

**SUBSTITUTE FOR
SENATE BILL NO. 332**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 3103, 3104, 3109, and 3112 (MCL 324.3103,
324.3104, 324.3109, and 324.3112), sections 3103 and 3112 as
amended by 2004 PA 91 and section 3104 as amended by 2004 PA 325.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3103. (1) The department shall protect and conserve the
2 water resources of the state and shall have control of the
3 pollution of surface or underground waters of the state and the
4 Great Lakes, which are or may be affected by waste disposal of any
5 person. The department may make or cause to be made surveys,
6 studies, and investigations of the uses of waters of the state,
7 both surface and underground, and cooperate with other governments
8 and governmental units and agencies in making the surveys, studies,

1 and investigations. The department shall assist in an advisory
2 capacity a flood control district that may be authorized by the
3 legislature. The department, in the public interest, shall appear
4 and present evidence, reports, and other testimony during the
5 hearings involving the creation and organization of flood control
6 districts. The department shall advise and consult with the
7 legislature on the obligation of the state to participate in the
8 costs of construction and maintenance as provided for in the
9 official plans of a flood control district or intercounty drainage
10 district.

11 (2) The department shall enforce this part and may promulgate
12 rules as it considers necessary to carry out its duties under this
13 part. However, notwithstanding any rule-promulgation authority that
14 is provided in this part, **EXCEPT FOR RULES AUTHORIZED UNDER SECTION**
15 **3112(6)**, the department shall not promulgate any additional rules
16 under this part after December 31, 2006.

17 (3) The department may promulgate rules and take other
18 actions as may be necessary to comply with the federal water
19 pollution control act, ~~chapter 758, 86 Stat. 816,~~ 33 USC 1251 to
20 ~~1252, 1253 to 1254, 1255 to 1257, 1258 to 1270, 1281, 1282 to 1293,~~
21 ~~1294 to 1299, 1311 to 1313, 1314 to 1330, 1341 to 1345, 1361 to~~
22 ~~1377, and 1381 to 1387,~~ and to expend funds available under such
23 law for extension or improvement of the state or interstate program
24 for prevention and control of water pollution. This part shall not
25 be construed as authorizing the department to expend or to incur
26 any obligation to expend any state funds for such purpose in excess
27 of any amount that is appropriated by the legislature.

1 (4) Notwithstanding the limitations on rule promulgation under
2 subsection (2), rules promulgated under this part before January 1,
3 2007 shall remain in effect unless rescinded.

4 Sec. 3104. (1) The department is designated the state agency
5 to cooperate and negotiate with other governments, governmental
6 units, and governmental agencies in matters concerning the water
7 resources of the state, including, but not limited to, flood
8 control, beach erosion control, ~~and~~ water quality control
9 planning, development, and management, **AND THE CONTROL OF AQUATIC**
10 **NUISANCE SPECIES**. The department shall have control over the
11 alterations of natural or present watercourses of all rivers and
12 streams in the state to assure that the channels and the portions
13 of the floodplains that are the floodways are not inhabited and are
14 kept free and clear of interference or obstruction that will cause
15 any undue restriction of the capacity of the floodway. The
16 department may take steps as may be necessary to take advantage of
17 any act of congress that may be of assistance in carrying out the
18 purposes of this part, including the water resources planning act,
19 42 USC 1962 to 1962d-3, and the federal water pollution control
20 act, 33 USC 1251 to 1387.

21 **(2) IN ORDER TO ADDRESS DISCHARGES OF AQUATIC NUISANCE SPECIES**
22 **FROM OCEANGOING VESSELS THAT DAMAGE WATER QUALITY, AQUATIC HABITAT,**
23 **OR FISH OR WILDLIFE, THE DEPARTMENT SHALL FACILITATE THE FORMATION**
24 **OF A GREAT LAKES AQUATIC NUISANCE SPECIES COALITION. THE GREAT**
25 **LAKES AQUATIC NUISANCE SPECIES COALITION SHALL BE FORMED THROUGH AN**
26 **AGREEMENT ENTERED INTO WITH OTHER STATES IN THE GREAT LAKES BASIN**
27 **TO IMPLEMENT ON A BASIN-WIDE BASIS WATER POLLUTION LAWS THAT**

1 PROHIBIT THE DISCHARGE OF AQUATIC NUISANCE SPECIES INTO THE GREAT
2 LAKES FROM OCEANGOING VESSELS. THE DEPARTMENT SHALL SEEK TO ENTER
3 INTO AN AGREEMENT THAT WILL BECOME EFFECTIVE NOT LATER THAN JANUARY
4 1, 2007. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF
5 NATURAL RESOURCES PRIOR TO ENTERING INTO THIS AGREEMENT. UPON
6 ENTERING INTO THE AGREEMENT, THE DEPARTMENT SHALL NOTIFY THE
7 CANADIAN GREAT LAKES PROVINCES OF THE TERMS OF THE AGREEMENT. THE
8 DEPARTMENT SHALL SEEK FUNDING FROM THE GREAT LAKES PROTECTION FUND
9 AUTHORIZED UNDER PART 331 TO IMPLEMENT THE GREAT LAKES AQUATIC
10 NUISANCE SPECIES COALITION.

