

# SENATE BILL No. 693

October 9, 2001, Introduced by Senators SMITH, PETERS, CHERRY, YOUNG, SCOTT  
and DE BEAUSSAERT and referred to the Committee on Natural Resources and  
Environmental Affairs.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 5529 (MCL 324.5529) and by adding section  
5504a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5504A. (1) EACH YEAR BEGINNING IN 2007, THE EMISSIONS  
2 OF NITROGEN OXIDES FROM AN ELECTRIC GENERATING FACILITY WITH A  
3 NAMEPLATE GENERATING CAPACITY OF 25 MEGAWATTS OR MORE SHALL NOT  
4 EXCEED 1.5 POUNDS MULTIPLIED BY THE LESSER OF THE FOLLOWING, AS  
5 APPLICABLE:

6 (A) THE NUMBER OF MEGAWATT HOURS OF ELECTRICITY GENERATED BY  
7 THE ELECTRIC GENERATING FACILITY THAT YEAR.

8 (B) THE AVERAGE NUMBER OF MEGAWATT HOURS GENERATED BY THE  
9 ELECTRIC GENERATING FACILITY EACH YEAR FROM 1996 THROUGH 1998  
10 THAT THE ELECTRIC GENERATING FACILITY GENERATED ELECTRICITY.

1 (2) EACH YEAR BEGINNING IN 2007, THE EMISSIONS OF SULFUR  
2 DIOXIDE FROM AN ELECTRIC GENERATING FACILITY WITH A NAMEPLATE  
3 GENERATING CAPACITY OF 25 MEGAWATTS OR MORE SHALL NOT EXCEED 3.0  
4 POUNDS MULTIPLIED BY THE LESSER OF THE FOLLOWING, AS APPLICABLE:

5 (A) THE NUMBER OF MEGAWATT HOURS OF ELECTRICITY GENERATED BY  
6 THE ELECTRIC GENERATING FACILITY THAT YEAR.

7 (B) THE AVERAGE NUMBER OF MEGAWATT HOURS GENERATED BY THE  
8 ELECTRIC GENERATING FACILITY EACH YEAR FROM 1996 THROUGH 1998  
9 THAT THE ELECTRIC GENERATING FACILITY GENERATED ELECTRICITY.

10 (3) EACH YEAR BEGINNING IN 2007, THE TOTAL EMISSIONS OF  
11 CARBON DIOXIDE FROM ALL ELECTRIC GENERATING FACILITIES WITH NAME-  
12 PLATE GENERATING CAPACITIES OF 25 MEGAWATTS OR MORE SHALL NOT  
13 EXCEED THE TOTAL EMISSIONS OF CARBON DIOXIDE FROM ALL SUCH ELEC-  
14 TRIC GENERATING FACILITIES IN 1990.

15 (4) EACH YEAR BEGINNING IN 2007, THE TOTAL EMISSIONS OF MER-  
16 CURY AND MERCURY COMPOUNDS FROM ELECTRIC GENERATING FACILITIES  
17 WITH NAMEPLATE GENERATING CAPACITIES OF 25 MEGAWATTS OR MORE  
18 SHALL NOT EXCEED 10% OF THE TOTAL EMISSIONS OF MERCURY AND MER-  
19 CURY COMPOUNDS FROM ALL ELECTRIC GENERATING FACILITIES IN 1999.

20 (5) BEGINNING JANUARY 1, 2007, AN ELECTRIC GENERATING FACIL-  
21 ITY SHALL NOT OPERATE WITHOUT A PERMIT THAT REQUIRES THE ELECTRIC  
22 GENERATING FACILITY TO COMPLY WITH THE REQUIREMENTS OF THIS SEC-  
23 TION AND ANY RULES PROMULGATED TO IMPLEMENT THIS SECTION.

