

SENATE BILL No. 332

March 22, 2005, Introduced by Senators BIRKHOLZ, SIKKEMA, McMANUS, HAMMERSTROM, VAN WOERKOM, ALLEN, TOY, PATTERSON, BROWN, KUIPERS, JELINEK, GOSCHKA, CROUSEY, PRUSI, STAMAS, BRATER, CASSIS, BISHOP, GILBERT, HARDIMAN, BASHAM, GEORGE, SANBORN, BARCIA, SWITALSKI, EMERSON, CLARKE, OLSHOVE, LELAND, CHERRY, JACOBS, SCHAUER, BERNERO, CLARK-COLEMAN and GARCIA 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 sections 3104 and 3109 (MCL 324.3104 and 324.3109), section 3104 as amended by 2004 PA 325.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3104. (1) The department is designated the state agency
2 to cooperate and negotiate with other governments, governmental
3 units, and governmental agencies in matters concerning the water
4 resources of the state, including, but not limited to, flood
5 control, beach erosion control, ~~and~~ water quality control
6 planning, development, and management, **AND THE CONTROL OF AQUATIC**
7 **NUISANCE SPECIES**. The department shall have control over the
8 alterations of natural or present watercourses of all rivers and

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1 streams in the state to assure that the channels and the portions
2 of the floodplains that are the floodways are not inhabited and are
3 kept free and clear of interference or obstruction that will cause
4 any undue restriction of the capacity of the floodway. The
5 department may take steps as may be necessary to take advantage of
6 any act of congress that may be of assistance in carrying out the
7 purposes of this part, including the water resources planning act,
8 42 USC 1962 to 1962d-3, and the federal water pollution control
9 act, 33 USC 1251 to 1387.

10 (2) IN ORDER TO ADDRESS DISCHARGES OF SUBSTANCES THAT CONSIST
11 OF HARMFUL ORGANISMS THAT DAMAGE WATER QUALITY, AQUATIC HABITAT, OR
12 FISH OR WILDLIFE, THE DEPARTMENT SHALL FACILITATE THE FORMATION OF
13 A GREAT LAKES ANS COALITION. THE GREAT LAKES ANS COALITION SHALL BE
14 FORMED THROUGH AN AGREEMENT ENTERED INTO WITH OTHER STATES IN THE
15 GREAT LAKES BASIN TO ENFORCE ON A BASIN-WIDE BASIS WATER POLLUTION
16 LAWS THAT PROHIBIT THE DISCHARGE OF HARMFUL ORGANISMS INTO THE
17 GREAT LAKES. THE DEPARTMENT SHALL SEEK TO ENTER INTO AN AGREEMENT
18 THAT WILL BECOME EFFECTIVE NOT LATER THAN JANUARY 1, 2007. THE
19 DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF NATURAL RESOURCES
20 PRIOR TO ENTERING INTO THIS AGREEMENT. THE DEPARTMENT SHALL SEEK
21 FUNDING FROM THE GREAT LAKES PROTECTION FUND AUTHORIZED UNDER PART
22 331 TO IMPLEMENT THE GREAT LAKES ANS COALITION.

23 (3) ~~(2)~~ The department shall report to the governor and to
24 the legislature at least annually on any plans or projects being
25 implemented or considered for implementation. The report shall
26 include requests for any legislation needed to implement any
27 proposed projects or agreements made necessary as a result of a

1 plan or project, together with any requests for appropriations. The
2 department may make recommendations to the governor on the
3 designation of areawide water quality planning regions and
4 organizations relative to the governor's responsibilities under the
5 federal water pollution control act, 33 USC 1251 to 1387.

6 (4) ~~(3)~~ A person shall not alter a floodplain except as
7 authorized by a floodplain permit issued by the department pursuant
8 to part 13. An application for a permit shall include information
9 that may be required by the department to assess the proposed
10 alteration's impact on the floodplain. If an alteration includes
11 activities at multiple locations in a floodplain, 1 application may
12 be filed for combined activities.

13 (5) ~~(4)~~ Except as provided in subsections ~~(5)~~, ~~(6)~~ (6),
14 (7), and ~~(8)~~ (9), until October 1, 2008, an application for a
15 floodplain permit shall be accompanied by a fee of \$500.00. Until
16 October 1, 2008, if the department determines that engineering
17 computations are required to assess the impact of a proposed
18 floodplain alteration on flood stage or discharge characteristics,
19 the department shall assess the applicant an additional \$1,500.00
20 to cover the department's cost of review.