11 (3) ~~—(2)—~~ The department shall report to the governor and to
12 the legislature at least annually on any plans or projects being
13 implemented or considered for implementation. The report shall
14 include requests for any legislation needed to implement any
15 proposed projects or agreements made necessary as a result of a
16 plan or project, together with any requests for appropriations. The
17 department may make recommendations to the governor on the
18 designation of areawide water quality planning regions and
19 organizations relative to the governor's responsibilities under the
20 federal water pollution control act, 33 USC 1251 to 1387.

21 (4) ~~—(3)—~~ A person shall not alter a floodplain except as
22 authorized by a floodplain permit issued by the department pursuant
23 to part 13. An application for a permit shall include information
24 that may be required by the department to assess the proposed
25 alteration's impact on the floodplain. If an alteration includes
26 activities at multiple locations in a floodplain, 1 application may
27 be filed for combined activities.

1 (5) ~~(4)~~ Except as provided in subsections ~~(5)~~, (6), (7),
2 and ~~(8)~~ (9), until October 1, 2008, an application for a
3 floodplain permit shall be accompanied by a fee of \$500.00. Until
4 October 1, 2008, if the department determines that engineering
5 computations are required to assess the impact of a proposed
6 floodplain alteration on flood stage or discharge characteristics,
7 the department shall assess the applicant an additional \$1,500.00
8 to cover the department's cost of review.

9 (6) ~~(5)~~ Until October 1, 2008, an application for a
10 floodplain permit for a minor project category shall be accompanied
11 by a fee of \$100.00. Minor project categories shall be established
12 by rule and shall include activities and projects that are similar
13 in nature and have minimal potential for causing harmful
14 interference.

15 (7) ~~(6)~~ If work has been done in violation of a permit
16 requirement under this part and restoration is not ordered by the
17 department, the department may accept an application for a permit
18 for that work if the application is accompanied by a fee equal to 2
19 times the permit fee required under subsection ~~(4)~~ (5) or ~~(5)~~
20 (6).

21 (8) ~~(7)~~ The department shall forward fees collected under
22 this section to the state treasurer for deposit in the land and
23 water management permit fee fund created in section 30113.

24 (9) ~~(8)~~ A project that requires review and approval under
25 this part and 1 or more of the following is subject to only the
26 single highest permit fee required under this part or the
27 following:

1 (a) Part 301.

2 (b) Part 303.

3 (c) Part 323.

4 (d) Part 325.

5 (e) Section 117 of the land division act, 1967 PA 288, MCL
6 560.117.

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

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

11 (b) To domestic, commercial, industrial, agricultural,
12 recreational, or other uses that are being made or may be made of
13 such waters.

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

15 (d) To livestock, wild animals, birds, fish, aquatic life, or
16 plants or to ~~the growth, propagation, or the~~ **THEIR** growth or
17 propagation. ~~thereof be prevented or injuriously affected, or~~
18 whereby

19 **(E) TO** the value of fish and game. ~~is or may be destroyed or~~
20 ~~impaired.~~

21 (2) The discharge of any raw sewage of human origin, directly
22 or indirectly, into any of the waters of the state shall be
23 considered prima facie evidence of a violation of this part by the
24 municipality in which the discharge originated unless the discharge
25 is permitted by an order or rule of the department. If the
26 discharge is not the subject of a valid permit issued by the
27 department, a municipality responsible for the discharge may be

1 subject to the remedies provided in section 3115. If the discharge
2 is the subject of a valid permit issued by the department pursuant
3 to section 3112, and is in violation of that permit, a municipality
4 responsible for the discharge is subject to the penalties
5 prescribed in section 3115.

6 (3) Unless authorized by a permit, order, or rule of the
7 department, the discharge into the waters of this state of any
8 medical waste, as defined in part 138 of the public health code,
9 ~~Act No. 368 of the Public Acts of 1978, being sections 333.13801 to~~
10 ~~333.13831 of the Michigan Compiled Laws 1978 PA 368, MCL 333.13801~~
11 **TO 333.13831**, is prima facie evidence of a violation of this part
12 and subjects the responsible person to the penalties prescribed in
13 section 3115.

14 **(4) UNLESS A DISCHARGE IS AUTHORIZED BY A PERMIT, ORDER, OR**
15 **RULE OF THE DEPARTMENT, THE DISCHARGE INTO THE WATERS OF THIS STATE**
16 **FROM AN OCEANGOING VESSEL OF ANY BALLAST WATER IS PRIMA FACIE**
17 **EVIDENCE OF A VIOLATION OF THIS PART AND SUBJECTS THE RESPONSIBLE**
18 **PERSON TO THE PENALTIES PRESCRIBED IN SECTION 3115.**

19 (5) ~~—(4)—~~ A violation of this section is prima facie evidence
20 of the existence of a public nuisance and in addition to the
21 remedies provided for in this part may be abated according to law
22 in an action brought by the attorney general in a court of
23 competent jurisdiction.

