

HOUSE BILL No. 5455

January 14, 1998, Introduced by Reps. Freeman, Profit, Brater, Gire, Vaughn, Scott, Hale, Griffin, Tesanovich, Cherry, Wetters, Jaye, Kaza, Richner, Anthony and Raczkowski and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 5901, 5902, 5903, 5904, 5905, 5906, 5907,
and 5908 (MCL 324.5901, 324.5902, 324.5903, 324.5904, 324.5905,
324.5906, 324.5907, and 324.5908), as added by 1995 PA 60.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 5901. As used in this part: ~~—, "facility"—~~
- 2 (A) "ENVIRONMENTAL WASTES" MEANS ALL ENVIRONMENTAL POLLUT-
- 3 ANTS, WASTES, DISCHARGES, AND EMISSIONS, REGARDLESS OF WHETHER OR
- 4 HOW THEY ARE REGULATED AND REGARDLESS OF WHETHER THEY ARE
- 5 RELEASED TO THE GENERAL ENVIRONMENT OR THE WORKPLACE
- 6 ENVIRONMENT.
- 7 (B) "FACILITY" means machinery, equipment, structures, or
- 8 any part or accessories of machinery, equipment, or structures,
- 9 installed or acquired for the primary purpose of controlling or

1 disposing of air pollution that if released would render the air
2 harmful or inimical to the public health or to property within
3 this state. Facility includes an incinerator equipped with a
4 pollution abatement device in effective operation. Facility does
5 not include an air conditioner, dust collector, fan, or other
6 similar facility for the benefit of personnel or of a business.
7 IN ADDITION, FACILITY MEANS A CHANGE IN PRODUCTION TECHNOLOGY,
8 MATERIALS, PROCESSES, OPERATIONS, OR PROCEDURES THAT IS DONE FOR
9 THE PRIMARY PURPOSE OF PREVENTING AIR POLLUTION THAT WOULD OTHER-
10 WISE BE RELEASED AND RENDER THE AIR HARMFUL OR INIMICAL TO THE
11 PUBLIC HEALTH OR TO THE PROPERTY WITHIN THE STATE. Facility also
12 means the following, if the installation was completed on or
13 after July 23, 1965:

14 (i) ~~-(a)-~~ Conversion or modification of a fuel burning
15 system to effect air pollution control. The fuel burner portion
16 only of the system is eligible for tax exemption.

17 (ii) ~~-(b)-~~ Installation of a new fuel burning system to
18 effect air pollution control. The fuel burner portion only of
19 the system is eligible for tax exemption.

20 (iii) ~~-(c)-~~ A process change involving production equipment
21 made to satisfy the requirements of part 55 and rules promulgated
22 under that part. The maximum cost allowed shall be 25% of the
23 cost of the new process unit but shall not exceed the cost of the
24 conventional control equipment applied on the basis of the new
25 process production rate on the preexisting process.

26 (C) "POLLUTION PREVENTION" MEANS THE EMPLOYMENT BY A
27 BUSINESS OF A PRACTICE THAT REDUCES THE INDUSTRIAL USE OF TOXIC

1 MATERIALS OR REDUCES THE ENVIRONMENTAL AND HEALTH HAZARDS
2 ASSOCIATED WITH AN ENVIRONMENTAL WASTE WITHOUT DILUTING OR CON-
3 CENTRATING THE WASTE BEFORE THE RELEASE, HANDLING, STORAGE,
4 TRANSPORT, TREATMENT, OR DISPOSAL OF THE WASTE. POLLUTION PRE-
5 VENTION INCLUDES CHANGES IN PRODUCTION TECHNOLOGY, MATERIALS,
6 PROCESSES, OPERATIONS, OR PROCEDURES, OR THE USE OF INPROCESS,
7 INLINE, OR CLOSED LOOP RECYCLING, ACCORDING TO STANDARD ENGINEER-
8 ING PRACTICES. POLLUTION PREVENTION DOES NOT INCLUDE A PRACTICE
9 THAT IS APPLIED TO AN ENVIRONMENTAL WASTE AFTER THE WASTE IS GEN-
10 ERATED OR COMES INTO EXISTENCE OR AFTER THE WASTE EXITS A PRODUC-
11 TION OR COMMERCIAL OPERATION. POLLUTION PREVENTION DOES NOT PRO-
12 MOTE, INCLUDE, OR REQUIRE WASTE BURNING OR INCINERATION.

13 Sec. 5902. (1) An application for ~~a~~ AN AIR pollution con-
14 trol OR POLLUTION PREVENTION tax exemption certificate shall be
15 filed with the state tax commission in a manner and in a form as
16 prescribed by the state tax commission. The application shall
17 contain plans and specifications of the facility, including all
18 materials incorporated or to be incorporated in the facility and
19 a descriptive list of all equipment acquired or to be acquired by
20 the applicant for the purpose of AIR pollution control OR POLLU-
21 TION PREVENTION, together with the proposed operating procedure
22 for the control facility.

23 (2) Before issuing a certificate, the state tax commission
24 shall seek approval of the department and give notice in writing
25 by certified mail to the department of treasury and to the asses-
26 sor of the taxing unit in which the facility is located or to be
27 located, and shall afford to the applicant and the assessor an

1 opportunity for a hearing. Tax exemption granted under this part
2 shall be reduced to the extent of any commercial or productive
3 value derived from any materials captured or recovered by any air
4 pollution control facility as defined in this part.

5 Sec. 5903. If the department finds that the facility is
6 designed and operated primarily for the control, capture, and
7 removal OR POLLUTION PREVENTION of pollutants from the air, and
8 is suitable, reasonably adequate, and meets the intent and pur-
9 poses of part 55 and rules promulgated under that part, the
10 department shall notify the state tax commission, which shall
11 issue a certificate. The effective date of the certificate is
12 the date on which the certificate is issued.

