

SENATE BILL No. 252

March 4, 2003, Introduced by Senators BRATER, JACOBS, CHERRY, BARCIA, OLSHOVE, CLARK-COLEMAN, SCHAUER, BERNERO, SCOTT, CLARKE and BASHAM 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 3112 (MCL 324.3112) and by adding section
3113b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112. (1) A person shall not discharge any waste or
2 waste effluent into the waters of this state unless the person is
3 in possession of a valid permit from the department. ~~Compliance~~
4 ~~with the terms of an outstanding order of determination or final~~
5 ~~order of determination or stipulation with the former water~~
6 ~~resources commission that is in effect on April 15, 1973, shall~~
7 ~~be considered to meet the requirements of this section until the~~
8 ~~department issues its permit.~~

9 (2) The department shall condition the continued validity of
10 a permit upon ~~the~~ both of the following:

1 **(a)** The permittee's meeting the effluent requirements that
2 the department considers necessary to prevent unlawful pollution
3 by the dates that the department considers to be reasonable and
4 necessary and to assure compliance with applicable federal law
5 and regulations.

6 **(b) Payment of the annual wastewater discharge environmental**
7 **fee provided for in section 3113b.**

8 **(3)** If the department finds that the terms of a permit have
9 been, are being, or may be violated, it may modify, suspend, or
10 revoke the permit or grant the permittee a reasonable period of
11 time in which to comply with the permit. The department may
12 reissue a revoked permit upon a showing satisfactory to the
13 department that the permittee has corrected the violation. A
14 person who has had a permit revoked may apply for a new permit.

15 **(4)** ~~—(2)—~~ If the department determines that a person is
16 causing or is about to cause unlawful pollution of the waters of
17 this state, the department may notify the alleged offender of its
18 determination and enter an order requiring the person to abate
19 the pollution or refer the matter to the attorney general for
20 legal action, or both.

21 **(5)** ~~—(3)—~~ A person who is aggrieved by an order of abatement
22 of the department or by the reissuance, modification, suspension,
23 or revocation of an existing permit of the department executed
24 pursuant to this section may file a sworn petition with the
25 ~~—commission—~~ **department** setting forth the grounds and reasons for
26 the complaint and asking for a contested case hearing on the
27 matter pursuant to the administrative procedures act of 1969,

1 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
2 ~~24.328 of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 to~~
3 **24.328.** A petition filed more than 60 days after action on the
4 order or permit may be rejected by the ~~commission~~ **department** as
5 being untimely.

6 **Sec. 3113b. (1) There is established an annual wastewater**
7 **discharge environmental fee. Subject to subsection (5), the fee**
8 **shall be paid by each person required to obtain a permit under**
9 **section 3113. The fee shall be composed of an administrative fee**
10 **of \$100.00 plus an additional fee established by the department**
11 **under this section.**

12 **(2) The department shall establish, by rule, a fee schedule**
13 **to calculate the annual wastewater discharge environmental fee**
14 **under subsection (1). The fee schedule shall be established**
15 **based on the pollutants included in the permit under section**
16 **3113, the environmental or public health harm caused by the**
17 **pollutants discharged, the concentration or quantity, or both, of**
18 **the pollutants discharged, and the quality of the receiving**
19 **waters.**

20 **(3) In establishing the fee schedule under subsection (2),**
21 **the department shall distinguish among substances discharged**
22 **directly to surface waters, those discharged into land disposal**
23 **systems, and those discharged into groundwater, based on their**
24 **relative impacts on the quality of groundwaters and surface**
25 **waters.**

26 **(4) In determining the amount of the annual wastewater**
27 **discharge environmental fee that is assessed to a person under**

1 this section, the department shall comply with all of the
2 following:

3 (a) The department shall use a 5-year rolling average of
4 discharges by that person.

5 (b) The department shall use a performance-based approach
6 that increases a person's fees in proportion to increases in the
7 number of units of pollutants discharged by the person as
8 determined under subdivision (a) and decreases a person's fees in
9 proportion to decreases in the number of units of pollutants
10 discharged by the person as determined under subdivision (a).

11 (c) The department shall not use any multiplier or similar
12 mechanism that would increase a person's fees in order to
13 compensate for decreases in overall amounts of discharges.

14 (d) The department shall not use any provision that would
15 increase the fee per unit of pollutant discharged in order to
16 compensate for decreases in overall amounts of discharges.

17 (5) If the person required to pay the annual wastewater
18 discharge environmental fee under this section is a local unit of
19 government operating a publicly owned treatment works into which
20 nondomestic users discharge, the local unit of government shall
21 pass on a proportionate share of the fee to each nondomestic user
22 based on all of the following:

23 (a) The pollutants or public health harm caused by the
24 pollutants discharged.

25 (b) The concentration or quantity or both, of the pollutants
26 discharged.

27 (c) The quality of the receiving waters to which that local

1 unit of government discharges wastewater.

2 (6) The department shall annually notify local units of
3 government that operate publicly owned treatment works of the
4 share of the fee that should be passed on to each nondomestic
5 user discharging into the publicly owned treatment works as
6 provided for in subsection (5).

7 (7) As used in this section, "nondomestic user" and "publicly
8 owned treatment works" mean those terms as they are defined in R
9 323.2302 of the Michigan administrative code.

10 Enacting section 1. This amendatory act does not take
11 effect unless all of the following bills of the 92nd Legislature
12 are enacted into law:

13 (a) Senate Bill No. 251.

14

15 (b) Senate Bill No. 253.

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17 (c) Senate Bill No. 250.

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