

SENATE BILL No. 297

March 1, 2007, Introduced by Senators PRUSI and RICHARDVILLE 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 3109 and 3112 (MCL 324.3109 and 324.3112), section 3109 as amended by 2005 PA 241 and section 3112 as amended by 2005 PA 33.

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~~ **THE** public health, safety, or welfare.

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

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

9 (d) ~~To livestock~~ **LIVESTOCK**, wild animals, birds, fish, aquatic

1 life, or plants or to their growth or propagation.

2 (e) ~~To the~~ **THE** value of fish and game.

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

15 (3) Notwithstanding subsection (2), a municipality is not
16 responsible or subject to the remedies provided in section 3115 for
17 an unauthorized discharge from a sewerage system as defined in
18 section 4101 that is permitted under this part and owned by a party
19 other than the municipality, unless the municipality has accepted
20 responsibility in writing for the sewerage system and, with respect
21 to the civil fine and penalty under section 3115, the municipality
22 has been notified in writing by the department of its
23 responsibility for the sewerage system.

24 (4) Unless authorized by a permit, order, or rule of the
25 department, the discharge into the waters of this state of any
26 medical waste, as defined in part 138 of the public health code,
27 1978 PA 368, MCL 333.13801 to 333.13831, is prima facie evidence of

1 a violation of this part and subjects the responsible person to the
2 penalties prescribed in section 3115.

3 (5) Beginning January 1, ~~2007~~2008, unless a discharge is
4 authorized by a permit, order, or rule of the department, the
5 discharge into the waters of this state from an oceangoing vessel
6 of any ballast water is prima facie evidence of a violation of this
7 part and subjects the responsible person to the penalties
8 prescribed in section 3115.

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

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

17 (2) An application for a permit under subsection (1) shall be
18 submitted to the department. Within 30 days after an application
19 for a new or increased use is received, the department shall
20 determine whether the application is administratively complete.
21 Within 90 days after an application for reissuance of a permit is
22 received, the department shall determine whether the application is
23 administratively complete. If the department determines that an
24 application is not complete, the department shall notify the
25 applicant in writing within the applicable time period. If the
26 department does not make a determination as to whether the
27 application is complete within the applicable time period, the

1 application shall be considered to be complete.

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

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

19 (5) A person who is aggrieved by an order of abatement of the
20 department or by the reissuance, modification, suspension, or
21 revocation of an existing permit of the department executed
22 pursuant to this section may file a sworn petition with the
23 department setting forth the grounds and reasons for the complaint
24 and asking for a contested case hearing on the matter pursuant to
25 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
26 to 24.328. A petition filed more than 60 days after action on the
27 order or permit may be rejected by the department as being

1 untimely.

2 (6) Beginning January 1, ~~2007~~2008, all oceangoing vessels
3 engaging in port operations in this state shall obtain a permit
4 from the department. The department shall issue a permit for an
5 oceangoing vessel only if the applicant can demonstrate that the
6 oceangoing vessel will not discharge aquatic nuisance species or,
7 if the oceangoing vessel discharges ballast water or other waste or
8 waste effluent, that the operator of the vessel will utilize
9 environmentally sound technology and methods, as determined by the
10 department, that can be used to prevent the discharge of aquatic
11 nuisance species. The department shall cooperate to the fullest
12 extent practical with other Great Lakes basin states, the Canadian
13 Great Lakes provinces, the Great Lakes panel on aquatic nuisance
14 species, the Great Lakes fishery commission, the international
15 joint commission, and the Great Lakes commission to ensure
16 development of standards for the control of aquatic nuisance
17 species that are broadly protective of the waters of the state and
18 other natural resources. Permit fees for permits under this
19 subsection shall be assessed as provided in section 3120. The
20 permit fees for an individual permit issued under this subsection
21 shall be the fees specified in section 3120(1)(a) and (5)(a). The
22 permit fees for a general permit issued under this subsection shall
23 be the fees specified in section 3120(1)(c) and (5)(b)(i). Permits
24 under this subsection shall be issued in accordance with the
25 timelines provided in section 3120. The department may promulgate
26 rules to implement this subsection.