

Act No. 112
Public Acts of 2012
Approved by the Governor
May 1, 2012
Filed with the Secretary of State
May 1, 2012
EFFECTIVE DATE: May 1, 2012

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Kowall, Pappageorge, Marleau, Proos and Walker

ENROLLED SENATE BILL No. 532

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 21313a, 21319a, and 21323 (MCL 324.21313a, 324.21319a, and 324.21323), section 21313a as amended by 1996 PA 116 and section 21319a as added and section 21323 as amended by 1995 PA 22.

The People of the State of Michigan enact:

Sec. 21313a. (1) Beginning on the effective date of the 2012 amendatory act that amended this section, except as provided in subsection (6), and except for the confirmation provided in section 21312a(2), if a required submittal under section 21308a, 21311a, or 21312a(1) is not provided during the time required, the department may impose a penalty according to the following schedule:

- (a) Not more than \$100.00 per day for the first 7 days that the report is late.
- (b) Not more than \$500.00 per day for days 8 through 14 that the report is late.
- (c) Not more than \$1,000.00 per day for each day beyond day 14 that the report is late.

(2) Subject to subsection (6), for purposes of this section, in computing a period of time, the day of the act, event, or default, after which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, legal holiday, or holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday, or holiday.

(3) The department may, upon request, grant an extension to a reporting deadline provided in this part for good cause upon written request 15 days prior to the deadline.

(4) The owner or operator may by contract transfer the responsibility for paying fines under this section to a consultant retained by the owner or operator.

(5) The department shall forward all money collected pursuant to this section to the state treasurer for deposit in the emergency response fund created in section 21507.

(6) A penalty shall not begin to accrue under this section unless the department has first notified the person on whom the penalty is imposed that he or she is subject to the penalties provided in this section.

Sec. 21319a. (1) In accordance with this section, if the department determines that there may be an imminent risk to the public health, safety, or welfare, or the environment, because of a release or threatened release, the department may require an owner or operator to take action as may be necessary to abate the danger or threat.

(2) The department may issue an administrative order to an owner or operator requiring that person to perform corrective actions relating to a site, or to take any other action required by this part. An order issued under this section shall state with reasonable specificity the basis for issuance of the order and specify a reasonable time for compliance.

(3) Within 30 days after issuance of an administrative order under this section, a person to whom the order was issued shall indicate in writing whether the person intends to comply with the order.

(4) A person who, without sufficient cause, violates or fails to properly comply with an administrative order issued under this section is liable for either or both of the following:

(a) A civil fine of not more than \$25,000.00 for each day during which the violation occurs or the failure to comply continues. A fine imposed under this subsection shall be based upon the seriousness of the violation and any good faith efforts by the violator to comply with the administrative order.

(b) For exemplary damages in an amount at least equal to the amount of any costs of corrective action incurred by the state as a result of a failure to comply with an administrative order but not more than 3 times the amount of these costs.

(5) A person to whom an administrative order was issued under this section may appeal the administrative order pursuant to section 21333.

Sec. 21323. (1) The attorney general may, on behalf of the department, commence a civil action seeking any of the following:

(a) A temporary or permanent injunction.

(b) Recovery of all costs incurred by the state for taking corrective action.

(c) Damages for the full injury done to the natural resources of this state along with enforcement and litigation costs incurred by the state.

(d) Declaratory judgment on liability for future corrective action costs.

(e) Subject to section 21313a, a civil fine of not more than \$10,000.00 for each underground storage tank system for each day of noncompliance with a requirement of this part or a rule promulgated under this part. A fine imposed under this subdivision shall be based upon the seriousness of the violation and any good faith efforts by the violator to comply with the part or rule.

(f) A civil fine of not more than \$25,000.00 for each day of noncompliance with a corrective action order issued pursuant to this part. A fine imposed under this subdivision shall be based upon the seriousness of the violation and any good faith efforts by the violator to comply with the corrective action order.

(g) Recovery of funds provided to the state from the United States environmental protection agency's leaking underground storage tank trust fund.

(2) A civil action brought under subsection (1) may be brought in the circuit court for the county where the release occurred or for the county where the defendant resides.

(3) The state may, when appropriate, return to the United States environmental protection agency any federal funds recovered under this part. The state may also retain any federal funds recovered under this part in a separate account for use in implementing this part, with such use subject to approval of the United States environmental protection agency.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) Senate Bill No. 528.

(b) Senate Bill No. 529.

(c) Senate Bill No. 530.

(d) Senate Bill No. 531.

(e) Senate Bill No. 533.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor