

HOUSE BILL No. 5462

January 29, 1992, Introduced by Reps. Alley and Middaugh and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 10a of Act No. 307 of the Public Acts of 1982, entitled as amended
"The environmental response act,"
as added by Act No. 233 of the Public Acts of 1990, being section 299.610a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 10a of Act No. 307 of the Public Acts of
2 1982, as added by Act No. 233 of the Public Acts of 1990, being
3 section 299.610a of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 10a. (1) Except as provided in subsection (3) OR (4),
6 BEGINNING JULY 1, 1991, an owner or operator of a facility who
7 obtains information that there may be a release at that facility
8 shall immediately take appropriate action, consistent with

1 applicable laws and rules promulgated by the department, to do
2 all of the following:

3 (a) Confirm the existence of the release.

4 (b) Determine the nature and extent of the release.

5 (c) Report the release to the department within 24 hours
6 after obtaining knowledge of the release. The requirements of
7 this subdivision shall apply to reportable quantities of hazard-
8 ous substances established pursuant to 40 C.F.R. 302.4 (1989),
9 unless the department establishes through rules alternate or
10 additional reportable quantities as necessary to protect the
11 public health, safety, or welfare, or the environment. WITHIN 10
12 WORKING DAYS AFTER THE REPORT UNDER THIS SUBDIVISION IS MADE, THE
13 OWNER OR OPERATOR SHALL SUBMIT A WRITTEN REPORT TO THE DEPARTMENT
14 THAT INCLUDES ALL OF THE FOLLOWING:

15 (i) THE DATE AND TIME THE RELEASE WAS DISCOVERED.

16 (ii) THE EXACT LOCATION OF THE RELEASE.

17 (iii) THE MATERIAL RELEASED INCLUDING CHEMICAL COMPOSITION,
18 IF KNOWN.

19 (iv) THE QUANTITY OF THE RELEASE.

20 (v) THE IMPACTED AND POTENTIALLY IMPACTED RESOURCES.

21 (vi) THE FACILITY CONTACT PERSON AND PHONE NUMBER.

22 (vii). THE CAUSE OF RELEASE.

23 (viii) THE REMEDIAL ACTION UNDERTAKEN OR TO BE UNDERTAKEN.

24 (d) Immediately stop or prevent the release at the source.

25 (e) Immediately identify and eliminate any threat of fire or
26 explosion or any direct contact hazards.

1 (f) Immediately initiate removal of a hazardous substance
2 that is in a liquid phase, that is not dissolved in water, and
3 that has been released.

4 (2) Except as provided in subsection ~~(3)~~ (4), a person
5 that holds an easement interest in a portion of a property that
6 has knowledge that there may be a release within that easement
7 shall report the release to the department within 24 hours after
8 obtaining knowledge of the release. Unless the department estab-
9 lishes through rules alternate or additional reportable quanti-
10 ties as necessary to protect the public health, safety, or wel-
11 fare, or the environment, this subsection shall apply to report-
12 able quantities of hazardous substances established pursuant to
13 40 C.F.R. 302.4 (1989). WITHIN 10 WORKING DAYS AFTER THE REPORT
14 UNDER THIS SUBSECTION IS MADE, THE PERSON MAKING THE REPORT SHALL
15 SUBMIT A WRITTEN REPORT TO THE DEPARTMENT CONTAINING THE INFORMA-
16 TION REQUIRED IN THE WRITTEN REPORT UNDER SUBSECTION (1)(C).

17 (3) THE OWNER OR OPERATOR SHALL REPORT A RELEASE THAT
18 OCCURRED PRIOR TO JULY 1, 1991 TO THE DEPARTMENT BY OCTOBER 1,
19 1991 IF ALL OF THE FOLLOWING EXIST:

20 (A) THE OWNER OR OPERATOR OBTAINED KNOWLEDGE OF THE RELEASE
21 PRIOR TO JULY 1, 1991.

22 (B) THE RELEASE WAS REQUIRED TO BE REPORTED TO THE UNITED
23 STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE COMPREHEN-
24 SIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF
25 1980, PUBLIC LAW 96-510, 94 STAT. 2767, BUT HAS NOT BEEN
26 REPORTED.

1 (4) ~~(3)~~ The requirements of subsections (1), ~~and~~ (2),
2 AND (3) do not apply to a permitted release or a release in
3 compliance with applicable federal, state, and local air pollu-
4 tion control laws.

5 (5) ~~(4)~~ An owner or operator of a facility or a person
6 notified by the department as potentially liable pursuant to
7 section 12, upon written request by the director, shall take the
8 following additional actions:

9 (a) Provide a plan for and undertake interim response
10 activities.

11 (b) Provide a plan for and undertake evaluation activities.

12 (c) Take any other response activity determined by the
13 department to be technically sound and necessary to protect the
14 public health, safety, welfare, or the environment.

15 (d) Submit to the department for approval a remedial action
16 plan that, when implemented, will achieve the cleanup levels
17 specified in rules promulgated under this act.

18 (e) Implement an approved remedial action plan in accordance
19 with a schedule approved by the department pursuant to this act.

20 (6) ~~(5)~~ Upon a determination by the department that a
21 person has completed all response activity at a facility pursuant
22 to an approved remedial action plan prepared and implemented in
23 compliance with rules promulgated under this act, the department,
24 upon request of a person, shall execute and present a document
25 stating that all response activities required in the approved
26 remedial action plan have been completed.

1 (7) ~~-(6)-~~ A person in charge of a facility from which a
2 hazardous substance is released that is determined to be
3 reportable under subsection (1)(c), other than a permitted
4 release, that fails to notify the department within 24 hours
5 after obtaining knowledge of the release or that submits in such
6 notification any information that the person knows to be false or
7 misleading is subject to a civil fine of not more than \$25,000.00
8 for each day in which the violation occurs or the failure to
9 comply continues. A fine imposed under this subsection shall be
10 based upon the seriousness of the violation and any good faith
11 efforts by the violator to comply with this subsection.

12 (8) ~~-(7)-~~ If a state or local unit of government obtains
13 information that there is a release or threat of release on
14 public property, and is requested by the department to undertake
15 response activity, or takes emergency action that has been
16 approved by the department, and the state or local unit of gov-
17 ernment incurs expenses in taking the actions, the expenses of
18 the state or local unit of government shall be reimbursed from
19 the Michigan environmental assurance fund if enabling legislation
20 creating the fund is enacted into law and if each of the follow-
21 ing is established:

22 (a) The release or threat of release was not discovered or
23 should not have been discovered pursuant to section
24 12a(2)(b)(ii).

25 (b) The state or local unit of government did not cause or
26 contribute to the release or threat of release.

1 (c) The state or local unit of government is not liable
2 under section 12 for the release or threat of release.

3 (9) ~~-(8)-~~ This section shall not do either of the
4 following:

5 (a) Limit the authority of the department to take or conduct
6 response activities pursuant to this act.

7 (b) Limit the liability of a person that may be liable under
8 section 12.