

SENATE BILL No. 444

June 20, 2013, Introduced by Senators CASPERSON, ROBERTSON, HANSEN, GREEN and BOOHER and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3306, 3307, 3309, and 3311 (MCL 324.3306, 324.3307, 324.3309, and 324.3311), section 3306 as amended by 2011 PA 90 and sections 3307, 3309, and 3311 as added by 2004 PA 246, and by adding section 3315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3306. (1) Until October 1, ~~2015~~, **2018**, an application for
2 a certificate of coverage under this part shall be accompanied by a
3 fee of \$75.00. Until October 1, ~~2015~~, **2018**, **AND** subject to
4 subsection (2), an application for an individual permit under this
5 part shall be accompanied by the following fee, based on the size
6 of the area of impact:

- 1 (a) Less than 1/2 acre, \$75.00.
 2 (b) ~~One-half~~ 1/2 acre or more but less than 5 acres, \$200.00.
 3 (c) ~~Five~~ 5 acres or more but less than 20 acres, \$400.00.
 4 (d) ~~Twenty~~ 20 acres or more but less than 100 acres, \$800.00.
 5 (e) ~~One hundred~~ 100 acres or more, \$1,500.00.

6 (2) A FEE UNDER THIS SECTION OR SECTION 3309 MAY BE PAID BY
 7 CREDIT OR DEBIT CARD OR ELECTRONIC FUND TRANSFER. THE DEPARTMENT
 8 SHALL DETERMINE WHICH MAJOR CREDIT AND DEBIT CARDS MAY BE USED TO
 9 PAY A FEE. IF A FEE IS PAID BY CREDIT OR DEBIT CARD, THE DEPARTMENT
 10 MAY COLLECT A SERVICE ASSESSMENT FROM THE USER OF THE CREDIT OR
 11 DEBIT CARD. THE SERVICE ASSESSMENT SHALL NOT EXCEED THE ACTUAL COST
 12 TO THE DEPARTMENT OF THE CREDIT OR DEBIT CARD TRANSACTION OR THE
 13 AMOUNT APPROPRIATED TO COVER SERVICE ASSESSMENTS, WHICHEVER IS
 14 LESS.

15 (3) ~~(2)~~—The department shall forward fees collected under this
 16 section to the state treasurer for deposit in the land and water
 17 management permit fee fund created in section 30113.

18 (4) THE DEPARTMENT SHALL NOT CHARGE A FEE FOR AN AMENDMENT TO
 19 AN APPLICATION FOR A CERTIFICATE OF COVERAGE OR PERMIT, INCLUDING
 20 AN AMENDMENT TO AN APPLICATION AFTER THAT APPLICATION HAS BEEN
 21 RESUBMITTED UNDER SECTION 3307(7).

22 Sec. 3307. (1) AN APPLICATION FOR A CERTIFICATE OF COVERAGE OR
 23 PERMIT MAY BE SUBMITTED ELECTRONICALLY.

24 (2) ~~(1)~~—The department shall either approve or deny an
 25 application for a certificate of coverage by ~~May 1 or within~~ THE
 26 LATER OF THE FOLLOWING DATES:

27 (A) APRIL 1.

1 (B) 15 working days after receipt of a complete application. 7
2 ~~whichever is later.~~

3 (3) If the department denies an application for a certificate
4 of coverage, the department shall notify the applicant, in writing,
5 of the reasons for the denial.

6 (4) ~~(2)~~The department shall approve an application for a
7 permit in whole or part and issue the permit, or shall deny the
8 application, by ~~May 1 or within~~ **THE LATEST OF THE FOLLOWING DATES:**

9 (A) **APRIL 1.**

10 (B) 30 working days after receipt of a complete application. 7
11 ~~whichever is later.~~ **THIS SUBDIVISION DOES NOT APPLY IF SUBDIVISION**

12 (C) **APPLIES.**

13 (C) **15 WORKING DAYS AFTER RECEIPT OF A COMPLETE APPLICATION IF**
14 **THE WATER BODY IS LISTED ON THE REGISTRY UNDER SUBSECTION (9) AS**
15 **BEING INFESTED WITH THE PARTICULAR AQUATIC NUISANCE SPECIES THAT**
16 **THE APPLICANT PROPOSES TO CONTROL UNDER THE PERMIT.**

17 (5) **THE DEPARTMENT SHALL NOT DELAY PROCESSING AN APPLICATION**
18 **FOR A PERMIT OR CERTIFICATE OF COVERAGE BECAUSE THE DEPARTMENT HAS**
19 **NOT COMPLETED PROCESSING OF THE FEE PAYMENT ACCOMPANYING THE**
20 **APPLICATION.**

21 (6) If the department approves the application **FOR A PERMIT** in
22 part or denies the application, the department shall, by the ~~same~~
23 deadline **FOR APPROVAL OR DENIAL OF THE APPLICATION**, notify the
24 applicant, in writing, of the reasons for the partial approval or
25 denial.

