

HOUSE BILL No. 4651

March 26, 1991, Introduced by Reps. Scott, Kosteva, Alley, Middaugh and Sikkema and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend 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,"

as amended, being sections 323.1 to 323.12a of the Michigan Compiled Laws, by adding sections 2b, 2c, 2d, 2e, 2f, and 2g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 245 of the Public Acts of 1929, as
2 amended, being sections 323.1 to 323.12a of the Michigan Compiled
3 Laws, is amended by adding sections 2b, 2c, 2d, 2e, 2f, and 2g to
4 read as follows:

5 SEC. 2B. AS USED IN SECTIONS 2C, 2D, 2E, 2F, AND 2G:

6 (A) "ADL" OR "ALLOWABLE DISCHARGE LEVEL" MEANS CONCENTRATION
7 LIMITATIONS FOR DISCHARGES TO GROUNDWATER ESTABLISHED BY THE
8 DIRECTOR PURSUANT TO GUIDELINES ADOPTED BY THE COMMISSION
9 SECTION 2C, OR DIRECTLY ESTABLISHED BY THE COMMISSION.

10 (B) "AQUIFER" MEANS UNDERGROUND WATER-BEARING EARTH MATERI-
11 ALS THROUGH WHICH GROUNDWATER MOVES IN SUFFICIENT QUANTITY TO
12 SERVE AS A SOURCE OF WATER SUPPLY.

13 (C) "CARCINOGEN" MEANS A SUBSTANCE THAT CAUSES AN INCREASED
14 INCIDENCE OF BENIGN OR MALIGNANT NEOPLASMS OR A SUBSTANTIAL
15 DECREASE IN THE LATENCY PERIOD BETWEEN EXPOSURE AND ONSET OF NEO-
16 PLASMS IN AT LEAST 1 MAMMALIAN SPECIES, OR HUMAN BEINGS.
17 EXPOSURE MAY BE ORAL OR DERMAL. EXPOSURE MAY ALSO BE BY INHALA-
18 TION WHEN NEOPLASMS OCCUR AT NONRESPIRATORY SITES OR, IF CONSID-
19 ERED APPROPRIATE BY THE COMMISSION, WHEN NEOPLASMS OCCUR AT RES-
20 PIRATORY SITES. IF THE COMMISSION, ON THE BASIS OF CREDIBLE SCI-
21 ENTIFIC EVIDENCE, DETERMINES THAT THERE IS SIGNIFICANT UNCER-
22 TAINTY REGARDING THE CREDIBILITY, VALIDITY, OR SIGNIFICANCE OF
23 AVAILABLE DATA REGARDING CARCINOGENICITY, IT SHALL REFER THE
24 QUESTION OF CARCINOGENICITY TO EXPERTS IN THE FIELD OF CARCINOGE-
25 NESIS AND SHALL CONSIDER THE RECOMMENDATION OF THOSE EXPERTS IN
26 MAKING A FINAL DETERMINATION.

1 (D) "DISCHARGE" MEANS THE ADDITION OF MATERIALS TO
2 GROUNDWATER FROM A PERSON BY A POINT SOURCE, SEEPAGE, OR PERCOLA-
3 TION THROUGH THE SOIL.

4 (E) "GENOTOXIC TERATOGEN" MEANS A SUBSTANCE THAT IS ALL OF
5 THE FOLLOWING:

6 (i) POSITIVE IN A BATTERY OF TESTS FOR GENE MUTATION, WITH
7 OR WITHOUT METABOLIC ACTIVATION.

8 (ii) ITS GENOTOXIC METABOLITES ARE PLACENTALLY TRANSFERRED
9 IN 1 OR MORE MAMMALIAN SPECIES.

10 (iii) IT ELICITS A TERATOGENIC RESPONSE WHEN ADMINISTERED
11 ORALLY, DERMALLY, OR BY INHALATION IN 1 OR MORE MAMMALIAN
12 SPECIES.

13 (F) "GERM-LINE MUTAGEN" MEANS A SUBSTANCE THAT MAY CAUSE A
14 HERITABLE CHANGE IN THE GENOME OF THE GERMINAL CELLS THROUGH
15 ORAL, DERMAL, OR INHALATION EXPOSURE IN 1 OR MORE MAMMALIAN
16 SPECIES.

