

HOUSE BILL No. 5871

June 1, 1992, Introduced by Rep. Alley and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 2 of Act No. 348 of the Public Acts of 1965, entitled as amended

"Air pollution act,"

as amended by Act No. 218 of the Public Acts of 1987, being section 336.12 of the Michigan Compiled Laws; and to add sections 14b, 14c, and 14d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 348 of the Public Acts of
2 1965, as amended by Act No. 218 of the Public Acts of 1987, being
3 section 336.12 of the Michigan Compiled Laws, is amended and sec-
4 tions 14b, 14c, and 14d are added to read as follows:

5 Sec. 2. As used in this act:

6 ~~(a) "Commission" means the air pollution control~~
7 ~~commission.~~

1 (A) ~~(b)~~ "Air contaminant" means a dust, fume, gas, mist,
2 odor, smoke, vapor or any combination thereof.

3 (B) ~~(c)~~ "Air pollution" means the presence in the outdoor
4 atmosphere of air contaminants in quantities, of characteristics
5 and under conditions and circumstances and of a duration which
6 are or can become injurious to human health or welfare, to animal
7 life, to plant life or to property, or which interferes with the
8 enjoyment of life and property in this state and excludes all
9 aspects of employer-employee relationships as to health and
10 safety hazards. With respect to any mode of transportation,
11 nothing in this act or in the rules promulgated under the author-
12 ity of this act shall be inconsistent with the federal regula-
13 tions, emission limits, standards or requirements on various
14 modes of transportation. Air pollution shall not be construed to
15 mean those usual and ordinary odors associated with a farm opera-
16 tion within a zoned agricultural area if the person engaged in
17 the farm operation is following generally accepted agricultural
18 and management practices.

19 (C) ~~(d)~~ "Air cleaning device" means any method, process or
20 equipment which removes, reduces or renders less noxious air con-
21 taminants discharged into the atmosphere.

22 (D) "COMMISSION" MEANS THE AIR POLLUTION CONTROL
23 COMMISSION.

24 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

25 (F) ~~(e)~~ "Farm operation" has the meaning ascribed to it in
26 the Michigan right to farm act, Act No. 93 of the Public Acts of

1 1981, being sections 286.471 to 286.474 of the Michigan Compiled
2 Laws.

3 (G) ~~(f)~~ "Generally accepted agricultural and management
4 practices" has the meaning ascribed to it in the Michigan right
5 to farm act, Act No. 93 of the Public Acts of 1981, being sec-
6 tions 286.471 to 286.474 of the Michigan Compiled Laws.

7 (H) "MAJOR EMITTING FACILITY" MEANS A STATIONARY SOURCE THAT
8 EMITS 100 TONS OR MORE PER YEAR OF ANY OF THE FOLLOWING:

9 (i) PARTICULATES.

10 (ii) SULFUR DIOXIDES.

11 (iii) VOLATILE ORGANIC COMPOUNDS.

12 (iv) OXIDES OF NITROGEN.

13 SEC. 14B. (1) BY MARCH 15 OF EACH YEAR, THE OWNER OR OPERA-
14 TOR OF EACH MAJOR EMITTING FACILITY SHALL SUBMIT INFORMATION
15 REGARDING THE FACILITY'S EMISSIONS TO THE DEPARTMENT PURSUANT TO
16 THE EMISSION INVENTORY SYSTEM ESTABLISHED IN RULES PROMULGATED
17 UNDER THIS ACT.

18 (2) FOR STATE FISCAL YEAR 1993, IF THE OWNER OR OPERATOR OF
19 A MAJOR EMITTING FACILITY HAS NOT SUBMITTED THE INFORMATION
20 REQUIRED UNDER SUBSECTION (1) BY APRIL 15, THE DEPARTMENT SHALL
21 USE THE PREVIOUS YEAR'S EMISSION DATA FOR PURPOSES OF THE EMIS-
22 SION INVENTORY SYSTEM AND SHALL ASSESS THE OWNER OR OPERATOR A
23 PENALTY. THE PENALTY SHALL BE 5% OF WHAT THE OWNER'S OR
24 OPERATOR'S BILL FOR THAT FACILITY WOULD BE UNDER SECTION 14C,
25 USING THE PREVIOUS YEAR'S EMISSION DATA, FOR EACH MONTH THE
26 INFORMATION IS LATE UP TO A MAXIMUM PENALTY OF 25% OF THIS

1 AMOUNT. A PENALTY ASSESSED UNDER THIS SECTION SHALL BE COLLECTED
2 AT THE TIME EMISSION FEES ARE COLLECTED UNDER SECTION 14C.

