

# HOUSE BILL No. 5457

January 14, 1998, Introduced by Reps. Freeman, Profit, Brater, Gire, Vaughn, Scott, Hale, Griffin, Tesanovich, Cherry, Anthony, Jaye, Kaza, Richner, Wetters 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 3701, 3702, 3703, 3704, 3705, 3706, 3707, and 3708 (MCL 324.3701, 324.3702, 324.3703, 324.3704, 324.3705, 324.3706, 324.3707, and 324.3708), as added by 1995 PA 60.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3701. As used in this part:

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 ENVIRONMENT.

6       (B) ~~(a)~~ "Facility" means ~~any~~ BOTH OF THE FOLLOWING:

7       (i) ANY disposal system, including disposal wells, or any  
8 treatment works, appliance, equipment, machinery, or installation  
9 constructed, used, or placed in operation primarily for the

1 purpose of reducing, controlling, or eliminating water pollution  
2 caused by industrial waste OR FOR POLLUTION PREVENTION.

3 (ii) A CHANGE IN PRODUCTION TECHNOLOGY, MATERIALS, PRO-  
4 CESSES, OPERATIONS, OR PROCEDURES WHICH IS DONE PRIMARILY FOR THE  
5 PURPOSE OF PREVENTING WATER POLLUTION CAUSED BY INDUSTRIAL  
6 WASTE.

7 (C) ~~(b)~~ "Industrial waste" means any liquid, gaseous, or  
8 solid waste substance resulting from any process of industry,  
9 manufacture, trade, or business, or from the development, pro-  
10 cessing, or recovery of any paper or wood, which is capable of  
11 polluting the waters of the state.

12 (D) "POLLUTION PREVENTION" MEANS THE EMPLOYMENT BY A BUSI-  
13 NESS OF A PRACTICE THAT REDUCES THE INDUSTRIAL USE OF TOXIC MATE-  
14 RIALS OR REDUCES THE ENVIRONMENTAL AND HEALTH HAZARDS ASSOCIATED  
15 WITH AN ENVIRONMENTAL WASTE WITHOUT DILUTING OR CONCENTRATING THE  
16 WASTE BEFORE THE RELEASE, HANDLING, STORAGE, TRANSPORT, TREAT-  
17 MENT, OR DISPOSAL OF THE WASTE. POLLUTION PREVENTION INCLUDES  
18 CHANGES IN PRODUCTION TECHNOLOGY, MATERIALS, PROCESSES, OPERA-  
19 TIONS, OR PROCEDURES, OR THE USE OF INPROCESS, INLINE, OR CLOSED  
20 LOOP RECYCLING, ACCORDING TO STANDARD ENGINEERING PRACTICES.  
21 POLLUTION PREVENTION DOES NOT INCLUDE A PRACTICE THAT IS APPLIED  
22 TO AN ENVIRONMENTAL WASTE AFTER THE WASTE IS GENERATED OR COMES  
23 INTO EXISTENCE OR AFTER THE WASTE EXITS A PRODUCTION OR COMMER-  
24 CIAL OPERATION. POLLUTION PREVENTION DOES NOT PROMOTE, INCLUDE,  
25 OR REQUIRE WASTE BURNING OR INCINERATION.

26 (E) ~~(c)~~ "Treatment works" means any plant, pumping  
27 station, incinerator, or other works or reservoir used primarily

1 for the purpose of treating, stabilizing, isolating, or holding  
2 industrial waste.

3 (F) ~~(d)~~ "Disposal system" means a system used primarily  
4 for disposing of or isolating industrial waste and includes pipe-  
5 lines or conduits, pumping stations and force mains, and all  
6 other constructions, devices, appurtenances, and facilities used  
7 for collecting or conducting water-borne industrial waste to a  
8 point of disposal, treatment, or isolation, except that which is  
9 necessary to the manufacture of products.

10 Sec. 3702. (1) An application for a water pollution control  
11 OR POLLUTION PREVENTION tax exemption certificate shall be filed  
12 with the state tax commission in a manner and in a form as pre-  
13 scribed by the state tax commission. The application shall con-  
14 tain plans and specifications of the facility, including all  
15 materials incorporated or to be incorporated in the facility and  
16 a descriptive list of all equipment acquired or to be acquired by  
17 the applicant for the purpose of industrial waste WATER pollution  
18 control OR POLLUTION PREVENTION, together with the proposed oper-  
19 ating procedure for the control facility.

20 (2) Before issuing a certificate, the state tax commission  
21 shall seek approval of the department and give notice in writing  
22 by certified mail to the department of treasury and to the asses-  
23 sor of the taxing unit in which the facility is located or to be  
24 located, and shall afford to the applicant and the assessor an  
25 opportunity for a hearing. Tax exemption granted under this part  
26 shall be reduced to the extent of any commercial or productive

1 value derived from any materials captured or recovered by any  
2 facility.

