



HOUSE BILL No. 4882

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June 23, 1993, Introduced by Reps. Scott, Points, Pitoniak and Jacobetti and referred to the Committee on Conservation, Environment and Great Lakes.

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 A CONCENTRA-  
7 TION LIMITATION FOR A DISCHARGE TO GROUNDWATER ESTABLISHED BY THE  
8 DIRECTOR PURSUANT TO GUIDELINES ADOPTED BY THE COMMISSION PURSU-  
9 ANT TO 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 IN HUMAN BEINGS.  
17 EXPOSURE MAY BE ORAL OR DERMAL. EXPOSURE MAY ALSO BE BY INHALA-  
18 TION IF NEOPLASMS OCCUR AT NONRESPIRATORY SITES OR, AS CONSIDERED  
19 APPROPRIATE BY THE COMMISSION, IF NEOPLASMS OCCUR AT RESPIRATORY  
20 SITES. IF THE COMMISSION, ON THE BASIS OF CREDIBLE SCIENTIFIC  
21 EVIDENCE, DETERMINES THAT THERE IS SIGNIFICANT UNCERTAINTY  
22 REGARDING THE CREDIBILITY, VALIDITY, OR SIGNIFICANCE OF AVAILABLE  
23 DATA REGARDING CARCINOGENICITY, THE COMMISSION 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, BY SEEPAGE, OR BY  
3 PERCOLATION THROUGH SOIL.

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

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

8 (ii) HAS GENOTOXIC METABOLITES THAT ARE PLACENTALLY TRANS-  
9 FERRED IN 1 OR MORE MAMMALIAN SPECIES OR IN HUMAN BEINGS.

10 (iii) 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 SPE-  
16 CIES OR IN HUMAN BEINGS.

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 A HUMAN BEING OR TO THE  
23 PROGENY OF A HUMAN BEING.

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 A SOLID, LIQUID, SEMISOLID, DISSOLVED  
11 SOLID, OR GASEOUS MATERIAL, NATURALLY OCCURRING OR HUMAN-MADE  
12 CHEMICAL, PARAMETER FOR MEASUREMENT OF WATER QUALITY, VIRUS OR  
13 BIOLOGICAL ORGANISM THAT, IN ITS ORIGINAL FORM, OR AS A METABO-  
14 LITE OR A DEGRADATION OR WASTE PRODUCT, MAY DECREASE THE QUALITY  
15 OF GROUNDWATER.

16 (M) "TOTAL INORGANIC NITROGEN" MEANS THE TOTAL OF AMMONIA  
17 PLUS NITRATE, 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 IF 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 THAT  
15 THESE FACILITIES ACCEPT THE DISCHARGE.

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

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

26 (A) THE DISCHARGE IS MADE TO THE LAND SURFACE IN A  
27 CONTROLLED MANNER SO THAT ADDITIONAL TREATMENT WILL BE PROVIDED

1 BY PLANT OR SOIL UPTAKE OF POLLUTANTS OR THROUGH OTHER SOIL  
2 TREATMENT MECHANISMS AS SPECIFIED IN A PERMIT ISSUED BY THE  
3 DIRECTOR.

4 (B) THE DISCHARGE IS PART OF A GROUNDWATER CLEANUP ACTIVITY  
5 APPROVED BY THE DIRECTOR OF THE DEPARTMENT, OR THE DIRECTOR'S  
6 DESIGNATED REPRESENTATIVE AND THE DISCHARGE OCCURS TO CONTAMI-  
7 NATED GROUNDWATER THAT IS BEING TREATED.

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

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

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