21 (6) ~~(5)~~ Until October 1, 2008, an application for a
22 floodplain permit for a minor project category shall be accompanied
23 by a fee of \$100.00. Minor project categories shall be established
24 by rule and shall include activities and projects that are similar
25 in nature and have minimal potential for causing harmful
26 interference.

27 (7) ~~(6)~~ If work has been done in violation of a permit

1 requirement under this part and restoration is not ordered by the
 2 department, the department may accept an application for a permit
 3 for that work if the application is accompanied by a fee equal to 2
 4 times the permit fee required under subsection ~~(4)~~ (5) or ~~(5)~~ (6).

5 (8) ~~(7)~~ The department shall forward fees collected under
 6 this section to the state treasurer for deposit in the land and
 7 water management permit fee fund created in section 30113.

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

12 (a) Part 301.

13 (b) Part 303.

14 (c) Part 323.

15 (d) Part 325.

16 (e) Section 117 of the land division act, 1967 PA 288, MCL
 17 560.117.

18 (10) **AS USED IN THIS SECTION, "ANS" MEANS AQUATIC NUISANCE**
 19 **SPECIES.**

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

23 (a) To the public health, safety, ~~or~~ welfare, **OR THE**
 24 **ENVIRONMENT.**

25 (b) To domestic, commercial, industrial, agricultural,
 26 recreational, or other uses that are being made or may be made of
 27 such waters.

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

2 (d) To livestock, wild animals, birds, fish, aquatic life, or
3 plants or to ~~the growth, propagation, or the~~ **THEIR** growth or
4 propagation. ~~thereof be prevented or injuriously affected, or~~
5 ~~whereby~~

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

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

20 (3) Unless authorized by a permit, order, or rule of the
21 department, the discharge into the waters of this state of any
22 medical waste, as defined in part 138 of the public health code,
23 ~~Act No. 368 of the Public Acts of 1978, being sections 333.13801 to~~
24 ~~333.13831 of the Michigan Compiled Laws 1978 PA 368, MCL 333.13801~~
25 **TO 333.13831**, is prima facie evidence of a violation of this part
26 and subjects the responsible person to the penalties prescribed in
27 section 3115.

1 (4) THE DEPARTMENT SHALL PROMULGATE RULES REGULATING THE
2 DISCHARGE OF SUBSTANCES THAT CONTAIN BIOLOGICAL POLLUTANTS FROM
3 OCEANGOING VESSELS. BEGINNING JANUARY 1, 2007, ALL OCEANGOING
4 VESSELS ENGAGING IN PORT OPERATIONS IN THE STATE OF MICHIGAN SHALL
5 REQUIRE A PERMIT FROM THE DEPARTMENT. THE DEPARTMENT SHALL ISSUE
6 PERMITS FOR SUCH DISCHARGES ONLY IF THE APPLICANT CAN DEMONSTRATE
7 THAT THE DISCHARGES MEET ACCEPTABLE LEVELS OF BIOLOGICAL POLLUTANTS
8 THAT WILL NOT VIOLATE SUBSECTION (1). METHODS USED TO ACHIEVE
9 ACCEPTABLE LEVELS OF BIOLOGICAL POLLUTANTS SHALL BE ENVIRONMENTALLY
10 SOUND. THE DEPARTMENT SHALL COOPERATE TO THE FULLEST EXTENT
11 PRACTICAL WITH OTHER GREAT LAKES BASIN STATES, THE GREAT LAKES
12 CANADIAN PROVINCES, THE GREAT LAKES PANEL ON AQUATIC NUISANCE
13 SPECIES, THE GREAT LAKES FISHERY COMMISSION, THE INTERNATIONAL
14 JOINT COMMISSION, AND THE GREAT LAKES COMMISSION TO ENSURE
15 DEVELOPMENT OF STANDARDS THAT ARE BROADLY PROTECTIVE OF THE WATERS
16 OF THE STATE AND OTHER NATURAL RESOURCES.

17 (5) ~~—(4)—~~ A violation of this section is prima facie evidence
18 of the existence of a public nuisance and in addition to the
19 remedies provided for in this part may be abated according to law
20 in an action brought by the attorney general in a court of
21 competent jurisdiction.