

# HOUSE BILL No. 4503

March 7, 1991, Introduced by Reps. Alley, Middaugh, Bartnik, Weeks, Rocca, Owen, Ostling, Trim, Hoekman, London, Harder and Van Singel and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 1, 2, 2a, 4, 5, 5a, 5b, 6, 6a, 6b, 7, 8, 9, 10, 12, and 12a of Act No. 245 of the Public Acts of 1929, entitled as amended

"An act to regulate, protect, and conserve the water resources of the state, to provide for the control over the pollution of any waters of the state and the Great Lakes, to provide for the control over the alteration of the watercourses and the floodplains of all rivers and streams; to create a water resources commission; to prescribe the powers and duties of certain state agencies and officials; to require the registration of manufacturing products, production materials, and waste products where certain wastes are discharged; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the department of natural resources as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties and remedies for the violation of this act,"

1       Section 1. The title and sections 1, 2, 2a, 4, 5, 5a, 5b,  
2 6, 6a, 6b, 7, 8, 9, 10, 12, and 12a of Act No. 245 of the Public  
3 Acts of 1929, sections 2, 2a, 4, 5a, 5b, 6, 6a, 6b, 7, 8, 9, and  
4 10 as amended by Act No. 19 of the Public Acts of 1990, being  
5 sections 323.1, 323.2, 323.2a, 323.4, 323.5, 323.5a, 323.5b,  
6 323.6, 323.6a, 323.6b, 323.7, 323.8, 323.9, 323.10, 323.12, and  
7 323.12a of the Michigan Compiled Laws, are amended and sections  
8 1a and 14 are added to read as follows:

10 An act to regulate, protect, and conserve the water  
11 resources of the state, to provide for the control over the pol-  
12 lution of any waters of the state and the Great Lakes, to provide  
13 for the control over the alteration of the watercourses and the  
14 floodplains of all rivers and streams; ~~to create a water~~  
15 ~~resources commission;~~ to prescribe the powers and duties of cer-  
16 tain state agencies and officials; to require the registration of  
17 manufacturing products, production materials, and waste products  
18 where certain wastes are discharged; to require permits to regu-  
19 late the discharge or storage of any substance which may affect  
20 the quality of the waters of the state and to establish

1 restrictions to assure compliance with applicable state standards  
2 and to authorize the establishment of permit restrictions and  
3 programs to assure compliance with applicable federal law and  
4 regulations; to prohibit the pollution of any waters of the state  
5 and the Great Lakes; to prohibit the obstruction of the floodways  
6 of the rivers and streams of the state; to designate the DIRECTOR  
7 OF THE department of natural resources ~~as the state agency~~ to  
8 cooperate and negotiate with other governments and agencies in  
9 matters concerning the water resources of the state; and to pro-  
10 vide penalties and remedies for the violation of this act.

11       Sec. 1. ~~For the purpose of carrying out this~~ THIS act ~~a~~  
12 SHALL BE KNOWN AND MAY BE CITED AS THE "water QUALITY ACT".  
13 ~~resources commission, hereinafter referred to as the commission,~~  
14 ~~is created which shall consist of the director of the department~~  
15 ~~of natural resources, the director of the department of public~~  
16 ~~health, the director of the department of state highways, the~~  
17 ~~director of the department of agriculture, and 3 citizens of the~~  
18 ~~state to be appointed by the governor, by and with the advice and~~  
19 ~~consent of the senate, 1 from groups representative of industrial~~  
20 ~~management, 1 from groups representative of municipalities, and 1~~  
21 ~~from groups representative of conservation associations or inter-~~  
22 ~~ests, for terms of 3 years each. Vacancies shall be filled for~~  
23 ~~the unexpired term in the same manner as original appointments.~~  
24 ~~Members of the commission shall be entitled to actual and neces-~~  
25 ~~sary expenses incurred in the performance of official duties.~~  
26 ~~The department of administration shall provide suitable office~~  
27 ~~facilities for the use of the commission.~~

1 ~~Each of the state officers may designate a representative~~  
2 ~~from his department to serve in his stead as a member of the com-~~  
3 ~~mission for 1 or more meetings.~~

4 SEC. 1A. AS USED IN THIS ACT:

5 (A) "COMMISSION" MEANS THE COMMISSION OF NATURAL RESOURCES.

