

HOUSE BILL No. 4125

February 7, 1991, Introduced by Reps. O'Connor, Bartnik, Alley, Willis Bullard, Robertson, Varga, Trim, Martin, Strand, Shugars, Owen, Law, Sparks, Nye and Horton and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 18 of Act No. 64 of the Public Acts of 1979, entitled as amended

"Hazardous waste management act,"

as amended by Act No. 106 of the Public Acts of 1990, being section 299.518 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 18 of Act No. 64 of the Public Acts of
2 1979, as amended by Act No. 106 of the Public Acts of 1990, being
3 section 299.518 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 18. (1) Except as otherwise provided in section 21a, a
6 person shall not establish a treatment, storage, or disposal
7 facility without a construction permit from the director. A
8 person proposing the establishment of a treatment, storage, or
9 disposal facility subject to the construction permit requirement

1 of this act, but not including a limited storage facility, shall
2 ~~make application~~ APPLY for a construction permit to the direc-
3 tor on a form provided by the director or an authorized represen-
4 tative of the director.

5 (2) If an amendment to this act or to the rules promulgated
6 under this act subjects activities lawfully being conducted at a
7 treatment, storage, or disposal facility at the time the amend-
8 ment takes effect to the operating license requirements of this
9 act solely because of the amendment, the activities carried out
10 at the facility ~~prior to~~ BEFORE the effective date of the
11 amendment ~~shall~~ ARE not ~~be~~ subject to the construction permit
12 requirements of this act. ~~, except for~~ HOWEVER, THIS EXEMPTION
13 DOES NOT APPLY TO an expansion of ~~the~~ A TREATMENT, STORAGE, OR
14 DISPOSAL facility ~~with respect to such activities~~ beyond its
15 original authorized design capacity or beyond the area specified
16 in an original permit, license, or other authorization, or TO an
17 alteration of the method of hazardous waste treatment or
18 disposal.

19 (3) The application for a construction permit shall contain
20 the name and residence of the applicant, the location of the pro-
21 posed treatment, storage, or disposal facility, and other infor-
22 mation specified in this section, by rule, or by federal regula-
23 tion issued under title II of the solid waste disposal act. The
24 application shall be accompanied by a construction permit appli-
25 cation fee. The fee shall be calculated as provided in
26 subsection (10) or may be based on the actual cost of
27 construction permit review according to procedures established by

1 rule. Construction permit application fees shall be deposited in
2 the general fund of the state. The application shall include a
3 copy of the actual published notice as described in subsection
4 (9) and a determination of existing hydrogeological characteris-
5 tics specified in a hydrogeological report and monitoring program
6 consistent with rules promulgated pursuant to this act, an envi-
7 ronmental assessment, an engineering plan, and the procedures for
8 closure and postclosure monitoring. The environmental assessment
9 shall include, at a minimum, an evaluation of the proposed
10 facility's impact on the air, water, and other natural resources
11 of the state ~~—, and also shall contain~~ an environmental fail-
12 ure mode assessment.

13 (4) Except as otherwise provided in this subsection, the
14 construction permit application shall include a disclosure state-
15 ment which includes all of the following:

16 (a) The full name and business address of all of the
17 following:

18 (i) The applicant.

19 (ii) The 5 persons holding the largest shares of the equity
20 in or debt liability of the proposed facility. The director may
21 waive all or any portion of this requirement for an applicant
22 that is a corporation with publicly traded stock.

23 (iii) ~~The IF KNOWN, THE operator. —, if known.—~~

24 (iv) If known, the 3 employees of the operator who will have
25 the most responsibility for the day-to-day operation of the
26 facility.

1 (v) Any other business entity listed in the definition of
2 person in section 5(2) in which any person required to be listed
3 in subparagraphs (i) to (iv) has at any time had 25% or more of
4 the equity in or debt liability of that business entity. The
5 director may waive all or any portion of this requirement for an
6 applicant that is a corporation with publicly traded stock.

7 (b) All convictions for criminal violations of any environ-
8 mental statute enacted by a federal, state, Canadian, or provin-
9 cial agency for each person required to be listed under this
10 subsection. If debt liability is held by a chartered lending
11 institution, information required in this ~~subsection and subsec-~~
12 ~~tion (4)(c) and (d) shall~~ SUBDIVISION AND SUBDIVISIONS (C) AND
13 (D) ARE not ~~be~~ required from that institution.

14 (c) A listing of all environmental permits or licenses
15 issued by a federal, state, Canadian, or provincial agency held
16 by each person required to be listed under this subsection that
17 were permanently revoked because of noncompliance.

18 (d) A listing of all activities at property owned or oper-
19 ated by each person required to be listed under this subsection
20 ~~—~~ if the incident resulted in a threat or potential threat to
21 the environment ~~—~~ and public funds were used to finance an
22 activity to mitigate the threat or potential threat to the
23 environment. ~~—except~~ HOWEVER, THIS REQUIREMENT DOES NOT APPLY
24 if the public funds expended to facilitate the mitigation of
25 environmental contamination were voluntarily and expeditiously
26 recovered from the applicant or other listed person without
27 litigation.

1 (5) If any information required to be included in the
2 disclosure statement changes ~~—~~ or is supplemented after the
3 filing of the statement, the applicant, permittee, or licensee
4 shall provide, IN WRITING, that information to the department ~~in~~
5 ~~writing,~~ within 30 days of the change or addition.

