

HOUSE BILL No. 4326

March 7, 2017, Introduced by Reps. Cole, Tedder, Whiteford, Lucido, Leutheuser, LaFave, Kahle, VanderWall and Rendon and referred to the Committee on Regulatory Reform.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 3109e, 3112a, 3122, 3122a, 3123, and 3124 (MCL 324.3109e, 324.3112a, 324.3122, 324.3122a, 324.3123, and 324.3124), section 3109e as added by 2013 PA 180, section 3112a as amended by 2004 PA 72, section 3122 as amended by 2015 PA 247, section 3122a as added by 2004 PA 114, and sections 3123 and 3124 as added by 2004 PA 90.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3109e. (1) Notwithstanding any other provision in this
2 act or the rules promulgated under this act, the department shall
3 not establish or enforce a limitation for sodium or chloride in a
4 ~~groundwater~~ **WASTEWATER** discharge permit that is more restrictive

1 than the following:

2 (a) 400 milligrams of sodium per liter.

3 (b) 500 milligrams of chloride per liter.

4 (2) Notwithstanding any other provision of this act or the
5 rules promulgated under this act, the department shall not
6 establish or enforce a limitation for sodium or chloride in
7 groundwater that is more restrictive than the following:

8 (a) 230 milligrams of sodium per liter.

9 (b) 250 milligrams of chloride per liter.

10 (3) Notwithstanding any other provision of this part or rules
11 promulgated under this part, if a permittee discharges sodium or
12 chloride, or both, into groundwater that migrates off of the
13 property on which the discharge was made and that discharge
14 directly causes the groundwater concentration of sodium or
15 chloride, or both, to exceed the levels provided under subsection
16 (2), the permittee shall do all of the following:

17 (a) Initiate a sampling program approved by the department to
18 monitor downgradient water supply wells for the levels of sodium or
19 chloride, or both, in the water supply.

20 (b) If the concentration of sodium in a downgradient water
21 supply exceeds the level provided under subsection (2), the
22 permittee shall provide and maintain, for each affected
23 downgradient water supply, free of charge, a point-of-use treatment
24 system approved by the department that will remove sodium from the
25 water supply so as to be in compliance with the level provided
26 under subsection (2).

27 (c) If the concentration of chloride in a downgradient water

1 supply exceeds the level provided under subsection (2), provide to
2 each affected water supply owner a notice of aesthetic impact with
3 respect to chloride levels.

4 (4) Notwithstanding any other provision of this act, a
5 permittee subject to the requirements of subsection (3) that
6 complies with the requirements of subsection (3) is not subject to
7 response activities under part 201 with respect to a discharge of
8 sodium or chloride, or both, that is in compliance with the
9 discharge level under subsection (1).

10 Sec. 3112a. (1) Except for sewer systems described in
11 subsection (8), if untreated sewage or partially treated sewage is
12 directly or indirectly discharged from a sewer system onto land or
13 into the waters of the state, the person responsible for the sewer
14 system shall immediately, but not more than 24 hours after the
15 discharge begins, notify the department; local health departments
16 as defined in section 1105 of the public health code, 1978 PA 368,
17 MCL 333.1105; a daily newspaper of general circulation in the
18 county or counties in which a municipality notified pursuant to
19 subsection (4) is located; and a daily newspaper of general
20 circulation in the county in which the discharge occurred or is
21 occurring of all of the following:

22 (a) Promptly after the discharge starts, by telephone or in
23 another manner required by the department, that the discharge is
24 occurring.

25 (b) At the conclusion of the discharge, in writing or in
26 another manner required by the department, all of the following:

27 (i) The volume and quality of the discharge as measured

1 pursuant to procedures and analytical methods approved by the
2 department.

3 (ii) The reason for the discharge.

4 (iii) The waters or land area, or both, receiving the
5 discharge.

6 (iv) The time the discharge began and ended as measured
7 pursuant to procedures approved by the department.

