

HOUSE BILL No. 4653

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 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,"

sections 2, 2a, 4, 5a, 5b, 6, 6a, 6b, 7, 8, 9, and 10 as amended by Act No. 19 of the Public Acts of 1990, being sections 323.1, 323.2, 323.2a, 323.4, 323.5, 323.5a, 323.5b, 323.6, 323.6a, 323.6b, 323.7, 323.8, 323.9, 323.10, 323.12, and 323.12a of the Michigan Compiled Laws; to add sections 1a and 14; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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:

TITLE

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 take effect April 15,
23 1992.

24 Section 4. This amendatory act shall not take effect unless
25 Senate Bill No. _____ or House Bill No. _____ (request
26 no. 03121'91) of the 86th Legislature is enacted into law.