3 (3) EMISSIONS DATA THAT THE DEPARTMENT RECEIVES AFTER
4 APRIL 15 OF EACH YEAR SHALL BE ENTERED INTO THE EMISSION INVEN-
5 TORY SYSTEM WHEN THE DATA ARE QUALITY ASSURED.

6 SEC. 14C. (1) FOR STATE FISCAL YEAR 1993, THE OWNER OR
7 OPERATOR OF EACH MAJOR EMITTING FACILITY SHALL PAY TO THE DEPART-
8 MENT AN ANNUAL EMISSION FEE OF \$1.00 FOR EACH TON OF PARTICU-
9 LATES, SULFUR DIOXIDES, VOLATILE ORGANIC COMPOUNDS, AND OXIDES OF
10 NITROGEN THAT THE FACILITY EMITS, UP TO 4,000 TONS MAXIMUM FOR
11 EACH POLLUTANT. THIS ANNUAL FEE SHALL BE BASED UPON ACTUAL EMIS-
12 SIONS AS DETERMINED BY THE MOST RECENT QUALITY ASSURED DATA FROM
13 THE EMISSION INVENTORY SYSTEM AS PROVIDED IN RULES PROMULGATED
14 UNDER THIS ACT. THE DEPARTMENT SHALL FORWARD MONEY COLLECTED
15 PURSUANT TO THIS SUBSECTION TO THE STATE TREASURER FOR DEPOSIT
16 INTO THE CLEAN AIR ACT IMPLEMENTATION ACCOUNT WITHIN THE EMIS-
17 SIONS CONTROL FUND.

18 (2) FOR STATE FISCAL YEAR 1993, IN ADDITION TO THE EMISSION
19 FEE PROVIDED IN SUBSECTION (1), THE OWNER OR OPERATOR OF EACH
20 MAJOR EMITTING FACILITY SHALL PAY TO THE DEPARTMENT AN ANNUAL
21 EMISSION FEE OF \$1.00 FOR EACH TON OF PARTICULATES, SULFUR DIOX-
22 IDES, VOLATILE ORGANIC COMPOUNDS, AND OXIDES OF NITROGEN THAT THE
23 FACILITY EMITS, UP TO 4,000 TONS MAXIMUM FOR EACH POLLUTANT.
24 THIS ANNUAL FEE SHALL BE BASED UPON ACTUAL EMISSIONS AS DETER-
25 MINED BY THE MOST RECENT QUALITY ASSURED DATA FROM THE EMISSION
26 INVENTORY SYSTEM AS PROVIDED IN RULES PROMULGATED UNDER THIS
27 ACT. THE DEPARTMENT SHALL FORWARD MONEY COLLECTED PURSUANT TO

1 THIS SUBSECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE
2 PERMIT REVIEW ACCOUNT WITHIN THE EMISSIONS CONTROL FUND.