13 Sec. 5904. (1) For the period ~~subsequent to~~ AFTER the
14 effective date of ~~the~~ A POLLUTION PREVENTION TAX EXEMPTION cer-
15 tificate and continuing as long as the certificate is in force, a
16 facility covered by the certificate is exempt from real and per-
17 sonal property taxes imposed under the general property tax act,
18 ~~Act No. 206 of the Public Acts of 1893, being sections 211.1 to~~
19 ~~211.157 of the Michigan Compiled Laws~~ 1893 PA 206, MCL 211.1 TO
20 211.157. FOR THE PERIOD AFTER THE EFFECTIVE DATE OF AN AIR POL-
21 LUTION CONTROL TAX EXEMPTION CERTIFICATE AND CONTINUING AS LONG
22 AS THE CERTIFICATE IS IN FORCE, A FACILITY COVERED BY THE CERTIF-
23 ICATE IS EXEMPT FROM 50% OF THE REAL AND PERSONAL PROPERTY TAXES
24 IMPOSED UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL
25 211.1 TO 211.157.

26 (2) Tangible personal property purchased and installed as a
27 component part of the facility IDENTIFIED ON A POLLUTION

1 PREVENTION TAX EXEMPTION CERTIFICATE is exempt from both of the
2 following:

3 (a) Sales taxes imposed under the general sales tax act,
4 ~~Act No. 167 of the Public Acts of 1933, being sections 205.51 to~~
5 ~~205.78 of the Michigan Compiled Laws~~ 1933 PA 167, MCL 205.51 TO
6 205.78.

7 (b) Use taxes imposed under the use tax act, ~~Act No. 94 of~~
8 ~~the Public Acts of 1937, being sections 205.91 to 205.111 of the~~
9 ~~Michigan Compiled Laws~~ 1937 PA 94, MCL 205.91 TO 205.111.

10 (3) TANGIBLE PERSONAL PROPERTY PURCHASED AND INSTALLED AS A
11 COMPONENT PART OF THE FACILITY IDENTIFIED ON AN AIR POLLUTION
12 CONTROL TAX EXEMPTION CERTIFICATE IS EXEMPT FROM 50% OF THE
13 FOLLOWING:

14 (A) SALES TAXES IMPOSED UNDER THE GENERAL SALES TAX ACT,
15 1933 PA 167, MCL 205.51 TO 205.78.

16 (B) USE TAXES IMPOSED UNDER THE USE TAX ACT, 1937 PA 94, MCL
17 205.91 TO 205.111.

18 (4) ~~(3)~~ The certificate shall state the total acquisition
19 cost of the facility entitled to exemption.

20 Sec. 5905. The state tax commission shall send an air pol-
21 lution control OR POLLUTION PREVENTION tax exemption certificate,
22 when issued, by certified mail to the applicant, and certified
23 copies by certified mail to the assessor of the taxing unit in
24 which any property to which the certificate relates is located or
25 to be located and to the department of treasury, which copies
26 shall be filed of record in their offices. Notice of the state
27 tax commission's refusal to issue a certificate shall be sent by

1 certified mail to the applicant, to the department of treasury,
2 and to the assessor.

3 Sec. 5906. (1) The state tax commission, on notice by cer-
4 tified mail to the applicant and opportunity for a hearing,
5 shall, on its own initiative or on complaint of the department,
6 the department of treasury, or the assessor of the taxing unit in
7 which any property to which the certificate relates is located,
8 modify or revoke the certificate if any of the following appear:

9 (a) The certificate was obtained by fraud or
10 misrepresentation.

11 (b) The holder of the certificate has failed substantially
12 to proceed with the construction, reconstruction, installation,
13 or acquisition of a facility or to operate the facility for the
14 purpose and degree of control specified in the certification or
15 an amended certificate.

16 (c) The facility covered by the certificate is no longer
17 used for the primary purpose of AIR pollution control OR POLLU-
18 TION PREVENTION and is being used for a different purpose.

19 (d) Substantial noncompliance with part 55 or any rule
20 promulgated under that part.

21 (2) On the mailing by certified mail to the certificate
22 holder, the department of treasury, and the local assessor of
23 notice of the action of the state tax commission modifying or
24 revoking a certificate, the certificate shall cease to be in
25 force or shall remain in force only as modified. If a certifi-
26 cate is revoked because it was obtained by fraud or
27 misrepresentation, all taxes that would have been payable if a

1 certificate had not been issued are immediately due and payable
2 with the maximum interest and penalties prescribed by applicable
3 law. A statute of limitations shall not operate in the event of
4 fraud or misrepresentation.

5 Sec. 5907. A party aggrieved by the issuance, refusal to
6 issue, revocation, or modification of ~~a~~ AN AIR pollution con-
7 trol OR POLLUTION PREVENTION tax exemption certificate may appeal
8 from the finding and order of the state tax commission in the
9 manner and form and within the time provided by the administra-
10 tive procedures act of 1969, ~~Act No. 306 of the Public Acts of~~
11 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
12 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

13 Sec. 5908. The state tax commission may adopt rules as it
14 considers necessary for the administration of this part. These
15 rules shall not abridge the authority of the department to deter-
16 mine whether or not air pollution control OR POLLUTION PREVENTION
17 exists within the meaning of this part.

18 Enacting section 1. This amendatory act does not take
19 effect unless all of the following bills of the 89th Legislature
20 are enacted into law:

21 (a) House Bill No. 4987.

22 (b) House Bill No. 4988.