24 Sec. 3112. (1) A person shall not discharge any waste or waste
25 effluent into the waters of this state unless the person is in
26 possession of a valid permit from the department.

27 (2) An application for a permit under subsection (1) shall be

1 submitted to the department. Within 30 days after an application
2 for a new or increased use is received, the department shall
3 determine whether the application is administratively complete.
4 Within 90 days after an application for reissuance of a permit is
5 received, the department shall determine whether the application is
6 administratively complete. If the department determines that an
7 application is not complete, the department shall notify the
8 applicant in writing within the applicable time period. If the
9 department does not make a determination as to whether the
10 application is complete within the applicable time period, the
11 application shall be considered to be complete.

12 (3) The department shall condition the continued validity of a
13 permit upon the permittee's meeting the effluent requirements that
14 the department considers necessary to prevent unlawful pollution by
15 the dates that the department considers to be reasonable and
16 necessary and to assure compliance with applicable federal law and
17 regulations. If the department finds that the terms of a permit
18 have been, are being, or may be violated, it may modify, suspend,
19 or revoke the permit or grant the permittee a reasonable period of
20 time in which to comply with the permit. The department may reissue
21 a revoked permit upon a showing satisfactory to the department that
22 the permittee has corrected the violation. A person who has had a
23 permit revoked may apply for a new permit.

24 (4) If the department determines that a person is causing or
25 is about to cause unlawful pollution of the waters of this state,
26 the department may notify the alleged offender of its determination
27 and enter an order requiring the person to abate the pollution or

1 refer the matter to the attorney general for legal action, or both.

2 (5) A person who is aggrieved by an order of abatement of the
3 department or by the reissuance, modification, suspension, or
4 revocation of an existing permit of the department executed
5 pursuant to this section may file a sworn petition with the
6 department setting forth the grounds and reasons for the complaint
7 and asking for a contested case hearing on the matter pursuant to
8 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
9 to 24.328. A petition filed more than 60 days after action on the
10 order or permit may be rejected by the department as being
11 untimely.

12 (6) BEGINNING JANUARY 1, 2007, ALL OCEANGOING VESSELS ENGAGING
13 IN PORT OPERATIONS IN THIS STATE SHALL OBTAIN A PERMIT FROM THE
14 DEPARTMENT. THE DEPARTMENT SHALL ISSUE A PERMIT FOR AN OCEANGOING
15 VESSEL ONLY IF THE APPLICANT CAN DEMONSTRATE THAT THE OCEANGOING
16 VESSEL WILL NOT DISCHARGE AQUATIC NUISANCE SPECIES OR IF THE
17 OCEANGOING VESSEL DISCHARGES BALLAST WATER OR OTHER WASTE OR WASTE
18 EFFLUENT, THAT THE OPERATOR OF THE VESSEL WILL UTILIZE
19 ENVIRONMENTALLY SOUND TECHNOLOGY AND METHODS, AS DETERMINED BY THE
20 DEPARTMENT, THAT CAN BE USED TO PREVENT THE DISCHARGE OF AQUATIC
21 NUISANCE SPECIES. THE DEPARTMENT SHALL COOPERATE TO THE FULLEST
22 EXTENT PRACTICAL WITH OTHER GREAT LAKES BASIN STATES, THE CANADIAN
23 GREAT LAKES PROVINCES, THE GREAT LAKES PANEL ON AQUATIC NUISANCE
24 SPECIES, THE GREAT LAKES FISHERY COMMISSION, THE INTERNATIONAL
25 JOINT COMMISSION, AND THE GREAT LAKES COMMISSION TO ENSURE
26 DEVELOPMENT OF STANDARDS FOR THE CONTROL OF AQUATIC NUISANCE
27 SPECIES THAT ARE BROADLY PROTECTIVE OF THE WATERS OF THE STATE AND

1 OTHER NATURAL RESOURCES. PERMIT FEES FOR PERMITS UNDER THIS
2 SUBSECTION SHALL BE ASSESSED AS PROVIDED IN SECTION 3120. THE
3 PERMIT FEES FOR AN INDIVIDUAL PERMIT ISSUED UNDER THIS SUBSECTION
4 SHALL BE THE FEES SPECIFIED IN SECTION 3120(1)(A) AND (5)(A). THE
5 PERMIT FEES FOR A GENERAL PERMIT ISSUED UNDER THIS SUBSECTION SHALL
6 BE THE FEES SPECIFIED IN SECTION 3120(1)(C) AND (5)(B)(i). PERMITS
7 UNDER THIS SUBSECTION SHALL BE ISSUED IN ACCORDANCE WITH THE
8 TIMELINES PROVIDED IN SECTION 3120. THE DEPARTMENT MAY PROMULGATE
9 RULES TO IMPLEMENT THIS SUBSECTION.