8 (v) Verification of the person's compliance status with the
9 requirements of its national pollutant discharge elimination system
10 permit or ~~groundwater~~ **WASTEWATER** discharge permit and applicable
11 state and federal statutes, rules, and orders.

12 (2) Upon being notified of a discharge under subsection (1),
13 the department shall promptly post the notification on its website.

14 (3) Each time a discharge to surface waters occurs under
15 subsection (1), the person responsible for the sewer system shall
16 test the affected waters for E. coli to assess the risk to the
17 public health as a result of the discharge and shall provide the
18 test results to the affected local county health departments and to
19 the department. The **PERSON SHALL CONDUCT THE** testing ~~shall be done~~
20 at locations specified by each affected local county health
21 department but shall not ~~exceed~~ **CONDUCT MORE THAN** 10 tests for each
22 separate discharge event. The requirement for this testing may be
23 waived by the affected local county health department if the
24 affected local county health department determines that ~~such~~ **THE**
25 testing is not needed to assess the risk to the public health as a
26 result of the discharge event.

27 (4) A person responsible for a sewer system that may discharge

1 untreated sewage or partially treated sewage into the waters of the
2 state shall annually contact each municipality whose jurisdiction
3 contains waters that may be affected by the discharge. If those
4 contacted municipalities wish to be notified in the same manner as
5 provided in subsection (1), the person responsible for the sewer
6 system shall provide that notification.

7 (5) A person who is responsible for a discharge of untreated
8 sewage or partially treated sewage from a sewer system into the
9 waters of the state shall comply with the requirements of its
10 national pollutant discharge elimination system permit or
11 ~~groundwater~~**WASTEWATER** discharge permit and applicable state and
12 federal statutes, rules, and orders.

13 (6) This section does not authorize the discharge of untreated
14 sewage or partially treated sewage into the waters of the state or
15 limit ~~the~~**THIS** state from bringing legal action as otherwise
16 authorized by this part.

17 (7) The penalties and fines provided for in section 3115 apply
18 to a violation of this section.

19 (8) For sewer systems that discharge to the groundwater via a
20 subsurface disposal system, that do not have a ~~groundwater~~
21 **WASTEWATER** discharge permit issued by the department, and the
22 discharge of untreated sewage or partially treated sewage is not to
23 surface waters, the person responsible for the sewer system shall
24 notify the local health department in accordance with subsection
25 (1)(a) and (b), but the requirements of subsections (2), (3), (4),
26 and (5) do not apply.

27 (9) As used in this section:

1 (a) "Partially treated sewage" means any sewage, sewage and
2 storm water, or sewage and wastewater, from domestic or industrial
3 sources that meets 1 or more of the following:

4 (i) Is not treated to national secondary treatment standards
5 for wastewater or that is treated to a level less than that
6 required by the person's national pollutant discharge elimination
7 system permit.

8 (ii) Is treated to a level less than that required by the
9 person's ~~groundwater~~ **WASTEWATER** discharge permit.

10 (iii) Is found on the ground surface.

11 (b) "Sewer system" means a public or privately owned sewer
12 system designed and used to convey or treat sanitary sewage or
13 sanitary sewage and storm water. Sewer system does not include an
14 on-site wastewater treatment system serving 1 residential unit or
15 duplex.

16 (c) "Surface water" means all of the following, but does not
17 include drainage ways and ponds used solely for wastewater
18 conveyance, treatment, or control:

19 (i) The Great Lakes and their connecting waters.

20 (ii) Inland lakes.

21 (iii) Rivers.

22 (iv) Streams.

23 (v) Impoundments.

24 (vi) Open drains.

25 (vii) Other surface bodies of water.

26 Sec. 3122. (1) Until September 30, 2019, the department may
27 levy and collect an annual ~~groundwater~~ **WASTEWATER** discharge permit

1 fee from facilities or municipalities that discharge wastewater to
2 the ground or groundwater of this state pursuant to section 3112.

