

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5055**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 9112 (MCL 324.9112), as amended by 2004 PA  
325.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 9112. (1) A person shall not maintain or undertake an  
2 earth change governed by this part, the rules promulgated under  
3 this part, or an applicable local ordinance, except in accordance  
4 with this part and the rules promulgated under this part or with  
5 the applicable local ordinance, and except as authorized by a  
6 permit issued by the appropriate county enforcing agency or  
7 municipal enforcing agency pursuant to part 13.  
8       (2) The owner of property that is subject to a permit under  
9 this part is responsible for compliance with the terms of the  
10 permit that apply to that property.

1       (3) Except as provided in subsection (4), if property subject  
2 to a permit under this part is transferred, both of the following  
3 are transferred with the property:

4       (a) The permit, including the permit obligations and  
5 conditions.

6       (b) Responsibility for any violations of the permit that  
7 exist on the date the property is transferred.

8       (4) If property is subject to a permit under this part and a  
9 parcel of the property, but not the entire property, is  
10 transferred, both of the following are transferred with the  
11 parcel:

12       (a) The permit obligations and conditions with respect to that  
13 parcel, but not the permit itself.

14       (b) Responsibility for any violations of the permit with  
15 respect to that parcel that exist on the date the parcel is  
16 transferred.

17       (5) If property subject to a permit under this part is  
18 proposed to be transferred, the transferor shall notify the  
19 transferee of the permit in writing on a form developed by the  
20 department and provided by the county enforcing agency or  
21 municipal enforcing agency. The notice shall inform the  
22 transferee of the requirements of subsection (2) and, as  
23 applicable, subsection (3) or (4). The notice shall include a  
24 copy of the permit. The transferor and transferee shall sign the  
25 notice, and the transferor shall submit the signed notice to the  
26 county enforcing agency or municipal enforcing agency before the  
27 property is transferred.

1       (6) A county enforcing agency or municipal enforcing agency  
2 may charge a fee for the transfer of a permit under subsection  
3 (3) or (4). The fee shall not exceed the administrative costs of  
4 transferring the permit. Fees collected under this subsection  
5 shall only be used for the enforcement and administration of this  
6 part by the enforcing agency.

7       (7) ~~—(2)—~~ If in the opinion of the department a person,  
8 including an authorized public agency, violates this part, the  
9 rules promulgated under this part, or an applicable local  
10 ordinance, or a county enforcing agency or municipal enforcing  
11 agency fails to enforce this part, the rules promulgated under  
12 this part, or an applicable local ordinance, the department may  
13 notify the alleged offender in writing of its determination. If  
14 the department places a county on probation under section 9105, a  
15 municipality is not approved under section 9106, or a state  
16 agency or agency of a local unit of government is not approved  
17 under section 9110, or if the department determines that a  
18 municipal enforcing agency or authorized public agency is not  
19 satisfactorily administering and enforcing this part and rules  
20 promulgated under this part, the department shall notify the  
21 county, municipality, state agency, or agency of a local unit of  
22 government in writing of its determination or action. The notice  
23 shall contain, in addition to a statement of the specific  
24 violation or failure that the department believes to exist, a  
25 proposed order, stipulation for agreement, or other action that  
26 the department considers appropriate to assure timely correction  
27 of the violation or failure. The notice shall set a date for a

1 hearing not less than 4 nor more than 8 weeks from the date of  
2 the notice of determination. Extensions of the date of the  
3 hearing may be granted by the department or on request. At the  
4 hearing, any interested party may appear, present witnesses, and  
5 submit evidence. A person who has been served with a notice of  
6 determination may file a written answer to the notice of  
7 determination before the date set for hearing or at the hearing  
8 may appear and present oral or written testimony and evidence on  
9 the charges and proposed requirements of the department to assure  
10 correction of the violation or failure. If a person served with  
11 the notice of determination agrees with the proposed requirements  
12 of the department and notifies the department of that agreement  
13 before the date set for the hearing, disposition of the case may  
14 be made with the approval of the department by stipulation or  
15 consent agreement without further hearing. The final order of  
16 determination following the hearing, or the stipulation or  
17 consent order as authorized by this section and approved by the  
18 department, is conclusive unless reviewed in accordance with the  
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
20 24.328, in the circuit court of Ingham county, or of the county  
21 in which the violation occurred, upon petition filed within 15  
22 days after the service upon the person of the final order of  
23 determination.