6 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

7 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS  
8 OR HER DESIGNEE.

9 (D) "MUNICIPALITY" MEANS THE STATE, A COUNTY, CITY, VILLAGE,  
10 OR TOWNSHIP, OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, A  
11 COUNTY, CITY, VILLAGE, OR TOWNSHIP.

12 (E) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
13 MUNICIPALITY, ASSOCIATION, OR OTHER LEGAL ENTITY.

14 (F) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-  
15 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF  
16 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED  
17 LAWS.

18 (G) "WATERS OF THE STATE" MEANS GROUNDWATERS, LAKES, RIVERS,  
19 STREAMS, AND ALL OTHER WATERCOURSES AND BODIES OF WATER WITHIN  
20 THE CONFINES OF THE STATE AND ALSO INCLUDES THE GREAT LAKES BOR-  
21 DERING THE STATE.

22 Sec. 2. ~~(1) The commission shall organize and make its own~~  
23 ~~rules and procedure and shall meet not less than once each month~~  
24 ~~and shall keep a record of its proceedings. The commission~~  
25 DIRECTOR shall protect and conserve the water resources of the  
26 state and shall have control of the pollution of surface or  
27 underground waters of the state and the Great Lakes, ~~which~~ THAT

1 are or may be affected by waste disposal of ~~municipalities,~~  
2 ~~industries, public or private corporations, individuals, partner-~~  
3 ~~ship associations, or any other entity~~ ANY PERSON. The  
4 ~~commission~~ DIRECTOR may make or cause to be made surveys,  
5 studies, and investigations of the uses of waters of the state,  
6 both surface and underground, and cooperate with other govern-  
7 ments, and governmental units and agencies in making the surveys,  
8 studies, and investigations. The ~~commission~~ DIRECTOR shall  
9 assist in an advisory capacity a flood control district ~~which~~  
10 THAT may be authorized by the legislature. The ~~commission~~  
11 DIRECTOR in the public interest shall appear and present evi-  
12 dence, reports, and other testimony during the hearings involving  
13 the creation and organization of flood control districts. The  
14 ~~commission~~ DIRECTOR shall advise and consult with the legisla-  
15 ture on the obligation of the state to participate in the costs  
16 of construction and maintenance as provided for in the official  
17 plans of a flood control district or intercounty drainage  
18 district. The ~~commission~~ DIRECTOR shall enforce this act.  
19 ~~and shall promulgate rules as considered necessary to carry out~~  
20 ~~its duties under this act.~~

21 ~~-(2) The business which the commission may perform shall be~~  
22 ~~conducted at a public meeting of the commission held in compli-~~  
23 ~~ance with the open meetings act, Act No. 267 of the Public Acts~~  
24 ~~of 1976, being sections 15.261 to 15.275 of the Michigan Compiled~~  
25 ~~Laws. Public notice of the time, date, and place of the meeting~~  
26 ~~shall be given in the manner required by Act No. 267 of the~~  
27 ~~Public Acts of 1976.~~

1       ~~(3) A writing prepared, owned, used, in the possession of,~~  
 2 ~~or retained by the commission in the performance of an official~~  
 3 ~~function shall be made available to the public in compliance with~~  
 4 ~~the freedom of information act, Act No. 442 of the Public Acts of~~  
 5 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled~~  
 6 ~~Laws.~~

7       Sec. 2a. (1) The ~~department is designated the state agency~~  
 8 ~~to~~ DIRECTOR SHALL cooperate and negotiate with other govern-  
 9 ments, governmental units, and governmental agencies in matters  
 10 concerning the water resources of the state, including but not  
 11 limited to flood control, beach erosion control, and water qual-  
 12 ity control planning, development, and management. The  
 13 ~~department~~ DIRECTOR shall have control over the alterations of  
 14 natural or present watercourses of all rivers and streams in the  
 15 state to assure that the channels and the portions of the flood-  
 16 plains that are the floodways are not inhabited and are kept free  
 17 and clear of interference or obstruction ~~which~~ THAT will cause  
 18 any undue restriction of the capacity of the floodway. The  
 19 ~~department~~ DIRECTOR may take such steps as may be necessary to  
 20 take advantage of any act of congress that may be of assistance  
 21 in carrying out the purposes of this act including the water  
 22 resources planning act, Public Law 89-80, ~~as amended,~~  
 23 42 U.S.C. 1962 to 1962-1 and 1962a to 1962d-3 and the federal  
 24 water pollution control act, ~~as amended,~~ chapter 758, 86  
 25 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257,  
 26 1258 to 1263, 1265 to ~~1268~~ 1270, 1281, 1282 to 1293, 1294 to

1 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345,  
2 1361 to 1377, and 1381 to 1387.

