

HOUSE BILL No. 4406

March 19, 2003, Introduced by Reps. Kolb, Law and Zelenko and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 146.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 146 TOXIC SUBSTANCES

Sec. 14601. As used in this part:

(a) "Department" means the department of environmental
quality.

(b) "PBDE" means polybrominated diphenyl ether.

(c) "Release" includes, but is not limited to, any spilling,
leaking, pumping, pouring, emitting, emptying, discharging,
injecting, escaping, leaching, dumping, or disposing of a
substance into the environment.

Sec. 14602. The legislature finds and declares all of the
following:

1 (a) That article IV, section 52 of the state constitution of
2 1963 requires the legislature to provide for the protection of
3 the air, water, and other natural resources of the state from
4 pollution, impairment, and destruction.

5 (b) That persistent and bioaccumulative compounds pose a
6 serious threat to the environmental health of the Great Lakes
7 ecosystem.

8 (c) That PBDEs are compounds that exhibit characteristics of
9 persistence and bioaccumulation.

10 (d) That discharges and other releases containing PBDEs
11 should be reduced or eliminated to protect the Great Lakes.

12 Sec. 14603. A person who introduces any quantity of PBDE
13 into a product or material shall annually submit a report to the
14 department that details all of the following:

15 (a) The quantity of PBDE used during the previous calendar
16 year.

17 (b) The types of products or materials in which the PBDE was
18 used and the amount of PBDE present in each type of product or
19 material.

20 Sec. 14604. A person who releases any PBDE that has not
21 been reported as part of the toxic releases inventory under
22 section 313 of the emergency planning and community right-to-know
23 act of 1986, title III of Public Law 99-499, 42 U.S.C. 11023,
24 shall annually report to the department the quantity and the
25 medium in which the release or releases occurred.

26 Sec. 14605. Beginning on January 1, 2007, a person shall
27 not release any PBDE into the environment or use any PBDE unless

1 the department has issued a written determination, following a
2 90-day public notice and comment period, that PBDEs do not pose
3 an unacceptable risk to human health, safety, or welfare or to
4 the environment.

5 Sec. 14606. The department may establish a PBDE advisory
6 committee to assist the department in determining the risk posed
7 by releases of PBDEs and in determining how the use of PBDEs
8 could be reduced or eliminated.

9 Sec. 14607. The department may promulgate rules to
10 implement this part.

11 Sec. 14608. (1) The attorney general may bring a civil
12 action for appropriate relief against a person for a violation of
13 this part, including, but not limited to, all of the following:

14 (a) A permanent or temporary injunction.

15 (b) Damages for the full value of the injuries done to the
16 natural resources of the state.

17 (c) Costs of surveillance and enforcement by the state
18 resulting from the violation.

19 (d) A civil fine of not less than \$2,500.00 or more than
20 \$25,000.00 per day of violation.

21 (2) In addition to any other remedy awarded under
22 subsection (1), the court may award reasonable attorney fees and
23 costs to the prevailing party.

24 (3) An action under this section may be brought in the
25 circuit court for the county of Ingham or for the county in which
26 the defendant is located, resides, or is doing business.

27 Sec. 14609. (1) Subject to subsection (4), a person who

1 knowingly releases PBDEs into the environment contrary to this
2 part, or who intentionally makes a false statement or
3 representation on a report required under this part, is guilty of
4 a felony and, except as provided in subsection (2), shall be
5 fined not less than \$2,500.00 or more than \$25,000.00 per day for
6 each violation.

7 (2) In addition to the penalties under subsection (1), at the
8 discretion of the court, a person who is found guilty under
9 subsection (1) is subject to all of the following:

10 (a) An additional fine of not more than \$25,000.00 for each
11 day during which the unlawful release occurred.

12 (b) If the conviction is for a violation committed after a
13 first conviction of the person under this section, a fine of not
14 less than \$25,000.00 per day and not more than \$50,000.00 per day
15 of violation.

16 (c) Imprisonment for not more than 2 years or probation.

17 (3) With the exception of the issuance of criminal
18 complaints, issuance of warrants, and the holding of an
19 arraignment, the circuit court for the county in which the
20 violation occurred has exclusive jurisdiction for prosecutions
21 under this section.

22 (4) A person is not subject to the penalties of this section
23 if the release is in conformance with and obedient to a rule,
24 order, or permit of the department.