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STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



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DRAFT

BILL ANALYSIS

BILL NUMBER: House Bill 5690, as Introduced
TOPIC: Eliminate the need for permits for suction weed harvesting.
SPONSOR: Representatives Aric Nesbitt and Sharon Tyler
CO-SPONSOR(S):
COMMITTEE: Natural Resources, Tourism, and Outdoor Recreation
ANALYSIS DONE BY: Amy Lounds
DATE OF COMPLETED ANALYSIS: July 3, 2012

SHORT SUMMARY/HIGHLIGHTS OF THE BILL

This bill would exempt suction aquatic weed harvesting, the practice of a diver extracting aquatic weeds from a water body and using a vacuum hose to draw the plant into a boat, from needing a permit.

ADMINISTRATION POSITION

PROBLEM/BACKGROUND

The use of suction weed harvesting is a relatively new technique for the removal of aquatic plants in Michigan. In some cases, it is being promoted from a sales perspective as a method for controlling invasive aquatic plants. Although the effectiveness of suction weed harvesting as an invasive species control method is unknown at this time, the Department of Environmental Quality (DEQ) currently has expedited permit categories for diver assisted invasive species control on public notice. As this is a new technique to Michigan, the DEQ does not currently have an expedited permit category for this activity, even for small projects. The DEQ hopes to use this category as a way to evaluate both the effectiveness and potential environmental effects of this technique, and the DEQ is working with the Higgins Lakes Property Owners Association on a cooperative project to evaluate its use.

DESCRIPTION OF BILL

This bill would exempt suction aquatic weed harvesting, the practice of a diver extracting aquatic weeds from a water body and using a vacuum hose to draw the plant into a boat, from needing a permit. The term "weed" is not defined, so it is not clear if only invasive species could be removed or if all vegetation (emergent, floating, and submergent) in a water body could be removed.

SUMMARY OF ARGUMENTS

Pro

This method of weed removal avoids the use of chemicals.

Con

Suction weed harvesting can have significant impacts to the aquatic environment, which can be avoided and minimized through the permitting process. For example:

- Suction harvesting, without controls, may result in algal blooms and/or reduced oxygen conditions in lakes due to suspension of sediments and nutrients, such as phosphorus and nitrogen, in the water column, and the dispersion of contaminants within the water body. The controls needed to minimize many of the potential water quality impacts (turbidity curtains, etc.) must be determined based on site conditions, such as soils, amount of organic material, and the presence of contaminated sediments.
- Removal of native aquatic plants would have significant negative impacts on the aquatic environment. Aquatic plants provide food and habitat for fish, invertebrates, and wildlife; prevent shoreline erosion; dissipate wave energy; and protect water quality by taking up nutrients and producing oxygen. Indiscriminate removal of aquatic vegetation would severely disrupt the natural balance of a lake or stream. The permitting process can verify that only nonnative invasive species are targeted for removal, as well as moderate the rate that aquatic plants are removed.
- Eliminating permits for suction weed harvesting would allow these activities to be done during fish spawning. This would (1) likely disrupt spawning activity, (2) could result in fine sediments being deposited on top of the eggs, which may result in egg mortality, (3) disturb egg beds during weed removal, which may result in egg mortality, and (4) result in reduction of food and cover for newly emerged fish, which could result in their mortality and/or affect their size and future reproductive success.
- The effectiveness of suction weed harvesting has not been proven and the activity could have unintended consequences, including the spread of invasive species due to fragmentation of plants or improper disposal.
- Screening for threatened and endangered species, as well as other special natural features, would be eliminated by this bill.
- Aquatic vegetation growing on the bottomlands of inland lakes or streams is the property of the adjacent riparian property owner. The removal of weeds should be undertaken only under authorization of the riparian property owner.

Because there is no equivalent exemption under federal law, this exemption would likely be determined to be inconsistent with federal law by the United States Environmental Protection Agency (USEPA). Michigan's Section 404 Program must be consistent with federal requirements to continue administration of the program.

RECOMMENDED MODIFICATIONS

N/A

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the

(a) Department

Budgetary:

Revenue:

Comments: This exemption would likely be determined to be inconsistent with federal law by the USEPA because there is no equivalent exemption under federal law. Michigan's Section 404 Program must be consistent with federal requirements to continue administration of the program.

(b) State

Budgetary:

Revenue:

Comments:

(c) Local Government

Comments:

OTHER STATE DEPARTMENTS

The Department of Natural Resources (DNR), Fisheries Division, has expressed concerns regarding the potential impacts of suction weed harvesting. The DEQ, Water Resources Division (WRD), coordinates and addresses project related concerns of DNR, Fisheries Division, during the permitting process that is proposed to be eliminated in this bill.

ANY OTHER PERTINENT INFORMATION

The invasive species control business community is concerned about the potential negative impacts that deregulation would have on their businesses, as well as on the environment.

Plant removal by techniques such as suction harvesting (aka suction dredging or diver dredging) is regulated and requires a permit in many other states.

ADMINISTRATIVE RULES IMPACT

Unknown at this time.

Dan Wyant
Director

Date

WRD