3 (2) The ~~department~~ DIRECTOR shall report to the governor  
4 and to the legislature at least once in each year any plans or  
5 projects being carried on or considered and shall include in the  
6 report requests for any legislation needed to carry out any pro-  
7 posed projects or agreements made necessary thereby, together  
8 with any requests for appropriations. The ~~department~~ DIRECTOR  
9 may make recommendations to the governor on the designation of  
10 areawide water quality planning regions and organizations rela-  
11 tive to the governor's responsibilities under the federal water  
12 pollution control act.

13 (3) IN ADMINISTERING THIS ACT, THE DIRECTOR SHALL ACTIVELY  
14 SEEK THE ADVICE OF, AND SHALL CONSULT WITH, THE DEPARTMENTS OF  
15 PUBLIC HEALTH, TRANSPORTATION, AND AGRICULTURE ON APPROPRIATE  
16 ISSUES. THE DIRECTOR MAY ENTER INTO A MEMORANDUM OF UNDERSTAND-  
17 ING WITH 1 OR MORE OF THE DIRECTORS OF THE DEPARTMENTS OF PUBLIC  
18 HEALTH, TRANSPORTATION, OR AGRICULTURE THAT FURTHER DEFINES THE  
19 NATURE AND PROCEDURES FOR IMPLEMENTING THIS COOPERATIVE  
20 RELATIONSHIP.

21 Sec. 4. The ~~department or any agent appointed by the~~  
22 ~~department~~ DIRECTOR may enter at all reasonable times in or upon  
23 any private or public property for the purpose of inspecting and  
24 investigating conditions relating to the pollution of any waters  
25 and the obstruction of the floodways of the rivers and streams of  
26 this state. The ~~department~~ DIRECTOR may call upon any officer,  
27 board, department, school, university, or other state institution

1 and the officers or employees thereof for any assistance  
2 considered necessary to the carrying out of this act.

3       Sec. 5. (1) The commission shall PROMULGATE RULES THAT  
4 establish ~~such~~ pollution standards for ~~lakes, rivers, streams~~  
5 ~~and other~~ THE waters of the state in relation to the public use  
6 to which they are or may be put, as it ~~shall deem~~ CONSIDERS  
7 necessary. ~~It~~

8       (2) THE DIRECTOR shall issue permits ~~which~~ THAT will  
9 assure compliance with state standards to regulate municipal,  
10 industrial, and commercial discharges or storage of any substance  
11 ~~which~~ THAT may affect the quality of the waters of the state.  
12 ~~It~~ THE DIRECTOR may set permit restrictions ~~which~~ THAT will  
13 assure compliance with applicable federal law and regulations.  
14 ~~It~~ THE DIRECTOR may ascertain and determine for record and in  
15 ~~making its~~ ISSUING A PERMIT OR order what volume of water actu-  
16 ally flows in all streams, and the high and low water marks of  
17 lakes and other waters of the state, affected by the waste dis-  
18 posal or pollution of ~~municipalities, industries, public and~~  
19 ~~private corporations, individuals, partnership associations or~~  
20 ~~any other entity.~~ ~~It~~ ALL PERSONS.

21       (3) THE COMMISSION may ~~make~~ PROMULGATE rules and THE  
22 DIRECTOR MAY ISSUE PERMITS OR orders restricting the polluting  
23 content of any waste material or polluting substance discharged  
24 or sought to be discharged into ~~any lake, river, stream or~~  
25 ~~other~~ THE waters of the state. ~~It~~

26       (4) THE DIRECTOR MAY HOLD A PUBLIC HEARING PRIOR TO MAKING A  
27 DECISION ON AN APPLICATION FOR A PERMIT UNDER THIS ACT. THE



1 DIRECTOR SHALL HOLD A PUBLIC HEARING UPON THE REQUEST OF 1 OR  
2 MORE PERSONS.

3 (5) ALL PERMIT DECISIONS MADE BY THE DIRECTOR UNDER THIS ACT  
4 SHALL BE IN WRITING AND SHALL CONTAIN A RATIONALE FOR THE  
5 DECISION.

