMERGENCY ORDER SHALL NOT REMAIN
25 IN EFFECT FOR MORE THAN 21 DAYS.

26 SEC. 63909. A PERSON WHO IS AGGRIEVED BY AN ORDER, ACTION, OR
27 INACTION OF THE DEPARTMENT UNDER THIS PART MAY FILE A PETITION WITH

1 THE DEPARTMENT REQUESTING AN EVIDENTIARY HEARING OR MAY FILE A
2 PETITION FOR REVIEW WITH THE CIRCUIT COURT FOR THE COUNTY OF INGHAM
3 OR FOR THE COUNTY IN WHICH THE MINING AREA IS LOCATED.

4 SEC. 63911. THE DEPARTMENT SHALL PUBLISH NOTICE OF AN
5 EVIDENTIARY HEARING UNDER THIS PART IN A NEWSPAPER OF LOCAL
6 DISTRIBUTION IN THE AREA OF THE MINING OPERATION AT LEAST 10 DAYS
7 BEFORE THE HEARING.

8 SEC. 63913. (1) THE DEPARTMENT MAY REQUEST THE ATTORNEY
9 GENERAL TO COMMENCE A CIVIL ACTION FOR APPROPRIATE RELIEF,
10 INCLUDING A PERMANENT OR TEMPORARY INJUNCTION, FOR A VIOLATION OF
11 THIS PART OR AN ORDER ISSUED OR RULE PROMULGATED UNDER THIS PART.
12 AN ACTION UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE CIRCUIT
13 COURT FOR THE COUNTY OF INGHAM OR FOR THE COUNTY IN WHICH THE
14 MINING OPERATION IS LOCATED. THE COURT HAS JURISDICTION TO RESTRAIN
15 THE VIOLATION AND TO REQUIRE COMPLIANCE. IN ADDITION TO ANY OTHER
16 RELIEF GRANTED UNDER THIS SUBSECTION FOR A VIOLATION, THE COURT
17 SHALL IMPOSE A CIVIL FINE OF NOT LESS THAN \$1,500.00 OR MORE THAN
18 \$15,000.00.

19 (2) A PERSON WHO INTENTIONALLY MAKES A FALSE STATEMENT,
20 REPRESENTATION, OR CERTIFICATION IN A RECORD OR REPORT REQUIRED
21 UNDER THIS PART IS GUILTY OF A FELONY AND MAY BE PUNISHED BY
22 IMPRISONMENT FOR NOT MORE THAN 2 YEARS AND SHALL BE FINED NOT LESS
23 THAN \$3,000.00 OR MORE THAN \$30,000.00.