3 The fee shall be as follows:

4 (a) For a group 1 facility, \$3,650.00.

5 (b) For a group 2 facility or a municipality of 1,000 or fewer
6 residents, \$1,500.00.

7 (c) For a group 2a facility, \$250.00.

8 (d) For a group 3 facility, \$200.00.

9 (2) Within 180 days after receipt of a complete application
10 for a permit to discharge wastewater to the ground or to
11 groundwater, the department shall either grant or deny a permit,
12 unless the applicant and the department agree to extend this time
13 period. If the department fails to make a decision on an
14 application within the time period specified or agreed to under
15 this subsection, an applicant subject to an annual ~~groundwater~~
16 **WASTEWATER** discharge permit fee shall receive a 15% annual discount
17 on the annual ~~groundwater~~-**WASTEWATER** discharge permit fee.

18 (3) If the person required to pay the annual ~~groundwater~~
19 **WASTEWATER** discharge permit fee under subsection (1) is a
20 municipality, the municipality may pass on the annual ~~groundwater~~
21 **WASTEWATER** discharge permit fee to each user of the municipal
22 facility.

23 (4) As used in this section, "group 1 facility", "group 2
24 facility", "group 2a facility", and "group 3 facility" do not
25 include a municipality with a population of 1,000 or fewer
26 residents **OR A CAMPGROUND THAT HOLDS A CAMPGROUND LICENSE UNDER**
27 **PART 125 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.12501 TO**

1 **333.12546.**

2 Sec. 3122a. In any state fiscal year, if the department
3 collects more than \$2,000,000.00 under section 3122 in annual
4 ~~groundwater~~**WASTEWATER** discharge permit fees, the department shall
5 credit in the next fiscal year each permittee who paid a
6 ~~groundwater~~**WASTEWATER** discharge permit fee a proportional amount
7 of the fees collected in excess of \$2,000,000.00. However, if a
8 permit is no longer required by the permittee in the next fiscal
9 year, the department shall do the following:

10 (a) If the credited amount is \$50.00 or more, the department
11 shall provide a refund to the permittee for the credited amount.

12 (b) If the credited amount is less than \$50.00, the department
13 shall provide a credit to the permittee for an annual ~~groundwater~~
14 **WASTEWATER** discharge permit fee that may be required in a
15 subsequent year.

16 Sec. 3123. (1) The department shall send invoices for the
17 ~~groundwater~~**WASTEWATER** discharge permit fees under section 3122 to
18 all permit holders by January 15 of each year. Fees will be charged
19 for all facilities authorized as of December 15 of each calendar
20 year. Payment ~~shall~~**MUST** be postmarked ~~no~~**NOT** later than March 1 of
21 each year. Failure by the department to send an invoice by the
22 deadline, or failure of a person to receive an invoice, does not
23 relieve that person of his or her obligation to pay the annual
24 ~~groundwater~~**WASTEWATER** discharge permit fee. If the department does
25 not meet the January 15 deadline for sending invoices, the annual
26 ~~groundwater~~**WASTEWATER** discharge permit fee is due not later than
27 45 days after receiving an invoice. The department shall forward

1 money collected pursuant to this section to the state treasurer for
2 deposit into the ~~groundwater~~**WASTEWATER** discharge permit fund
3 established under section 3124.

4 (2) The department shall assess a penalty on all fee payments
5 submitted under this section after the due date ~~. The penalty shall~~
6 ~~be an amount equal to~~**OF** 0.75% of the payment due for each month or
7 portion of a month the payment remains past due. Failure to timely
8 pay a fee imposed by this section is a violation of this part and
9 is cause for revocation of a permit issued under this part and may
10 subject the discharger to additional penalties ~~pursuant to~~**UNDER**
11 section 3115.