6 (6) THE DIRECTOR shall take all appropriate steps to prevent  
7 any pollution ~~which is deemed by the commission~~ THAT HE OR SHE  
8 CONSIDERS to be unreasonable and against public interest in view  
9 of the existing conditions in any ~~lake, river, stream or other~~  
10 OF THE waters of the state.

11 Sec. 5a. The ~~department~~ COMMISSION may promulgate rules  
12 ~~and issue orders~~ for the prevention of harmful interference  
13 with the discharge and stage characteristics of streams.

14 (2) The ~~department~~ DIRECTOR may ascertain and determine  
15 for record and in ~~making its~~ ISSUING A PERMIT OR order the  
16 location and extent of floodplains, stream beds, and channels and  
17 the discharge and stage characteristics of streams at various  
18 times and circumstances.

19 Sec. 5b. A person shall not occupy or permit the occupation  
20 for residential, commercial, or industrial purposes of lands or  
21 ~~to~~ fill or grade or permit the filling or grading for any pur-  
22 poses other than agricultural, of lands in the floodplains,  
23 stream bed, or channel of any stream, as ascertained and deter-  
24 mined for record by the ~~department~~ DIRECTOR, or ~~to~~ undertake  
25 or engage in any activity on or with respect to the ~~lands which~~  
26 LAND THAT is determined by the ~~department~~ DIRECTOR to harmfully  
27 interfere with the discharge or stage characteristics of a

1 stream, unless the occupation, filling, grading, or other  
2 activity is permitted by an order or ~~rule of the department or~~  
3 ~~by~~ a valid permit issued by the ~~department~~ DIRECTOR under the  
4 provisions of law OR A RULE PROMULGATED UNDER THIS ACT.

5       Sec. 6. (1) ~~It shall be unlawful for any~~ A person SHALL  
6 NOT directly or indirectly ~~to~~ discharge into the waters of the  
7 state any substance which is or may become injurious to the  
8 public health, safety, or welfare; or which is or may become  
9 injurious to domestic, commercial, industrial, agricultural, rec-  
10 reational, or other uses ~~which~~ THAT are being or may be made of  
11 ~~such~~ THE waters OF THE STATE; or which is or may become injuri-  
12 ous to the value or utility of riparian lands; or which is or may  
13 become injurious to livestock, wild animals, birds, fish, aquatic  
14 life, or plants or the growth or propagation thereof be prevented  
15 or injuriously affected; or whereby the value of fish and game is  
16 or may be destroyed or impaired.

17       (2) The discharge of any raw sewage of human origin,  
18 directly or indirectly into any of the waters of the state shall  
19 be considered prima facie evidence of a violation of this act by  
20 the municipality in which the discharge originated unless the  
21 discharge ~~shall have been permitted~~ WAS AUTHORIZED by an order  
22 ~~or rule of the commission~~ OR PERMIT ISSUED UNDER THIS ACT, OR A  
23 RULE PROMULGATED UNDER THIS ACT. If the discharge is not the  
24 subject of a valid permit issued by the ~~commission~~ DIRECTOR, a  
25 municipality responsible for the discharge may be subject to the  
26 remedies provided in section 10. If the discharge is the subject  
27 of a valid permit issued by the ~~commission~~ DIRECTOR pursuant to

1 section 7, and is in violation of that permit, a municipality  
2 responsible for the discharge ~~shall be~~ IS subject to the penal-  
3 ties prescribed in section 10.

4 (3) Unless authorized by permit ~~or~~ OR order ISSUED UNDER  
5 THIS ACT, or A rule ~~of the commission or the department~~  
6 PROMULGATED UNDER THIS ACT, the discharge into the waters of this  
7 state of any medical waste, as defined in part 138 of the public  
8 health code, Act No. 368 of the Public Acts of 1978, being sec-  
9 tions 333.13801 to 333.13831 of the Michigan Compiled Laws,  
10 ~~shall be~~ IS prima facie evidence of a violation of this act and  
11 ~~shall subject~~ SUBJECTS the person responsible to the penalties  
12 prescribed in section 10.