26 (7) **THE DEPARTMENT SHALL NOT DENY AN APPLICATION FOR A**
27 **CERTIFICATE OF COVERAGE OR A PERMIT BECAUSE IT WAS SUBMITTED AFTER**

1 A CERTAIN DATE IN THE YEAR IN WHICH TREATMENT IS PROPOSED. IF THE
2 DEPARTMENT APPROVES AN APPLICATION IN PART OR DENIES AN
3 APPLICATION, THE APPLICANT MAY RESUBMIT THE APPLICATION WITH
4 AMENDMENTS TO ADDRESS THE REASONS FOR PARTIAL APPROVAL OR DENIAL.
5 THE RESUBMITTED APPLICATION IS NOT SUBJECT TO AN ADDITIONAL FEE.

6 (8) ~~(3)~~—If the department fails to satisfy the requirements of
7 ~~subsection (1) or (2)~~—SUBSECTIONS (2) TO (7) with respect to an
8 application for a certificate of coverage or a permit, ~~the~~ ALL OF
9 THE FOLLOWING APPLY:

10 (A) THE department shall pay the applicant an amount equal to
11 15% of the application fee SPECIFIED IN SECTION 3306 for that
12 certificate of coverage or permit.

13 (B) THE APPLICATION SHALL BE CONSIDERED TO BE APPROVED AND THE
14 DEPARTMENT SHALL BE CONSIDERED TO HAVE MADE ANY DETERMINATION
15 REQUIRED FOR APPROVAL IF ALL OF THE FOLLOWING APPLY:

16 (i) THE PROPOSED AREA OF IMPACT IS THE SAME AS OR ENTIRELY
17 CONTAINED WITHIN THE AREA OF IMPACT APPROVED IN A PREVIOUS PERMIT.

18 (ii) THE ACTIVE INGREDIENT OR TRADE NAME OF EACH CHEMICAL
19 PROPOSED TO BE APPLIED IS THE SAME AS APPROVED IN A PREVIOUS PERMIT
20 AND EACH CHEMICAL IS CURRENTLY APPROVED FOR USE BY THE DEPARTMENT.

21 (iii) THE APPLICATION RATE AND NUMBER OF TREATMENTS DO NOT
22 EXCEED THOSE APPROVED IN THE PREVIOUS PERMIT.

23 (iv) THE MINIMUM LENGTH OF TIME BETWEEN TREATMENTS IS NOT LESS
24 THAN THAT APPROVED IN THE PREVIOUS PERMIT.

25 (9) THE DEPARTMENT SHALL POST AND MAINTAIN ON ITS WEBSITE A
26 REGISTRY OF WATER BODIES INFESTED BY AQUATIC NUISANCE SPECIES AND
27 THE PARTICULAR AQUATIC NUISANCE SPECIES INFESTING EACH WATER BODY.

1 THE REGISTRY SHALL BE BASED ON INFORMATION FROM ALL OF THE
2 FOLLOWING:

3 (A) PERMITS AND CERTIFICATES OF COVERAGE ISSUED UNDER THIS
4 PART.

5 (B) REPORTS RECEIVED BY THE DEPARTMENT FROM ANY OF THE
6 FOLLOWING:

7 (i) CERTIFIED APPLICATORS OR REGISTERED APPLICATORS UNDER PART
8 83.

9 (ii) REPRESENTATIVES OF PUBLIC OR PRIVATE INSTITUTIONS OF
10 HIGHER EDUCATION.

11 (iii) REPRESENTATIVES OF ANY OTHER STATE, LOCAL, OR FEDERAL
12 AGENCY WITH RESPONSIBILITY FOR THE ENVIRONMENT OR NATURAL
13 RESOURCES.

14 Sec. 3309. (1) A permit under this part shall, at a minimum,
15 include all of the following information:

16 (a) The active ingredient or the trade name of each chemical
17 to be applied.

18 (b) The application rate of each chemical.

19 (c) The maximum amount of each chemical to be applied per
20 treatment.

21 (d) Minimum length of time between treatments for each
22 chemical.

23 (e) A map or maps that clearly delineate the approved area of
24 impact.

25 (F) THE TERM OF THE PERMIT, WHICH SHALL NOT BE LESS THAN 3
26 YEARS.