12 (3) The attorney general may bring an action for the
13 collection of the ~~groundwater~~**WASTEWATER** discharge permit fees
14 imposed under this section.

15 Sec. 3124. (1) The ~~groundwater~~**WASTEWATER** discharge permit
16 fund is created within the state treasury. The state treasurer may
17 receive money or other assets from any source for deposit into the
18 ~~groundwater~~**WASTEWATER** discharge permit fund. The state treasurer
19 shall direct the investment of the ~~groundwater~~**WASTEWATER** discharge
20 permit fund.

21 (2) Money in the ~~groundwater~~**WASTEWATER** discharge permit fund
22 at the close of the fiscal year ~~shall remain~~**REMAINS** in the
23 ~~groundwater~~**WASTEWATER** discharge permit fund and ~~shall~~**DOES** not
24 lapse to the general fund.

25 (3) The state treasurer shall credit to the ~~groundwater~~
26 **WASTEWATER** discharge permit fund the interest and earnings from
27 ~~groundwater~~**WASTEWATER** discharge permit fund investments.

1 (4) The department shall expend money from the ~~groundwater~~
2 **WASTEWATER** discharge permit fund, upon appropriation, only to
3 implement the department's groundwater discharge program under this
4 part. However, in any state fiscal year, the department shall not
5 expend more than \$2,000,000.00 of money from the fund.

6 (5) By March 1 annually, the department shall prepare and
7 submit to the governor, the legislature, the chair of the standing
8 committees of the senate and house of representatives with primary
9 responsibility for issues related to natural resources and the
10 environment, and the chairs of the subcommittees of the senate and
11 house appropriations committees with primary responsibility for
12 appropriations to the department a report that details the
13 activities during the previous fiscal year in administering the
14 department's groundwater discharge program that were funded by the
15 ~~groundwater~~**WASTEWATER** discharge permit fund. ~~This~~**THE DEPARTMENT**
16 **SHALL INCLUDE IN THIS** report, ~~shall include,~~ at a minimum, all of
17 the following as they relate to the department:

18 (a) The number of full-time equated positions performing
19 ~~groundwater~~**WASTEWATER** permitting, compliance, and enforcement
20 activities.

21 (b) The number of applications **FOR WASTEWATER DISCHARGE**
22 **PERMITS** received by the department, reported as the number of
23 applications determined to be administratively incomplete and the
24 number determined to be administratively complete.

25 (c) The number of applications for ~~groundwater~~**WASTEWATER**
26 **DISCHARGE** permits determined to be administratively complete for
27 which a final action was taken by the department, ~~. The number of~~

1 ~~final actions shall be reported as the~~ **INCLUDING A DELINEATION OF**
 2 **ALL OF THE FOLLOWING:**

3 (i) **THE** number of applications approved. ~~the~~

4 (ii) **THE** number of applications denied. ~~and the~~

5 (iii) **THE** number of applications withdrawn by the applicant.

6 (d) The percentage and number of applications **FOR WASTEWATER**
 7 **DISCHARGE PERMITS** determined to be administratively complete for
 8 which a final decision was made within the statutory time frame.

9 (e) The number of inspections conducted at groundwater
 10 facilities **THAT DISCHARGE WASTEWATER.**

11 (f) The number of violation letters sent.

12 (g) The number of contested case hearings and civil actions
 13 initiated and completed, the number of voluntary consent orders and
 14 administrative orders entered or issued, and the amount of fines
 15 and penalties collected through ~~such~~ **THESE** actions or orders.

16 (h) For each enforcement action that includes a penalty, a
 17 description of ~~what~~ **THE** corrective actions **THAT** were required by
 18 the enforcement action.

19 (i) The number of groundwater complaints received,
 20 investigated, resolved, and not resolved by the department.

21 (j) The amount of revenue in the ~~groundwater~~ **WASTEWATER**
 22 discharge permit fund at the end of the fiscal year.

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