24 HOWEVER, THE DEPARTMENT MAY SUSPEND ENFORCEMENT OF THE DEADLINE  
25 TO OBTAIN A PERMIT AND GRANT A VARIANCE FROM THE DEADLINE TO  
26 OBTAIN A PERMIT UNDER THE SAME CONDITIONS AND SUBJECT TO THE SAME

1 REQUIREMENTS AS PROVIDED FOR SUSPENSION OF AND VARIANCES FROM  
2 RULES UNDER SECTIONS 5536 TO 5539.

3 (6) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
4 1969 PA 306, MCL 24.201 TO 24.328, THE DEPARTMENT SHALL PROMUL-  
5 GATE RULES TO IMPLEMENT THIS SECTION. THE RULES SHALL INCLUDE,  
6 BUT NEED NOT BE LIMITED TO, REQUIREMENTS THAT EACH ELECTRIC GEN-  
7 ERATING FACILITY MONITOR AND REPORT TO THE DEPARTMENT, ON A QUAR-  
8 TERLY BASIS, EMISSIONS REGULATED UNDER THIS SECTION.

9 (7) SUBSECTIONS (1) TO (4) DO NOT PROHIBIT THE DEPARTMENT  
10 FROM REQUIRING THAT EMISSIONS OF NITROGEN OXIDES, SULFUR DIOXIDE,  
11 CARBON DIOXIDE, OR MERCURY AND MERCURY COMPOUNDS FROM ELECTRIC  
12 GENERATING FACILITIES BE LOWER THAN SPECIFIED IN SUBSECTIONS (1)  
13 TO (4).

14 (8) AS USED IN THIS SECTION, "ELECTRIC GENERATING FACILITY"  
15 MEANS A SINGLE ELECTRIC GENERATING UNIT, A GROUP OF ELECTRIC GEN-  
16 ERATING UNITS AT THE SAME LOCATION, OR A GROUP OF ELECTRIC GENER-  
17 ATING UNITS OWNED BY THE SAME RETAIL ELECTRIC COMPANY IF ALL OF  
18 THE FOLLOWING APPLY:

19 (A) THE SINGLE UNIT OR UNITS ARE LOCATED IN THIS STATE.

20 (B) THE PRIMARY FUEL FOR THE SINGLE UNIT OR UNITS IS COAL.

21 (C) THE ELECTRICITY GENERATED BY THE UNIT OR UNITS IS SOLD  
22 BY THE OWNER OR OPERATOR OF THE UNIT OR UNITS TO ANOTHER PERSON  
23 OR PERSONS.

24 Sec. 5529. (1) The department may assess an administrative  
25 fine of up to \$10,000.00 for each instance of violation and, if  
26 the violation continues, for each day of continued noncompliance,  
27 if the department, on the basis of available information, finds

1 that the person has violated or is in violation of this part or a  
2 rule promulgated under this part, has failed to obtain a permit  
3 required under this part, violates an order under this part, or  
4 has failed to comply with the terms of a permit issued under this  
5 part. If a single event constitutes an instance of violation of  
6 any combination of this part, a rule promulgated under this part,  
7 or a permit issued or order entered under this part, the amount  
8 of the administrative fine for that single event shall not exceed  
9 \$10,000.00 for that violation. The assessment of an administra-  
10 tive fine may be either a part of a compliance order or a sepa-  
11 rate order issued by the department.

12 (2) The authority of the department under this section is  
13 limited to matters where the total administrative fine sought  
14 does not exceed \$100,000.00 and the first alleged date of viola-  
15 tion occurred within 12 months prior to initiation of the admin-  
16 istrative action. Except as may otherwise be provided by appli-  
17 cable law, the department shall not condition the issuance of a  
18 permit on the payment of an administrative fine assessed pursuant  
19 to this section.

20 (3) Within 28 days of being assessed an administrative fine  
21 ~~from~~ BY the department, a person may file a petition with the  
22 department for review of ~~this~~ THE fine. Review of the fine  
23 shall be conducted pursuant to the contested case procedures of  
24 CHAPTER 4 OF the administrative procedures act of 1969, ~~Act~~  
25 No. 306 of the Public Acts of 1969, being sections 24.271 to  
26 24.287 of the Michigan Compiled Laws 1969 PA 306, MCL 24.271 TO  
27 24.287. If ~~issued~~ AN ADMINISTRATIVE FINE IS ASSESSED as part

1 of a consent order issued pursuant to section 5528, only the  
2 amount of the administrative fine and the alleged violation on  
3 which the fine is based are subject to ~~the~~ THOSE contested case  
4 procedures. ~~of Act No. 306 of the Public Acts of 1969.~~