13 (4) A violation of this section ~~shall be~~ IS prima facie  
14 evidence of the existence of a public nuisance and in addition to  
15 the remedies provided for in this act may be abated according to  
16 law in an action brought by the attorney general in a court of  
17 competent jurisdiction.

18 Sec. 6a. (1) Every industrial or commercial entity that  
19 discharges liquid wastes into any surface water or groundwater or  
20 underground or on the ground other than through a public sanitary  
21 sewer shall have waste treatment or control facilities under the  
22 specific supervision and control of persons who have been certi-  
23 fied by the ~~department~~ DIRECTOR as properly qualified to oper-  
24 ate the facilities. The ~~department~~ DIRECTOR shall examine all  
25 supervisory personnel having supervision and control of the  
26 facilities and certify the persons properly qualified to operate  
27 or supervise the facilities.

1       (2) The ~~department~~ DIRECTOR may conduct a program for  
2 training persons seeking to be certified as operators or supervi-  
3 sors under subsection (1) or seeking to be certified as operators  
4 or supervisors of municipal wastewater treatment facilities UNDER  
5 ACT NO. 98 OF THE PUBLIC ACTS OF 1913, BEING SECTIONS 325.201 TO  
6 325.214 OF THE MICHIGAN COMPILED LAWS. The ~~department~~  
7 DIRECTOR, with the annual approval of the commission, may charge  
8 a fee based on the costs to the department of operating the  
9 training program. The fees shall be deposited in the state trea-  
10 sury and credited to a separate fund and used to conduct the  
11 training program. Any unexpended fees collected pursuant to this  
12 subsection, along with any excess collections from prior fiscal  
13 years, shall be carried over into subsequent fiscal years and  
14 shall be available for appropriation for the purposes of conduct-  
15 ing the program described in this subsection.

16       (3) A person certified as required by subsection (1) shall  
17 file monthly, or at such longer intervals as the ~~commission~~  
18 DIRECTOR may designate, on forms provided by the ~~commission~~  
19 DIRECTOR, reports showing the effectiveness of the treatment or  
20 control facility operation and the quantity and quality of liquid  
21 wastes ~~so~~ discharged. A person who knowingly makes a false  
22 statement in a report may have his or her certificate as an  
23 approved treatment facility operator revoked.

24       (4) This section ~~shall~~ DOES not apply to water, gas, or  
25 other material ~~which~~ THAT is injected into a well to facilitate  
26 production of oil or gas, or water derived in association with  
27 oil or gas production and disposed of in a well, if the well is

1 used either to facilitate production or for disposal purposes and  
2 is under permit by the state supervisor of wells.

3       Sec. 6b. Every person, doing business within this state  
4 discharging wastewater to the waters of the state or to any sewer  
5 system, which contains wastes in addition to sanitary sewage  
6 shall file annually reports on forms provided by the ~~department~~  
7 DIRECTOR setting forth the nature of the enterprise, indicating  
8 the quantities of materials used in and incidental to its manu-  
9 facturing processes and including by-products and waste products,  
10 ~~which~~ THAT appear on a register of critical materials as com-  
11 piled by the ~~department~~ DIRECTOR with the advice of an advisory  
12 committee of environmental specialists designated by the  
13 ~~department~~ DIRECTOR and the estimated annual total number of  
14 gallons of wastewater including but not limited to process and  
15 cooling water to be discharged to the waters of the state or to  
16 any sewer system. The information shall be used by the  
17 ~~department~~ DIRECTOR only for purposes of water pollution  
18 control. The ~~department~~ DIRECTOR shall provide proper and ade-  
19 quate facilities and procedures to safeguard the confidentiality  
20 of manufacturing proprietary processes except that confidential-  
21 ity shall not extend to waste products discharged to the waters  
22 of the state. Operations of a business or industry ~~which~~ THAT  
23 violate this section may be enjoined by action commenced by the  
24 attorney general, in a court of competent jurisdiction. The  
25 ~~department~~ COMMISSION shall promulgate rules as it considers  
26 necessary to effectuate the administration of this section,

1 including ~~where~~ IF necessary to meet special circumstances,  
2 reporting more frequently than annually.