27 (2) A PERMIT UNDER THIS PART SHALL AUTHORIZE CHEMICAL

1 TREATMENT IN EACH YEAR COVERED BY THE PERMIT. THIS SUBSECTION DOES
2 NOT APPLY TO A CHEMICAL IF ITS ANNUAL USE WAS RESTRICTED IN RULES
3 IN EFFECT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
4 THIS SUBSECTION.

5 (3) BY APRIL 1 OF THE SECOND AND EACH SUBSEQUENT YEAR OF A
6 PERMIT, THE PERMITTEE SHALL PAY THE DEPARTMENT AN ANNUAL FEE. THE
7 ANNUAL FEE SHALL EQUAL THE PERMIT APPLICATION FEE FOR THAT PERMIT
8 UNDER SECTION 3306 INCLUDING, FOR ANNUAL FEES DUE AFTER THE INITIAL
9 TREATMENT OF AN EXPANDED AREA OF IMPACT UNDER SECTION 3311(3), THE
10 ADDITIONAL FEE UNDER SECTION 3311(3)(D). HOWEVER, THE LAST ANNUAL
11 FEE IS SUBJECT TO A DISCOUNT EQUAL TO 5% MULTIPLIED BY THE NUMBER
12 OF YEARS IN THE TERM OF THE PERMIT IN EXCESS OF 1 YEAR. IF AN
13 ANNUAL FEE IS NOT RECEIVED BY THE DEPARTMENT BY APRIL 1, THE PERMIT
14 IS SUSPENDED UNTIL THE ANNUAL FEE IS PAID. WHEN THE APPLICATION FEE
15 FOR A PERMIT IS PAID, AN APPLICANT MAY CHOOSE TO ALSO PAY IN
16 ADVANCE ALL THE ANNUAL FEES THAT WILL BECOME DUE UNDER THIS
17 SUBSECTION IF THE PERMIT IS GRANTED FOR THE TERM REQUESTED BY THE
18 APPLICANT. IF THE APPLICATION IS DENIED OR IS GRANTED FOR A SHORTER
19 PERIOD THAN THE APPLICANT REQUESTED, THE DEPARTMENT SHALL REFUND
20 THOSE ANNUAL FEES THAT WILL NOT BECOME DUE.

21 (4) ~~(2) The~~ SUBJECT TO SUBSECTION (1)(F), THE department may
22 impose additional conditions on a permit under this part to protect
23 the natural resources or the public health, to prevent economic
24 loss or impairment of recreational uses, to protect nontarget
25 organisms, or to help ensure control of the aquatic nuisance.

26 Sec. 3311. (1) The department may make ~~minor~~ revisions to a
27 permit under this part, to minimize the impacts to the natural

1 resources, public health, and safety ~~or~~ to improve aquatic
2 nuisance control, if the proposed revisions do not ~~involve a change~~
3 ~~in~~ the scope of the project ~~and~~ the permittee requests the
4 revisions in writing. **THE DEPARTMENT SHALL NOT CHARGE A FEE FOR A**
5 **REQUEST FOR REVISIONS TO A PERMIT. THE DEPARTMENT SHALL APPROVE A**
6 **REQUEST FOR REVISIONS TO A PERMIT IN WHOLE OR IN PART OR DENY THE**
7 **REQUEST WITHIN 2 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.** The
8 request shall include all of the following information:

9 (a) The proposed changes to the permit.

10 (b) An explanation of the necessity for the proposed changes.

11 (c) Maps that clearly delineate any proposed changes to the
12 area of impact.

13 (d) Additional information that would help the department
14 reach a decision on a permit amendment.

15 (2) **IF THE PERMITTEE HAS WRITTEN AUTHORIZATION TO ACT ON**
16 **BEHALF OF A PERSON DESCRIBED IN SECTION 3303(4)(A), (B), OR (C),**
17 **UPON WRITTEN REQUEST OF THE PERSON, THE DEPARTMENT SHALL TRANSFER**
18 **THE PERMIT TO A NEW PERMITTEE WITH WRITTEN AUTHORIZATION TO ACT ON**
19 **BEHALF OF THAT PERSON. THE DEPARTMENT SHALL NOTIFY THE ORIGINAL**
20 **PERMITTEE OF THE TRANSFER OF THE PERMIT.**

21 (3) **A PERMITTEE MAY, WITHOUT A REVISION TO THE PERMIT OR**
22 **CERTIFICATE OF COVERAGE, EXPAND THE AREA OF IMPACT BEYOND THAT**
23 **AUTHORIZED IN THE PERMIT OR CERTIFICATE OF COVERAGE TO INCLUDE**
24 **ADJACENT WATERS THAT BECOME INFESTED AFTER THE APPLICATION FOR THE**
25 **PERMIT OR CERTIFICATE OF COVERAGE WAS SUBMITTED TO THE DEPARTMENT.**
26 **THE PERMITTEE MAY INCREASE THE AMOUNT OF CHEMICALS, AS AUTHORIZED**
27 **IN THE PERMIT OR CERTIFICATE OF COVERAGE, ACCORDING TO THE APPROVED**

