

**SUBSTITUTE FOR  
SENATE BILL NO. 447**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 3112 (MCL 324.3112), as amended by 2005 PA 33.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

4       (2) An application for a permit under subsection (1) shall be  
5 submitted to the department. Within 30 days after an application  
6 for a new or increased use is received, the department shall  
7 determine whether the application is administratively complete.  
8 Within 90 days after an application for reissuance of a permit is  
9 received, the department shall determine whether the application is  
10 administratively complete. If the department determines that an

1 application is not complete, the department shall notify the  
2 applicant in writing within the applicable time period. If the  
3 department does not make a determination as to whether the  
4 application is complete within the applicable time period, the  
5 application shall be considered to be complete.

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

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

23 (5) A person who is aggrieved by an order of abatement of the  
24 department or by the reissuance, modification, suspension, or  
25 revocation of an existing permit of the department executed  
26 pursuant to this section may file a sworn petition with the  
27 department setting forth the grounds and reasons for the complaint

1 and asking for a contested case hearing on the matter pursuant to  
2 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201  
3 to 24.328. A petition filed more than 60 days after action on the  
4 order or permit may be rejected by the department as being  
5 untimely.

6 (6) Beginning January 1, 2007, all oceangoing vessels engaging  
7 in port operations in this state shall obtain a permit from the  
8 department. The department shall issue a permit for an oceangoing  
9 vessel only if the applicant can demonstrate that the oceangoing  
10 vessel will not discharge aquatic nuisance species or, if the  
11 oceangoing vessel discharges ballast water or other waste or waste  
12 effluent, that the operator of the vessel will utilize  
13 environmentally sound technology and methods, as determined by the  
14 department, ~~that can be used~~ to prevent the discharge of aquatic  
15 nuisance species. The department shall cooperate to the fullest  
16 extent practical with other Great Lakes basin states, the Canadian  
17 Great Lakes provinces, the Great Lakes panel on aquatic nuisance  
18 species, the Great Lakes fishery commission, the international  
19 joint commission, and the Great Lakes commission to ensure  
20 development of standards for the control of aquatic nuisance  
21 species that are broadly protective of the waters of the state and  
22 other natural resources. Permit fees for permits under this  
23 subsection shall be assessed as provided in section 3120. The  
24 permit fees for an individual permit issued under this subsection  
25 shall be the fees specified in section 3120(1)(a) and (5)(a). The  
26 permit fees for a general permit issued under this subsection shall  
27 be the fees specified in section 3120(1)(c) and (5)(b)(i). Permits

1 under this subsection shall be issued in accordance with the  
2 timelines provided in section 3120. The department may promulgate  
3 rules to implement this subsection.

4 (7) IF THE OWNER OR OPERATOR OF A LARGE CAFO IS CONVICTED OF A  
5 VIOLATION OF THIS PART OR FOUND RESPONSIBLE FOR A CIVIL VIOLATION  
6 OF THIS PART BY A COURT, THE OWNER OR OPERATOR SHALL NOT INCREASE  
7 THE NUMBER OF ANIMALS AT THE LARGE CAFO UNTIL AT LEAST 1 YEAR AFTER  
8 ALL OF THE FOLLOWING CONDITIONS ARE MET:

9 (A) THE OWNER OR OPERATOR HAS FULLY COMPLIED WITH THE COURT'S  
10 REQUIREMENTS TO CONDUCT ANY NECESSARY REMEDIATION DUE TO THE  
11 VIOLATION OR HAS COMPLETED A SCHEDULE OF COMPLIANCE INCLUDED IN THE  
12 PERMIT BY THE DEPARTMENT TO IMPLEMENT THE COURT'S REQUIREMENTS.

13 (B) THE OWNER OR OPERATOR IS IN COMPLIANCE WITH THIS ACT AND  
14 THE RULES PROMULGATED UNDER THIS ACT OR IS MAKING PROGRESS TOWARD  
15 COMPLIANCE WITH THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT  
16 AS PROVIDED IN A SCHEDULE OF COMPLIANCE INCORPORATED INTO THE  
17 PERMIT BY THE DEPARTMENT TO BRING THE LARGE CAFO INTO COMPLIANCE  
18 WITH THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT.