17 (G) "GROUNDWATER" MEANS UNDERGROUND WATERS WITHIN THE ZONE
18 OF SATURATION.

19 (H) "HUMAN LIFE CYCLE SAFE CONCENTRATION" MEANS THE HIGHEST
20 CONCENTRATION OF A CHEMICAL ACTING BY A THRESHOLD MECHANISM TO
21 WHICH HUMANS ARE EXPOSED CONTINUOUSLY FOR A LIFETIME THAT IS NOT
22 EXPECTED TO RESULT IN ADVERSE EFFECTS TO AN INDIVIDUAL OR TO THE
23 PROGENY OF AN INDIVIDUAL.

24 (I) "INCREASED CANCER RISK OF 1 IN 1,000,000" MEANS THE 95%
25 UPPER BOUND ON RISK OF 1 ADDITIONAL CANCER ABOVE THE BACKGROUND
26 CANCER RATE PER 1,000,000 INDIVIDUALS EXPOSED.

1 (J) "SECONDARY DRINKING WATER STANDARDS" OR "SDWS" MEANS
2 SDWS ESTABLISHED PURSUANT TO THE SAFE DRINKING WATER ACT, TITLE
3 XIV OF THE PUBLIC HEALTH SERVICE ACT, CHAPTER 373, 88 STAT. 1660,
4 42 U.S.C. 300f TO 300j-3, 300j-4 TO 300j-9, 300j-11, AND 300j-21
5 TO 300j-25, FOR SUBSTANCES THAT MAY ADVERSELY AFFECT THE TASTE,
6 ODOR, COLOR, APPEARANCE, OR THE AESTHETIC QUALITY OF DRINKING
7 WATER.

8 (K) "STANDARD" MEANS A GROUNDWATER QUALITY STANDARD ESTAB-
9 LISHED PURSUANT TO SECTION 2C.

10 (L) "SUBSTANCE" MEANS ANY SOLID, LIQUID, SEMISOLID, DIS-
11 SOLVED SOLID, OR GASEOUS MATERIAL, NATURALLY OCCURRING OR
12 HUMAN-MADE CHEMICAL, PARAMETER FOR MEASUREMENT OF WATER QUALITY,
13 VIRUS OR BIOLOGICAL ORGANISM THAT, IN ITS ORIGINAL FORM, OR AS A
14 METABOLITE OR A DEGRADATION OR WASTE PRODUCT, MAY DECREASE THE
15 QUALITY OF GROUNDWATER.

16 (M) "TOTAL INORGANIC NITROGEN" MEANS THE TOTAL OF AMMONIA
17 PLUS NITRATE PLUS NITRITE, EXPRESSED AS NITROGEN.

18 (N) "USABLE AQUIFER" MEANS AN AQUIFER, OR THAT PORTION OF AN
19 AQUIFER OR AQUIFER SYSTEM, THAT IS CAPABLE OF PROVIDING WATER IN
20 SUFFICIENT QUANTITY AND OF SATISFACTORY QUALITY TO SERVE 1 OR
21 MORE HUMAN USES. USABLE AQUIFERS DO NOT INCLUDE AQUIFERS THAT
22 ARE RESERVOIRS REGULATED BY THE MINERAL WELL ACT, ACT NO. 315 OF
23 THE PUBLIC ACTS OF 1969, BEING SECTIONS 319.211 TO 319.236 OF THE
24 MICHIGAN COMPILED LAWS, OR ACT NO. 61 OF THE PUBLIC ACTS OF 1939,
25 BEING SECTIONS 319.1 TO 319.27 OF THE MICHIGAN COMPILED LAWS.

1 SEC. 2C. (1) THE COMMISSION SHALL ESTABLISH GROUNDWATER
2 QUALITY STANDARDS THAT ARE AT LEAST AS STRINGENT AS ALL OF THE
3 FOLLOWING:

4 (A) THE 1 IN 1,000,000 TOTAL CANCER RISK FOR CARCINOGENS
5 THAT ARE NOT DETERMINED TO CAUSE CANCER BY A THRESHOLD
6 MECHANISM.

7 (B) THE HUMAN LIFE CYCLE SAFE CONCENTRATION FOR SUBSTANCES
8 THAT ARE DETERMINED NOT TO CAUSE CANCER, OR TO BE A GENOTOXIC
9 TERATOGEN OR A GERM LINE MUTAGEN.