3       Sec. 3703. If the department finds that the facility is  
4 designed and operated primarily for the control, capture, and  
5 removal OR POLLUTION PREVENTION of industrial waste from the  
6 water, and is suitable, reasonably adequate, and meets the intent  
7 and purposes of part 31, the department shall notify the state  
8 tax commission, which shall issue a certificate. The effective  
9 date of the certificate is the date on which the certificate is  
10 issued.

11       Sec. 3704. (1) For the period ~~subsequent to~~ AFTER the  
12 effective date of ~~the~~ A POLLUTION PREVENTION certificate and  
13 continuing as long as the certificate is in force, a facility  
14 covered by the certificate is exempt from real and personal prop-  
15 erty taxes imposed under the general property tax act, ~~Act~~  
16 ~~No. 206 of the Public Acts of 1893, being sections 211.1 to~~  
17 ~~211.157 of the Michigan Compiled Laws~~ 1893 PA 206, MCL 211.1 TO  
18 211.157. FOR THE PERIOD AFTER THE EFFECTIVE DATE OF A WATER POL-  
19 LUTION CONTROL CERTIFICATE AND CONTINUING AS LONG AS THE CERTIFI-  
20 CATE IS IN FORCE, A FACILITY COVERED BY THE CERTIFICATE IS EXEMPT  
21 FROM 50% OF THE REAL AND PERSONAL PROPERTY TAXES IMPOSED UNDER  
22 THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157.

23       (2) Tangible personal property purchased and installed as a  
24 component part of the facility ~~shall be~~ IDENTIFIED ON A POLLU-  
25 TION PREVENTION CERTIFICATE IS exempt from both of the  
26 following:

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

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

8 (3) TANGIBLE PERSONAL PROPERTY PURCHASED AND INSTALLED AS A  
9 COMPONENT PART OF THE FACILITY IDENTIFIED ON A WATER POLLUTION  
10 CONTROL CERTIFICATE IS EXEMPT FROM 50% OF THE FOLLOWING:

11 (A) SALES TAXES IMPOSED UNDER THE GENERAL SALES TAX ACT,  
12 1933 PA 167, MCL 205.51 TO 205.78.

13 (B) USE TAXES IMPOSED UNDER THE USE TAX ACT, 1937 PA 94, MCL  
14 205.91 TO 205.111.

15 (4) ~~-(3)-~~ The certificate shall state the total acquisition  
16 cost of the facility entitled to exemption.

17 Sec. 3705. The state tax commission shall send a water pol-  
18 lution control OR POLLUTION PREVENTION tax exemption certificate,  
19 when issued, by certified mail to the applicant, and certified  
20 copies by certified mail to the assessor of the taxing unit in  
21 which any property to which the certificate relates is located or  
22 to be located and to the department of treasury, which copies  
23 shall be filed of record in their offices. Notice of the state  
24 tax commission's refusal to issue a certificate shall be sent by  
25 certified mail to the applicant, to the department of treasury,  
26 and to the assessor.

1           Sec. 3706. (1) The state tax commission, on notice by  
2 certified mail to the applicant and opportunity for a hearing, on  
3 its own initiative or on complaint of the department, the depart-  
4 ment of treasury, or the assessor of the taxing unit in which any  
5 property to which the certificate relates is located, shall  
6 modify or revoke the certificate if any of the following appear:

7           (a) The certificate was obtained by fraud or  
8 misrepresentation.

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

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

17           (2) On the mailing by certified mail to the certificate  
18 holder, the department of treasury, and the local assessor of  
19 notice of the action of the state tax commission modifying or  
20 revoking a certificate, the certificates shall cease to be in  
21 force or shall remain in force only as modified. If a certifi-  
22 cate is revoked because it was obtained by fraud or misrepresen-  
23 tation, all taxes that would have been payable if a certificate  
24 had not been issued are immediately due and payable with the max-  
25 imum interest and penalties prescribed by applicable law. A  
26 statute of limitations shall not operate in the event of fraud or  
27 misrepresentation.

1           Sec. 3707. A party aggrieved by the issuance, refusal to  
2 issue, revocation, or modification of a WATER pollution control  
3 OR POLLUTION PREVENTION tax exemption certificate may appeal from  
4 the finding and order of the state tax commission in the manner  
5 and form and within the time provided by the administrative pro-  
6 cedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~  
7 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws~~  
8 1969 PA 306, MCL 24.201 TO 24.328.

9           Sec. 3708. The state tax commission may promulgate rules as  
10 it considers necessary for the administration of this part.  
11 These rules shall not abridge the authority of the department to  
12 determine whether or not industrial waste WATER pollution control  
13 OR POLLUTION PREVENTION exists within the meaning of this part.

14           Enacting section 1. This amendatory act does not take  
15 effect unless both of the following bills of the 89th Legislature  
16 are enacted into law:

17           (a) House Bill No. 4987.

18           (b) House Bill No. 4988.