

**SCHOOLS AND PLAYGROUNDS
ON CLEANED-UP SITES**

House Bill 5320
Sponsor: Rep. Belda Garza
Committee: Land Use and Environment

Complete to 2-21-02

A SUMMARY OF HOUSE BILL 5320 AS INTRODUCED 10-23-01

The bill would amend the Natural Resources and Environmental Protection Act (NREPA) to prohibit the construction or operation of a school building or playground on property containing hazardous substances above certain specified levels, and to impose monitoring and notification requirements when a school or playground was operated on formerly contaminated property that had met specified cleanup criteria.

The term "school" would refer to a private or public institution including any of grades kindergarten through 12. The term "school building" would refer to 1) a structure suitable for use as a classroom, including a school laboratory, library, eating facility, or food preparation facility; 2) a gymnasium or other facility specially designed for athletic or recreational activities or for an academic course in physical education; or 3) a facility used for the instruction or housing of students for the purpose of administration of educational or research programs. The term would not apply to a family residence used as a home school.

The bill would, specifically, prohibit the construction of a school or playground on property that is or had been "a facility", except under certain conditions. The term "facility" is used in NREPA to refer to an area, place, or property where hazardous substances in excess of specified concentrations have been released, deposited, disposed of, or otherwise located. The exceptions would be as follows.

- If response activities that satisfied the cleanup criteria for limited residential use under Part 201 (environmental remediation) of NREPA or corrective action that satisfied the cleanup criteria for restricted residential use under Part 213 (leaking underground storage tanks) had been completed, then a school or playground could be constructed or operated on the property if both 1) construction of the school or playground began before the effective date of the bill; and 2) the owner of the school or playground annually monitored the soil and air, including indoor air, to determine the adequacy of isolation of hazardous substances required by the remedial action plan or corrective action plan.

- If response activities that satisfied the cleanup criteria for residential use under Part 201 or corrective action that satisfied the cleanup criteria for unrestricted residential use under Part 213 had been completed, a school or playground could be constructed or operated on the property if both 1) construction of the school or playground began before the effective date of the bill; and 2) the owner of the school or playground annually monitored the soil and air, including indoor air, to determine that the property continued to satisfy the cleanup criteria for residential use or unrestricted residential use.

- If response activities or corrective action had been completed at the property so that the concentration of any hazardous substance did not exceed background or the method detection limit, whichever was greater, a school building or playground could be constructed or operated on the property. "Background" is defined in the bill as the concentration or level of a hazardous substance that exists in the environment at or regionally proximate to a facility that is not attributable to any release at or regionally proximate to the facility. The term "method detection limit" would refer to the minimum concentration of a substance that can be measured or reported, with 99 percent confidence, that the analyte concentration is greater than zero, as determined from analysis of a sample in a given matrix that contains the analyte.

- The monitoring required in the first two bulleted paragraphs would have to be conducted in conformity with a written monitoring plan approved by the Department of Environmental Quality. Before approving the plan, the DEQ would have to provide public notice of the environmental contamination and of the proposed monitoring plan and, if requested within 14 days after publication of the notice, would have to conduct a public hearing in the vicinity of the site. The notice would have to be published in a newspaper of general circulation in the city, village, or township where the school building or playground was located or was intended to be located, and would have to include information considered appropriate by the department.

MCL 324.20101 and 324.20121

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