10 (C) LEVELS PROTECTIVE OF PUBLIC HEALTH FOR CARCINOGENS
11 DETERMINED TO CAUSE CANCER BY A THRESHOLD MECHANISM.

12 (D) LEVELS PROTECTIVE OF PUBLIC HEALTH FOR SUBSTANCES WHICH
13 ARE A GENOTOXIC TERATOGEN OR A GERM LINE MUTAGEN.

14 (2) IN ESTABLISHING THE GROUNDWATER QUALITY STANDARDS UNDER
15 SUBSECTION (1), THE COMMISSION SHALL UTILIZE THE BEST AVAILABLE
16 DATA AND EXPERTISE.

17 (3) THE COMMISSION SHALL ADOPT GUIDELINES PURSUANT TO THE
18 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
19 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
20 COMPILED LAWS, SETTING FORTH PROCEDURES TO BE USED BY THE DIREC-
21 TOR IN DEVELOPING STANDARDS INCLUDING THE MINIMUM DATA NECESSARY
22 TO DERIVE HUMAN LIFE CYCLE SAFE CONCENTRATIONS OR UPPER BOUNDS ON
23 THE CARCINOGEN RISK VALUES.

24 (4) WHEN DEVELOPING STANDARDS IN ACCORDANCE WITH THE ADOPTED
25 GUIDELINES, THE DIRECTOR SHALL DOCUMENT IN WRITING THE INFORMA-
26 TION AND METHODOLOGY USED, AND THE CONCLUSIONS REACHED IN
27 DETERMINING THE STANDARD. IF ADEQUATE DATA IS NOT AVAILABLE TO

1 DERIVE AN ALLOWABLE DISCHARGE LEVEL, THE DIRECTOR OR THE
2 COMMISSION SHALL REQUIRE THE PERMIT APPLICANT TO PROVIDE THE NEC-
3 ESSARY INFORMATION.

4 SEC. 2D. (1) THE COMMISSION SHALL ESTABLISH ALLOWABLE DIS-
5 CHARGE LEVELS OF SUBSTANCES TO GROUNDWATER IN ACCORDANCE WITH THE
6 FOLLOWING:

7 (A) FOR SUBSTANCES THAT HAVE A SECONDARY DRINKING WATER
8 STANDARD, THE ADL SHALL BE 100% OF THAT ESTABLISHED STANDARD. IF
9 A PARAMETER IN THE ORIGINAL SOURCE OF WATER SUPPLY UNIMPACTED BY
10 DISCHARGE EVENTS OR ACTIVITIES EXCEEDS THE SDWS, THE ADL SHALL BE
11 THE BACKGROUND LEVEL OF THE CONSTITUENT PLUS A 10% INCREASE.

12 (B) FOR SUBSTANCES THAT MEET THE CRITERIA DESCRIBED IN
13 SECTION 2C(1)(B), THE ADL SHALL NOT EXCEED 20% OF THE ESTABLISHED
14 STANDARD.

15 (C) FOR SUBSTANCES THAT MEET THE CRITERIA DESCRIBED IN
16 SECTION 2C(1)(A), THE ADL SHALL NOT EXCEED 10% OF THE ESTABLISHED
17 STANDARD AND THE TOTAL COMBINED CANCER RISK ESTIMATE SHALL NOT
18 EXCEED AN INCREASED CANCER RISK OF 1 IN 1,000,000 RISK LEVEL ON
19 AN ADDITIVE BASIS.

20 (D) FOR SUBSTANCES THAT MEET THE CRITERIA DESCRIBED IN SEC-
21 TION 2C(1)(C) AND (D), THE ADL SHALL NOT EXCEED 10% OF THE ESTAB-
22 LISHED STANDARD.

23 (2) THE COMMISSION MAY ESTABLISH AN ADL FOR A SUBSTANCE THAT
24 IS LOWER THAN THE LEVEL SPECIFIED UNDER SUBSECTION (1) IF THE
25 COMMISSION CONCLUDES THAT A MORE STRINGENT LEVEL IS NECESSARY TO
26 PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE FROM THE
27 INTERACTIVE EFFECTS OF THE SUBSTANCE OR WHERE A GREATER DEGREE OF

1 PROTECTION IS CURRENTLY BEING ACHIEVED OR CAN BE ACHIEVED THROUGH
2 UTILIZATION OF CONTROL MEASURES ALREADY IN PLACE.

3 (3) THE ADL SHALL APPLY TO THE DISCHARGE BEFORE APPLICATION
4 ONTO SOIL OR MIXING WITH GROUNDWATER.