1 PRODUCT LABEL TO MATCH THE EXPANSION IN THE AREA OF IMPACT. THE
2 PERMITTEE SHALL, WITHIN 15 BUSINESS DAYS AFTER THE INITIAL
3 TREATMENT OF THE EXPANDED AREA OF IMPACT, PROVIDE THE DEPARTMENT
4 WITH ALL OF THE FOLLOWING:

5 (A) A WRITTEN EXPLANATION OF THE NECESSITY FOR THE EXPANSION
6 OF THE AREA OF IMPACT.

7 (B) A MAP THAT CLEARLY DELINEATES THE CHANGES TO THE AREA OF
8 IMPACT.

9 (C) A WRITTEN STATEMENT SPECIFYING THE INCREASE IN THE AMOUNT
10 OF CHEMICALS USED OR TO BE USED AS A RESULT OF THE EXPANSION OF THE
11 AREA OF IMPACT.

12 (D) IF THE PERMIT APPLICATION FEE UNDER SECTION 3306 WOULD
13 HAVE BEEN HIGHER IF THE EXPANDED AREA OF IMPACT HAD BEEN INCLUDED
14 IN THE PERMIT APPLICATION, A FEE EQUAL TO THE DIFFERENCE BETWEEN
15 THE APPLICATION FEE PAID AND THE APPLICATION FEE THAT WOULD HAVE
16 BEEN DUE.

17 SEC. 3315. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT AN
18 ORDINANCE FOR THE PREVENTION, CONTROL, OR ERADICATION OF AQUATIC
19 NUISANCES IN A WATERBODY, OTHER THAN A GREAT LAKE OR CONNECTING
20 WATER, THAT LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF THE
21 LOCAL UNIT OF GOVERNMENT.

22 (2) AN ORDINANCE UNDER THIS SECTION MAY REQUIRE THE PAYMENT OF
23 A FEE FOR THE LAUNCHING OR USE OF A VESSEL IN THE WATERBODY IF THE
24 FEE IS USED EXCLUSIVELY FOR THE PURPOSES DESCRIBED IN SUBSECTION
25 (1) AND THE COSTS OF ADMINISTERING AND ENFORCING THE ORDINANCE.
26 HOWEVER, THE FEE SHALL NOT BE CHARGED UNLESS THE DEPARTMENT HAS
27 DETERMINED IN WRITING, SUCH AS BY ISSUANCE OF A PERMIT UNDER THIS

1 PART, THAT THE WATERBODY IS INFESTED WITH AN AQUATIC NUISANCE. THE
2 FEE SHALL NOT BE CHARGED AFTER THE AQUATIC NUISANCES IN THE
3 WATERBODY HAVE BEEN ERADICATED. THE ORDINANCE MAY EXEMPT A
4 PESTICIDE APPLICATOR, LAKE MANAGEMENT CONSULTANT, OR OTHER PERSON
5 ENGAGED IN AQUATIC NUISANCE MANAGEMENT ACTIVITIES; A GOVERNMENT
6 ENTITY; OR A NONPROFIT ORGANIZATION FROM THE FEE. NOT MORE THAN 5%
7 OF THE REVENUE COLLECTED FROM THE FEE SHALL BE USED FOR
8 ADMINISTRATION.

9 (3) AN ORDINANCE UNDER THIS SECTION IS NOT ENFORCEABLE UNLESS
10 1 OF THE FOLLOWING APPLIES:

11 (A) THE SAME ORDINANCE IS ADOPTED BY LEAST 50% OF THE CITIES
12 AND TOWNSHIPS WITHIN WHICH THE WATERBODY IS LOCATED AND AT LEAST
13 2/3 OF THE SHORELINE OF THE WATERBODY IS LOCATED WITHIN THOSE
14 CITIES AND TOWNSHIPS.

15 (B) THE SAME ORDINANCE IS ADOPTED BY LEAST 50% OF THE COUNTIES
16 WITHIN WHICH THE WATERBODY IS LOCATED AND AT LEAST 2/3 OF THE
17 SHORELINE OF THE WATERBODY IS LOCATED WITHIN THOSE COUNTIES.

18 (4) AN ORDINANCE ADOPTED UNDER THIS SECTION SHALL NOT CONFLICT
19 WITH STATE LAW.