3       Sec. 7. (1) A person shall not discharge any waste or waste  
4 effluent into the waters of this state unless the person is in  
5 possession of a valid permit from the ~~commission~~ DIRECTOR.  
6 Compliance with the terms of an outstanding PERMIT, order of  
7 determination, or final order of determination or stipulation  
8 with the FORMER WATER RESOURCES commission that is in effect on  
9 April 15, 1973, ~~shall be considered to meet~~ MEETS the require-  
10 ments of this section until the ~~commission~~ DIRECTOR issues  
11 ~~its~~ A permit. The ~~commission~~ DIRECTOR shall condition the  
12 continued validity of a permit upon the permittee's accomplish-  
13 ment of ~~such~~ THE effluent requirements ~~as~~ THAT the  
14 ~~commission~~ DIRECTOR considers necessary to prevent unlawful  
15 pollution by ~~such~~ THE dates ~~as~~ THAT the ~~commission~~ DIRECTOR  
16 considers to be reasonable and necessary and to assure compliance  
17 with applicable federal law and regulations. If the ~~commission~~  
18 DIRECTOR finds that the terms of a permit have been, are being,  
19 or may be violated, ~~it~~ THE DIRECTOR may modify, suspend, or  
20 revoke the permit or grant the permittee a reasonable period of  
21 time in which to comply with the permit. The ~~commission~~  
22 DIRECTOR may reissue a revoked permit upon a showing satisfactory  
23 to the ~~commission~~ DIRECTOR that the permittee has corrected the  
24 violation. A person who has had a permit revoked may apply for a  
25 new permit.

26       (2) Whenever ~~in the opinion of~~ the ~~department~~ DIRECTOR  
27 DETERMINES THAT a person is causing or is about to cause unlawful

1 pollution of the waters of ~~this~~ THE state, the ~~department~~  
2 DIRECTOR may notify the alleged offender of ~~its~~ HIS OR HER  
3 determination and enter an order requiring the person to abate  
4 the pollution or refer the matter to the attorney general for  
5 legal action, or both.

6 (3) A person who is aggrieved by an order of abatement of  
7 the ~~department~~ DIRECTOR or by the reissuance, modification,  
8 suspension, or revocation of an existing permit of the  
9 ~~commission~~ DIRECTOR executed pursuant to section 7 may file a  
10 sworn petition with the ~~department or the~~ commission, ~~as~~  
11 ~~appropriate,~~ setting forth the grounds and reasons for the com-  
12 plaint and asking for a contested case hearing on the matter pur-  
13 suant to the administrative procedures act of 1969, Act No. 306  
14 of the Public Acts of 1969, being sections 24.201 to 24.328 of  
15 the Michigan Compiled Laws. A petition filed more than 60 days  
16 after action on the order or permit may be rejected by the  
17 ~~department or~~ commission as being untimely.

18 Sec. 8. (1) A person who seeks a new or increased use of  
19 the waters of the state for sewage or other waste disposal pur-  
20 poses shall file with the ~~commission~~ DIRECTOR an application  
21 setting forth the information required by the ~~commission~~  
22 DIRECTOR, including the nature of the enterprise or development  
23 contemplated, the amount of water required to be used, its  
24 source, the proposed point of discharge of the wastes into the  
25 waters of the state, the estimated amount to be discharged, and a  
26 statement setting forth the expected bacterial, physical,  
27 chemical, and other known characteristics of the wastes.

1 (2) Within 180 days after receipt of a complete application,  
2 the ~~commission~~ DIRECTOR shall either grant or deny a permit,  
3 unless the applicant and the ~~commission~~ DIRECTOR agree to  
4 extend this time period. If granted, the ~~commission~~ DIRECTOR  
5 shall condition the permit upon ~~such~~ THE restrictions ~~in the~~  
6 ~~judgment of~~ THAT the ~~commission, as may be~~ DIRECTOR DETERMINES  
7 ARE necessary to adequately guard against unlawful uses of the  
8 waters of the state as are set forth in section 6.

9 (3) If the permit or denial of a new or increased use is not  
10 acceptable to the permittee, the applicant or any other person,  
11 the permittee, the applicant, or other person may file a sworn  
12 petition with the commission setting forth the grounds and rea-  
13 sons for the complaint and asking for a contested case hearing on  
14 the matter pursuant to the administrative procedures act of 1969,  
15 Act No. 306 of the Public Acts of 1969, being sections 24.201 to  
16 24.328 of the Michigan Compiled Laws. A petition filed more than  
17 60 days after action on the permit application may be rejected by  
18 the commission as being untimely.

19 Sec. 9. An employee of the department or an employee of  
20 another governmental agency appointed by the ~~department~~  
21 DIRECTOR may, with the concurrence of the ~~department~~ DIRECTOR,  
22 enforce this act and may make a criminal complaint against any  
23 person violating this act.

24 Sec. 10. (1) The ~~department or the commission~~ DIRECTOR  
25 may request the attorney general to commence a civil action for  
26 appropriate relief, including a permanent or temporary  
27 injunction, for a violation of this act, A RULE PROMULGATED UNDER



1 THIS ACT, or ~~the provisions of~~ a permit, order, ~~rule,~~ or  
2 stipulation of the ~~department or the commission~~ DIRECTOR. An  
3 action under this subsection may be brought in the circuit court  
4 for the county of Ingham or for the county in which the defendant  
5 is located, resides, or is doing business. The court has juris-  
6 diction to restrain the violation and to require compliance. In  
7 addition to any other relief granted under this subsection, the  
8 court shall impose a civil fine of not less than \$2,500.00 and  
9 may award reasonable attorney fees and costs to the prevailing  
10 party. However, the maximum fine imposed by the court shall be  
11 not more than \$25,000.00 per day of violation.

12 (2) A person who at the time of the violation, knew or  
13 should have known that he or she discharged a substance contrary  
14 to this act OR A RULE PROMULGATED UNDER THIS ACT, or contrary to  
15 ~~the provisions of~~ a permit, order, ~~rule,~~ or stipulation of  
16 the ~~department or the commission~~ DIRECTOR, or who intentionally  
17 makes a false statement, representation, or certification in an  
18 application for, or form pertaining to a permit, or in a notice  
19 or report required by the terms and conditions of an issued  
20 permit, or who intentionally renders inaccurate a monitoring  
21 device or record required to be maintained by the ~~commission~~  
22 DIRECTOR, is guilty of a felony and shall be fined not less than  
23 \$2,500.00 or more than \$25,000.00 for each violation. The court  
24 may impose an additional fine of not more than \$25,000.00 for  
25 each day during which the unlawful discharge occurred. If the  
26 conviction is for a violation committed after a first conviction  
27 of the person under this subsection, the court shall impose a

1 fine of not less than \$25,000.00 per day and not more than  
2 \$50,000.00 per day of violation. Upon conviction, in addition to  
3 a fine, the court in its discretion may sentence the defendant to  
4 imprisonment for not more than 2 years or impose probation upon a  
5 person for a violation of this act. With the exception of the  
6 issuance of criminal complaints, issuance of warrants, and the  
7 holding of an arraignment, the circuit court for the county in  
8 which the violation occurred has exclusive jurisdiction.

9 However, the person ~~shall~~ IS not ~~be~~ subject to the penalties  
10 of this subsection if the discharge of the effluent is in con-  
11 formance with and obedient to a rule ~~of~~ PROMULGATED UNDER THIS  
12 ACT OR AN order ~~of~~ or permit of the ~~commission~~ DIRECTOR. In  
13 addition to a fine, the attorney general may file a civil suit in  
14 a court of competent jurisdiction to recover the full value of  
15 the injuries done to the natural resources of the state and the  
16 costs of surveillance and enforcement by the state resulting from  
17 the violation.

18 (3) Upon a finding by the court that the actions of a civil  
19 defendant pose or posed a substantial endangerment to public  
20 health, safety, or welfare, the court shall impose, in addition  
21 to the penalties set forth in subsection (1), a fine of not less  
22 than \$500,000.00 and not more than \$5,000,000.00.

23 (4) Upon a finding by the court that the action of a crimi-  
24 nal defendant pose or posed a substantial endangerment to public  
25 health, safety, or welfare, the court shall impose, in addition  
26 to the penalties set forth in subsection (2), a fine of not less

1 than \$1,000,000.00 and, in addition to a fine, a sentence of  
2 5 years' imprisonment.

3 (5) To find a defendant civilly or criminally liable for  
4 substantial endangerment under subsections (3) and (4), the court  
5 shall determine that the defendant knowingly or recklessly acted  
6 in such a manner as to cause a danger of death or serious bodily  
7 injury and that either of the following has occurred:

8 (a) The defendant had an actual awareness, or belief, or  
9 understanding, that his or her conduct would cause a substantial  
10 danger of death or serious bodily injury.