19 (C) THE OWNER OR OPERATOR IS IN COMPLIANCE WITH SUBSECTIONS  
20 (9) AND (10), AS APPROPRIATE.

21 (8) THE DEPARTMENT SHALL NOT MODIFY OR REISSUE A PERMIT UNDER  
22 THIS SECTION OR ISSUE A NEW PERMIT TO AN OWNER OR OPERATOR OF A  
23 LARGE CAFO UNLESS ALL OF THE CONDITIONS DESCRIBED IN SUBSECTION  
24 (7) (A) TO (C) HAVE BEEN MET.

25 (9) SUBJECT TO SUBSECTION (10), THE FOLLOWING PERSONS SHALL  
26 OBTAIN A MECHANISM OF FINANCIAL ASSURANCE, TO THE SATISFACTION OF  
27 THE DEPARTMENT, IN AN AMOUNT EQUAL TO \$100,000.00, THAT MAY BE

Senate Bill No. 447 as amended June 20, 2007

1 ACCESSED BY THE DEPARTMENT IF NECESSARY TO REMEDIATE ANY  
2 ENVIRONMENTAL HARM CAUSED BY A VIOLATION OF A PERMIT ISSUED UNDER  
3 THIS PART:

4 (A) THE OWNER OR OPERATOR OF A LARGE CAFO THAT IS FIRST  
5 SUBJECT TO A PERMIT UNDER THIS PART ON OR AFTER OCTOBER 1, 2007.

6 (B) THE OWNER OR OPERATOR OF AN AFO THAT EXPANDS TO BECOME A  
7 LARGE CAFO ON OR AFTER OCTOBER 1, 2007.

8 (C) THE OWNER OR OPERATOR OF A PERMITTED LARGE CAFO THAT HAS  
9 BEEN CONVICTED OF A VIOLATION OF THIS PART OR FOUND RESPONSIBLE FOR  
10 A CIVIL VIOLATION OF THIS PART BY A COURT.

11 (D) THE OWNER OR OPERATOR OF A LARGE CAFO THAT IS NOT IN  
12 CONFORMANCE WITH GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT  
13 PRACTICES FOR SITE SELECTION AND ODOR CONTROLS AS DETERMINED BY THE  
14 DEPARTMENT OF AGRICULTURE UNDER THE MICHIGAN RIGHT TO FARM ACT,  
15 1981 PA 93, MCL 286.471 TO 286.474.

16 (10) THE DEPARTMENT MAY REQUIRE A MECHANISM OF FINANCIAL  
17 ASSURANCE IN AN AMOUNT GREATER THAN \$100,000.00 BUT NOT MORE THAN  
18 \$1,000,000.00, IF THE DEPARTMENT DETERMINES THAT A HIGHER AMOUNT IS  
19 NECESSARY BECAUSE THE OWNER OR OPERATOR OR THE LARGE CAFO HAS A  
20 HISTORY OF CONVICTIONS OR COURT DETERMINED FINDINGS OF VIOLATIONS  
21 UNDER THIS PART.

<<(11) AS USED IN THIS SECTION, "OWNER OR OPERATOR OF A LARGE CAFO"  
MEANS EITHER THE PERSON ACTUALLY OWNING OR OPERATING THE LARGE CAFO OR A  
MEMBER OF HIS OR HER IMMEDIATE FAMILY OR A SHAREHOLDER IN THE SAME  
COMPANY IN WHICH THE OWNER OR OPERATOR HAS A MEMBERSHIP INTEREST IN OR  
ANY OTHER IMMEDIATE SUCCESSOR IN INTEREST.>>

22 Enacting section 1. This amendatory act does not take effect  
23 unless all of the following bills of the 94th Legislature are  
24 enacted into law:

25 (a) Senate Bill No. 448.

26 (b) Senate Bill No. 504.