

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.20139 Applicability of penalties; conduct constituting felony; penalties; jurisdiction; criminal liability for substantial endangerment to public health, safety, or welfare; determination; knowledge attributable to defendant; award; rules; "serious bodily injury" defined.

Sec. 20139. (1) The penalties provided in this section only apply to a release that occurs after July 1, 1991.

(2) A person who does any of the following is guilty of a felony and shall be fined not less than \$2,500.00 or more than \$25,000.00 for each violation:

(a) Knowingly releases or causes a release contrary to applicable federal, state, or local requirements or contrary to any permit or license held by that person, if that person knew or should have known that the release could cause personal injury or property damage.

(b) Intentionally makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this part.

(c) Intentionally renders inaccurate any monitoring device or record required to be maintained under this part.

(d) Misrepresents his or her qualifications under section 20114d or 20114e.

(3) In addition to a fine imposed under subsection (2), the court may impose an additional fine of not more than \$25,000.00 for each day during which the release occurred. If the conviction is for a violation committed after a first conviction of the person under this subsection, the court shall impose a fine of not less than \$25,000.00 and not more than \$50,000.00 per day of violation. Upon conviction, in addition to a fine, the court in its discretion may sentence the defendant to imprisonment for not more than 2 years or impose probation upon a person for a violation of this part. With the exception of the issuance of criminal complaints, issuance of warrants, and the holding of an arraignment, the circuit court for the county in which the violation occurred has exclusive jurisdiction.

(4) Upon a finding by the court that the action of a criminal defendant prosecuted under this section poses or posed a substantial endangerment to public health, safety, or welfare, the court shall impose, in addition to the penalties set forth in subsections (2) and (3), a fine of not less than \$1,000,000.00 and, in addition to a fine, a sentence of 5 years' imprisonment.

(5) To find a defendant criminally liable for substantial endangerment under subsection (4), the court shall determine that the defendant knowingly or recklessly acted in such a manner as to cause a danger of death or serious bodily injury and that either of the following has occurred:

(a) The defendant had an actual awareness, belief, or understanding that his or her conduct would cause a substantial danger of death or serious bodily injury.

(b) The defendant acted in gross disregard of the standard of care that any reasonable person would observe in similar circumstances.

(6) Knowledge possessed by a person other than the defendant under subsection (5) may be attributable to the defendant if the defendant took affirmative steps to shield himself or herself from the relevant information.

(7) The department may pay an award of up to \$10,000.00 to an individual that provides information leading to the arrest and conviction of a person for a violation of this section. The department shall promulgate rules that prescribe criteria for granting awards under this section. An award shall not be made under this section until rules are promulgated prescribing the criteria for making awards. Awards under this subsection may be paid from the Michigan environmental assurance fund, if enabling legislation creating the fund is enacted into law.

(8) As used in this section, "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 71, Imd. Eff. June 5, 1995;—Am. 2010, Act 230, Imd. Eff. Dec. 14, 2010.

Popular name: Act 451

Popular name: Environmental Remediation

Popular name: Environmental Response Act

Popular name: NREPA