11 (b) The defendant acted in gross disregard of the standard  
12 of care which any reasonable person should observe in similar  
13 circumstances.

14 (6) Knowledge possessed by a person other than the defendant  
15 under subsection (5) may be attributable to the defendant if the  
16 defendant took affirmative steps to shield himself or herself  
17 from the relevant information.

18 (7) Any fine or other award ordered paid pursuant to this  
19 section shall do both of the following:

20 (a) Be payable to the state of Michigan and credited to the  
21 general fund.

22 (b) Constitute a lien on any property, of any nature or  
23 kind, owned by the defendant.

24 (8) A lien under subsection (7)(b) shall take effect and  
25 have priority over all other liens and encumbrances except those  
26 filed or recorded prior to the date of judgment only if notice of

1 the lien is filed or recorded as required by state or federal  
2 law.

3 (9) A lien filed or recorded pursuant to subsection (8)  
4 shall be terminated according to the procedures required by state  
5 or federal law within 14 days after the fine or other award  
6 ordered to be paid is paid.

7 (10) In addition to any other method of collection, any fine  
8 or other award ordered paid may be recovered by right of setoff  
9 to any debt owed to the defendant by the state, ~~of Michigan,~~  
10 including the right to a refund of income taxes paid.

11 Sec. 12. This act ~~shall not be construed as repealing~~  
12 DOES NOT REPEAL any of the provisions of the law governing the  
13 pollution of lakes and streams, but ~~shall be held and construed~~  
14 ~~as~~ IS ancillary to and supplementing ~~the same~~ THESE LAWS and  
15 in addition to the laws now in force, except as the same may be  
16 in direct conflict ~~herewith~~ WITH THIS ACT. This act ~~shall not~~  
17 ~~be construed as applying~~ DOES NOT APPLY to copper or iron mining  
18 operations, whereby such operations result in the placement,  
19 removal, use or processing of copper or iron mineral tailings or  
20 copper or iron mineral deposits from such operations being placed  
21 in inland waters on bottom lands owned by or under the control of  
22 the mining company and only water which may contain a minimal  
23 amount of residue as determined by the ~~water resources~~  
24 ~~commission~~ DIRECTOR resulting from such placement, removal, use  
25 or processing being allowed or permitted to escape into public  
26 waters; or applying to the discharge of water from underground

1 iron or copper mining operations subject to a determination by  
2 the ~~water resources commission~~ DIRECTOR.

3       Sec. 12a. ~~The provisions of this act shall be construed~~  
4 ~~as~~ THIS ACT IS supplemental to and in addition to ~~the provi-~~  
5 ~~sions of Act No. 316 of the Public Acts of 1923, as amended,~~  
6 ~~being sections 261.1 to 277.10, inclusive, of the Compiled Laws~~  
7 ~~of 1948~~ THE DRAIN CODE OF 1956, ACT NO. 40 OF THE PUBLIC ACTS OF  
8 1956, BEING SECTIONS 280.1 TO 280.630 OF THE MICHIGAN COMPILED  
9 LAWS; and ~~nothing in~~ this act ~~shall be construed to~~ DOES NOT  
10 amend or repeal any law of ~~the~~ THIS state ~~of Michigan~~ relat-  
11 ing to the public service commission, the department ~~of~~  
12 ~~conservation~~ and the department of PUBLIC health relating to  
13 waters and water structures, or any act or parts of acts not  
14 inconsistent with ~~the provisions of~~ this act.

15       SEC. 14. THE AMENDATORY ACT THAT ADDED THIS SECTION SHALL  
16 NOT BE CONSTRUED TO ALTER THE PROVISIONS OF ANY PERMIT, ORDER,  
17 RULE, OR STIPULATION IN EFFECT ON THE EFFECTIVE DATE OF THIS  
18 SECTION.

19       Section 2. Section 11 of Act No. 245 of the Public Acts of  
20 1929, being section 323.11 of the Michigan Compiled Laws, is  
21 repealed.

22       Section 3. This amendatory act shall not take effect unless  
23 all of the following bills of the 86th Legislature are enacted  
24 into law:

25       (a) House Bill No. 4173.

26       (b) House Bill No. 4177.