

HOUSE BILL No. 6027

November 9, 2016, Introduced by Rep. Chang and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 5506b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5506B. (1) SUBJECT TO SUBSECTION (4), THIS SECTION
2 APPLIES TO A NEW OR RENEWAL PERMIT ISSUED UNDER THIS PART FOR AN
3 INDUSTRIAL FACILITY THAT IS, OR A PROPOSED INDUSTRIAL FACILITY THAT
4 WILL BE, LOCATED WITHIN 1,500 FEET OF AN OCCUPIED DWELLING, SCHOOL
5 BUILDING, HEALTH FACILITY, OR SENIOR BUILDING, OR THAT IS OR WILL
6 BE LOCATED IN AN AREA IDENTIFIED AS A HOTSPOT USING TOOLS SUCH AS
7 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S EJ SCREEN.

8 (2) BEFORE ISSUING A PERMIT DESCRIBED IN SUBSECTION (1), THE
9 DEPARTMENT SHALL PROVIDE REASONABLE NOTICE TO AREA RESIDENTS OF A
10 PUBLIC COMMENT PERIOD AND RECEIVE AND CONSIDER PUBLIC COMMENTS. THE
11 NOTICE SHALL SPECIFICALLY SOLICIT INPUT ON, AND THE DEPARTMENT'S

1 REVIEW PROCESS SHALL INCLUDE ANALYSIS OF, ALL OF THE FOLLOWING:

2 (A) WHETHER THE PERMIT WOULD AUTHORIZE EMISSIONS THAT HAVE A
3 DISPROPORTIONATE IMPACT ON A RACIAL MINORITY OR LOW-INCOME
4 COMMUNITY.

5 (B) WHETHER ADDITIONAL AIR MONITORING IS NEEDED NEAR THE
6 OCCUPIED DWELLING, SCHOOL BUILDING, HEALTH FACILITY, OR SENIOR
7 BUILDING. THE DEPARTMENT SHALL DETERMINE THE LOCATIONS OF AIR
8 MONITORS AND THE SUBSTANCES MONITORED IN CONSULTATION WITH
9 RESIDENTS WHO LIVE IN OR ATTEND SCHOOL IN THE SURROUNDING AREA.

10 (C) MEASURES DESCRIBED IN SUBSECTION (3) THAT SHOULD BE
11 REQUIRED IN THE PERMIT.

12 (3) A PERMIT DESCRIBED IN SUBSECTION (1) SHALL REQUIRE THE
13 OWNER OR OPERATOR OF THE INDUSTRIAL FACILITY TO DO 1 OR BOTH OF THE
14 FOLLOWING:

15 (A) MAINTAIN A VEGETATIVE BUFFER. THE OWNER OR OPERATOR OF THE
16 INDUSTRIAL FACILITY SHALL DETERMINE THE DISTANCE BETWEEN THE BUFFER
17 AND THE FACILITY AND BETWEEN THE BUFFER AND THE CLOSEST OCCUPIED
18 DWELLING, SCHOOL BUILDING, HEALTH FACILITY, OR SENIOR BUILDING IN
19 CONSULTATION WITH THE DEPARTMENT AND WITH RESIDENTS WHO LIVE IN OR
20 ATTEND SCHOOL IN THE SURROUNDING AREA.

21 (B) SUBJECT TO SUBSECTION (4), OFFER TO PURCHASE AT FAIR
22 MARKET VALUE ANY DWELLING LOCATED WITHIN 1,500 FEET OF THE FACILITY
23 THAT IS OCCUPIED AT THE TIME THE PERMIT IS ISSUED. THE OWNER OR
24 OPERATOR OF THE FACILITY SHALL NOT USE OR LEASE LAND PURCHASED
25 UNDER THIS SUBDIVISION FOR RESIDENTIAL PURPOSES. IF THE OWNER OR
26 OPERATOR OF THE FACILITY SUBSEQUENTLY SELLS LAND PURCHASED UNDER
27 THIS SUBDIVISION, A DEED RESTRICTION SHALL PROHIBIT THE USE OF THE

1 LAND FOR RESIDENTIAL PURPOSES AS LONG AS THE INDUSTRIAL FACILITY
2 CONTINUES IN OPERATION.

3 (4) ON A CASE-BY-CASE BASIS, THE DEPARTMENT MAY INCREASE THE
4 1,500-FOOT DISTANCE UNDER SUBSECTION (1) OR (3), IF THE INCREASE IS
5 NECESSARY FOR THE PROTECTION OF THE PUBLIC HEALTH AND THE AVOIDANCE
6 OF DISPROPORTIONATE IMPACTS ON A RACIAL MINORITY OR LOW-INCOME
7 COMMUNITY FROM EMISSIONS FROM THE INDUSTRIAL FACILITY.

8 (5) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION,
9 THE DEPARTMENT SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION
10 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
11 MCL 24.201 TO 24.328.

12 (6) AS USED IN THIS SECTION, "VEGETATIVE BUFFER" MEANS A
13 VARIETY OF SPECIES OF TREES, SHRUBS, AND OTHER VEGETATION PLANTED
14 AROUND A POLLUTION SOURCE, OR BETWEEN A POLLUTION SOURCE AND AN
15 OCCUPIED DWELLING, SCHOOL BUILDING, HEALTH FACILITY, OR SENIOR
16 BUILDING, TO SEPARATE PEOPLE FROM SOURCES OF POLLUTION AND TRAP AIR
17 POLLUTANTS BY ABSORPTION THROUGH THE PLANTS' STOMATA OR DEPOSITION
18 ON PLANT SURFACES.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.