

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4860

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 3109 (MCL 324.3109), as amended by 2005 PA 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3109. (1) A person shall not directly or indirectly
2 discharge into the waters of the state a substance that is or may
3 become injurious to any of the following:

4 (a) To the public health, safety, or welfare.

5 (b) To domestic, commercial, industrial, agricultural,
6 recreational, or other uses that are being made or may be made of
7 such waters.

8 (c) To the value or utility of riparian lands.

1 (d) To livestock, wild animals, birds, fish, aquatic life, or
2 plants or to their growth or propagation.

3 (e) To the value of fish and game.

4 (2) The discharge of any raw sewage of human origin, directly
5 or indirectly, into any of the waters of the state shall be
6 considered prima facie evidence of a violation of this part by the
7 municipality in which the discharge originated unless the discharge
8 is permitted by an order or rule of the department. If the
9 discharge is not the subject of a valid permit issued by the
10 department, a municipality responsible for the discharge may be
11 subject to the remedies provided in section 3115. If the discharge
12 is the subject of a valid permit issued by the department pursuant
13 to section 3112, and is in violation of that permit, a municipality
14 responsible for the discharge is subject to the penalties
15 prescribed in section 3115.

16 (3) NOTWITHSTANDING SUBSECTION (2), A MUNICIPALITY IS NOT
17 RESPONSIBLE OR SUBJECT TO THE REMEDIES PROVIDED IN SECTION 3115 FOR
18 AN UNAUTHORIZED DISCHARGE FROM A SEWERAGE SYSTEM AS DEFINED IN
19 SECTION 4101 THAT IS PERMITTED UNDER THIS PART AND OWNED BY A PARTY
20 OTHER THAN THE MUNICIPALITY, UNLESS THE MUNICIPALITY HAS ACCEPTED
21 RESPONSIBILITY IN WRITING FOR THE SEWERAGE SYSTEM AND, WITH RESPECT
22 TO THE CIVIL FINE AND PENALTY UNDER SECTION 3115, THE MUNICIPALITY
23 HAS BEEN NOTIFIED IN WRITING BY THE DEPARTMENT OF ITS
24 RESPONSIBILITY FOR THE SEWERAGE SYSTEM.

25 (4) ~~—(3)—~~ Unless authorized by a permit, order, or rule of the
26 department, the discharge into the waters of this state of any
27 medical waste, as defined in part 138 of the public health code,

1 1978 PA 368, MCL 333.13801 to 333.13831, is prima facie evidence of
2 a violation of this part and subjects the responsible person to the
3 penalties prescribed in section 3115.

4 (5) ~~—(4) Unless~~ **BEGINNING JANUARY 1, 2007, UNLESS** a discharge
5 is authorized by a permit, order, or rule of the department, the
6 discharge into the waters of this state from an oceangoing vessel
7 of any ballast water is prima facie evidence of a violation of this
8 part and subjects the responsible person to the penalties
9 prescribed in section 3115.

10 (6) ~~—(5)~~ A violation of this section is prima facie evidence
11 of the existence of a public nuisance and in addition to the
12 remedies provided for in this part may be abated according to law
13 in an action brought by the attorney general in a court of
14 competent jurisdiction.