5 (4) EVEN IF ALLOWABLE DISCHARGE LIMITS ARE OR CAN BE MET BY
6 A PERSON, THE COMMISSION MAY DENY A DISCHARGE INTO THE GROUNDWA-
7 TER AT A LOCATION WHERE AN AVAILABLE PUBLIC SANITARY SEWER SYSTEM
8 ABUTS THE PROPERTY AND THE COMMISSION DETERMINES THE PUBLIC SEWER
9 SYSTEM AND THE RECEIVING WASTEWATER TREATMENT PLANT HAVE ADEQUATE
10 CAPACITY AND CAPABILITY TO PROCESS THE SUBSTANCE EITHER WITH OR
11 WITHOUT PRETREATMENT. IF THE COMMISSION DETERMINES THAT THE
12 PUBLIC SEWER SYSTEM AND THE WASTEWATER TREATMENT PLANT HAVE SUCH
13 CAPACITY AND CAPABILITY, THE OWNERS AND OPERATORS OF THESE FACIL-
14 ITIES SHALL BE BOUND BY THE DETERMINATION OF THE COMMISSION.

15 SEC. 2E. THE PROVISIONS OF SECTIONS 2C AND 2D DO NOT APPLY
16 TO AMMONIA, NITRATE, AND NITRITE NITROGEN. THE CONCENTRATION OF
17 TOTAL INORGANIC NITROGEN IN A DISCHARGE TO A USABLE AQUIFER SHALL
18 NOT EXCEED 5.0 MILLIGRAMS PER LITER. THE COMMISSION MAY LOWER
19 THIS LIMIT THROUGH THE PROMULGATION OF RULES IF THE COMMISSION
20 DETERMINES THAT IMPROVED TECHNOLOGY OR MANAGEMENT PRACTICES ARE
21 REASONABLY AVAILABLE.

22 SEC. 2F. THE COMMISSION MAY AUTHORIZE DISCHARGES TO GROUND-
23 WATER THAT DO NOT COMPLY WITH SECTIONS 2C TO 2E IF ANY OF THE
24 FOLLOWING CIRCUMSTANCES EXIST:

25 (A) THE DISCHARGE IS MADE TO THE LAND SURFACE IN A CON-
26 TROLLED MANNER SUCH THAT ADDITIONAL TREATMENT WILL BE PROVIDED BY
27 PLANT OR SOIL UPTAKE OF POLLUTANTS OR THROUGH OTHER SOIL

1 TREATMENT MECHANISMS AS SPECIFIED IN A PERMIT ISSUED BY THE
2 DIRECTOR.

3 (B) THE DISCHARGE IS PART OF A GROUNDWATER CLEANUP ACTIVITY
4 APPROVED BY THE DIRECTOR, OR THE DIRECTOR'S DESIGNATED REPRESENTATIVE AND THE DISCHARGE OCCURS TO CONTAMINATED GROUNDWATER THAT
5 IS BEING TREATED.

7 (C) THE DISCHARGE IS LAWFULLY OCCURRING ON THE EFFECTIVE
8 DATE OF THIS SECTION.

9 SEC. 2G. (1) A PERSON LAWFULLY DISCHARGING TO GROUNDWATER
10 ON THE EFFECTIVE DATE OF THIS SECTION MAY CONTINUE TO DISCHARGE
11 UNTIL THE COMMISSION MAKES A FINAL DECISION ON THE PERSON'S DISCHARGE PERMIT APPLICATION OR THE COMMISSION PROMULGATES RULES
12 THAT DIRECTLY REGULATE THE CLASS OR TYPE OF DISCHARGE.

14 (2) THE COMMISSION MAY ESTABLISH A SCHEDULE IN A PERMIT OR
15 RULE UNDER WHICH A DISCHARGE DESCRIBED IN THIS SECTION SHALL COME
16 INTO COMPLIANCE WITH THIS ACT.