6 (6) Notwithstanding any other provision of law, the director
7 may deny an application for a construction permit if there are
8 any listings pursuant to subsection (4)(b), (c), or (d) as origi-
9 nally disclosed or as supplemented. IN ADDITION, THE DIRECTOR
10 SHALL DENY AN APPLICATION FOR A CONSTRUCTION PERMIT IF THE APPLI-
11 CANT HAS BEEN CONVICTED OF A CRIMINAL VIOLATION OR CIVIL VIOLA-
12 TION OF ANY ENVIRONMENTAL STATUTE ENACTED BY A FEDERAL, STATE,
13 CANADIAN, OR PROVINCIAL AGENCY.

14 (7) A person may indicate an interest in being placed on a
15 department organized mailing list to be kept informed of any
16 rules, plans, construction permit applications, contested case
17 hearings, public hearings, or other information or procedures
18 relating to the administration of this act. A charge may be
19 required by the director to cover the cost of the materials.

20 (8) There is created within the state treasury a revolving
21 fund. When a site construction permit application is referred to
22 a site review board by the director, the applicant shall pay a
23 \$25,000.00 fee to be placed in this fund. The \$25,000.00 fee
24 shall be in addition to the application fee required under sub-
25 section (3). This fund shall cover the expenses of the site
26 review board members, the chairperson, a mediator, and any other
27 expenses necessary to the deliberations of the board. The

1 director or an authorized representative of the director shall
2 administer the fund and authorize expenditures. The director or
3 an authorized representative of the director shall maintain
4 records to support any expenses charged to the fund. If expenses
5 payable from the fund exceed the \$25,000.00 fee paid by the
6 applicant, the additional expenses shall be paid from money
7 appropriated by the legislature to the revolving fund created in
8 this subsection. Any unexpended portion of an applicant's
9 \$25,000.00 fee that is not expended to pay the expenses listed in
10 this subsection shall be reimbursed to the applicant after the
11 site review board process is concluded.

12 (9) An application for a site construction permit ~~shall~~ IS
13 not ~~be~~ complete unless it includes a copy of a newspaper notice
14 ~~which~~ THAT the applicant published at least 30 days ~~prior to~~
15 BEFORE submittal of the application in a newspaper having major
16 circulation in the municipality and the immediate vicinity of the
17 proposed treatment, storage, or disposal facility. The required
18 published notice shall contain a map indicating the location of
19 the proposed treatment, storage, or disposal facility and infor-
20 mation on the nature and size of the proposed facility. In addi-
21 tion, the notice shall contain all of the following information
22 provided by the director or an authorized representative of the
23 director:

24 (a) A description of the application review process.

25 (b) The location where the complete application package may
26 be reviewed.

1 (c) ~~How~~ AN EXPLANATION OF HOW copies of the complete
2 application package may be obtained.

3 (10) An applicant for a construction permit for a treatment,
4 storage, or disposal facility shall calculate the applicable con-
5 struction permit application fee required under subsection (3) by
6 totaling the following for each construction permit application:

7 (a) For a landfill, surface impoundment, land
8 treatment, or waste pile facility.....\$9,000.00

9 (b) For an incinerator or treatment facility other
10 than a treatment facility in subdivision (a).....\$7,200.00

11 (c) For a storage facility, other than storage that
12 is associated with treatment or disposal activities that
13 may be regulated under a single permit.....\$ 500.00

14 (d) For the permitted site size of a landfill, surface
15 impoundment, land treatment, or waste pile facility, except waste
16 piles meeting the requirements of 40 C.F.R. 264.250(c), the
17 following:

18 (i) Less than 5 acres..... \$100.00

19 (ii) 5 to 19 acres..... \$170.00

20 (iii) 20 to 79 acres..... \$240.00

21 (iv) 80 acres or more..... \$320.00

22 (e) For the permitted site size of a treatment or storage
23 facility, other than a facility listed in subdivision (d), the
24 following:

25 (i) Less than 5 acres..... \$ 50.00

1 (ii) 5 to 19 acres..... \$100.00
 2 (iii) 20 to 79 acres..... \$100.00
 3 (iv) 80 acres or more..... \$100.00
 4 (f) For the projected waste volume per day for a landfill,
 5 surface impoundment, land treatment, or waste pile facility,
 6 except waste piles meeting the requirement of 40
 7 C.F.R. 264.250(c), the following:
 8 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 60.00
 9 (ii) 50 to 100 cubic yards or 10,000 to 20,000
 10 gallons..... \$ 80.00
 11 (iii) 101 to 700 cubic yards or ~~20,000~~ 20,001 to
 12 140,000 gallons..... \$100.00
 13 (iv) More than 700 cubic yards or ~~more than~~
 14 140,000 gallons..... \$130.00
 15 (g) For the projected waste volume per day for a treatment
 16 or storage facility, other than a facility listed in
 17 subdivision (f), the following:
 18 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 50.00
 19 (ii) 50 to 100 cubic yards or 10,000 to 20,000
 20 gallons..... \$100.00
 21 (iii) 101 to 700 cubic yards or ~~20,000~~ 20,001 to
 22 140,000 gallons..... \$100.00
 23 (iv) More than 700 cubic yards or ~~more than~~
 24 140,000 gallons..... \$150.00
 25 (h) For the hydrogeological characteristics of a landfill,
 26 surface impoundment, land treatment, or waste pile facility,

1 except waste piles meeting the requirements of 40
2 C.F.R. 264.250(c), the following:

3	(i) Natural clay.....	\$ 40.00
4	(ii) Natural sand.....	\$ 60.00
5	(iii) Compacted clay.....	\$ 70.00
6	(iv) Artificially lined (other materials).....	\$100.00
7	(v) Any combination of the above.....	\$100.00
8	(i) For the hydrogeological characteristics of sur-	
9	face water in a treatment or storage facility, other than	
10	a facility listed in subdivision (h).....	\$ 75.00