3 (3) ON OR AFTER JANUARY 1, 1993, THE DEPARTMENT SHALL PRO-
4 VIDE THE OWNER OR OPERATOR OF EACH MAJOR EMITTING FACILITY A BILL
5 FOR THE AMOUNT OF THE EMISSION FEES THE FACILITY OWES UNDER THIS
6 SECTION AND ANY PENALTY ASSESSED UNDER SECTION 14B. THE BILL
7 SHALL BE FOR EMISSIONS DURING THE MOST RECENT CALENDAR YEAR FOR
8 WHICH QUALITY ASSURED DATA FROM THE EMISSION INVENTORY SYSTEM IS
9 AVAILABLE. THE OWNER OR OPERATOR OF THE FACILITY SHALL PAY THE
10 AMOUNT DUE WITHIN 45 DAYS OF THE DATE OF THE BILL. IF THE OWNER
11 OR OPERATOR OF THE FACILITY FAILS TO SUBMIT THE AMOUNT DUE WITHIN
12 THIS TIME PERIOD, THE DEPARTMENT SHALL ASSESS THE OWNER OR OPERA-
13 TOR A PENALTY OF 5% OF THE AMOUNT OF UNPAID EMISSION FEES FOR
14 EACH MONTH THAT THE PAYMENT IS OVERDUE UP TO A MAXIMUM PENALTY OF
15 25% OF THE TOTAL EMISSION FEES OWED.

16 (4) THE ATTORNEY GENERAL MAY BRING AN ACTION FOR THE COLLEC-
17 TION OF THE FEES IMPOSED UNDER THIS SECTION AND ANY PENALTY
18 ASSESSED UNDER THIS SECTION OR SECTION 14B.

19 SEC. 14D. (1) THE EMISSIONS CONTROL FUND IS CREATED WITHIN
20 THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY FROM
21 ANY SOURCE FOR DEPOSIT INTO THE EMISSIONS CONTROL FUND. THE
22 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE EMISSIONS CON-
23 TROL FUND. THE STATE TREASURER SHALL CREDIT TO THE EMISSIONS
24 CONTROL FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

25 (2) MONEY IN THE EMISSIONS CONTROL FUND AT THE CLOSE OF THE
26 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE
27 GENERAL FUND.

1 (3) THE STATE TREASURER SHALL ESTABLISH, WITHIN THE
2 EMISSIONS CONTROL FUND, A CLEAN AIR ACT IMPLEMENTATION ACCOUNT
3 AND A PERMIT REVIEW ACCOUNT.

4 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE EMISSIONS
5 CONTROL FUND, UPON APPROPRIATION, ONLY FOR THE FOLLOWING
6 PURPOSES:

7 (A) MONEY IN THE CLEAN AIR ACT IMPLEMENTATION ACCOUNT SHALL
8 BE USED FOR 1 OR MORE OF THE FOLLOWING:

9 (i) DEVELOPING AND IMPLEMENTING REQUIREMENTS OF PUBLIC LAW
10 101-549, 104 STAT. 2399, COMMONLY REFERRED TO AS THE CLEAN AIR
11 ACT AMENDMENTS OF 1990.

12 (ii) EMISSIONS AND AMBIENT AIR MONITORING.

13 (iii) AUDITS AND INSPECTIONS OF SOURCE-OPERATED MONITORING
14 PROGRAMS.

15 (iv) PREPARING GENERALLY APPLICABLE RULES TO IMPLEMENT
16 REQUIREMENTS OF PUBLIC LAW 101-549, 104 STAT. 2399, COMMONLY
17 REFERRED TO AS THE CLEAN AIR ACT AMENDMENTS OF 1990.

18 (v) MODELING, ANALYSES, OR DEMONSTRATIONS.

19 (vi) PREPARING INVENTORIES AND TRACKING EMISSIONS.

20 (B) MONEY IN THE PERMIT REVIEW ACCOUNT SHALL BE USED TO PRO-
21 CESS PERMIT APPLICATIONS UNTIL SUCH TIME THAT ALL PERMIT APPLICA-
22 TIONS RECEIVED BY THE DEPARTMENT PURSUANT TO THIS ACT ARE BEING
23 PROCESSED IN A TIMELY MANNER. WHEN PERMIT APPLICATIONS ARE BEING
24 PROCESSED IN A TIMELY MANNER, MONEY IN THE PERMIT REVIEW ACCOUNT
25 SHALL BE USED FOR THE PURPOSES DESCRIBED IN SUBDIVISION (A),
26 UNLESS THE DEPARTMENT RECOMMENDS AND THE APPROPRIATIONS
27 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES APPROVE

1 CONTINUED USE OF THIS MONEY OR A PORTION OF THIS MONEY TO PROCESS
2 PERMIT APPLICATIONS.