

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.13736 Sanctions for negligence or failure to exercise due care; grounds for suspending, revoking, annulling, withdrawing, recalling, or cancelling license or permit; order; procedures, hearings, oaths, subpoenas, and testimony; books, papers, or documents; aid of circuit court; grounds for denial of application for license or permit; monitoring, surveillance, and inspection; spot checks; advising authority of regulatory actions; administrative inspection warrant; search warrant; probable cause.

Sec. 13736. (1) A person who holds a license or permit issued under this part may be subject to sanctions as provided in subsection (2) for negligence or a failure to exercise due care, including negligent supervision, regarding the license or permit holder's contractors, employees, agents, or subordinates.

(2) The department may suspend, revoke, annul, withdraw, recall, or cancel a license or permit issued under this part in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, if any of the following exists:

(a) Fraud or deceit in obtaining a permit or license or in registering under this part.

(b) A violation of this part, an order issued or a rule promulgated under this part, or the conditions of a registration, permit, or license under this part.

(c) Negligence or failure to exercise due care, including negligent supervision, regarding contractors, employees, agents, or subordinates.

(3) In addition to or in lieu of any action authorized in subsection (2), if the department finds any of the circumstances listed in subsection (2)(a) to (c), the department may issue an order directing the person to do either of the following:

(a) Discontinue handling or otherwise possessing waste.

(b) Comply with specific requirements of a permit or license issued under this part.

(4) The department may establish procedures, hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition in a proceeding under this part. A person may be compelled to appear and testify and to produce books, papers, or documents in a proceeding. In case of disobedience of a subpoena, a party to a hearing may invoke the aid of the circuit court of the county in which the hearing is held to require the attendance and testimony of witnesses. The circuit court may issue an order requiring an individual to appear and give testimony.

(5) An application for a license or permit under this part may be denied on a finding of any condition or practice that would constitute a violation of this part or any rules promulgated under this part if the applicant were a holder of the permit or a license that the applicant seeks or if there is fraud or deceit in attempting to obtain a permit or license under this part.

(6) The director or his or her authorized representatives may enter the disposal site or other location where waste is located or reasonably believed to be located at any time for the purpose of monitoring, surveillance, and inspection, and may enter at all reasonable times upon any public or private property, building, premises, place, or vehicle for the purpose of determining compliance with this part, or a permit, registration, or license condition, rule, or an order issued pursuant to this part. In the conduct of an investigation, the director or his or her authorized representatives may collect samples, conduct tests and inspections, and examine any book, record, paper, document, or other physical evidence related to the generation, management, processing, collecting, transport, storage, or disposal of waste.

(7) The department shall conduct unannounced spot checks of the premises of generators and processors who hold permits issued under this part to assure the proper packaging of waste. The unannounced spot checks provided for in this subsection shall only occur to the extent that the department has access to the premises of the generator and processor under federal law.

(8) The department shall advise the authority of regulatory actions taken under this part and shall evaluate and respond within 30 days to information received from the authority in which the authority recommends that regulatory action should be undertaken by the department.

(9) An agent or employee of the department may apply for an administrative inspection warrant pursuant to sections 2241 to 2247, or for a search warrant for purposes of collecting samples, testing, inspecting, or examining any radioactive material or any public or private property, building, premises, place, vehicle, book, record, paper, sample results, or other physical evidence related to the generation, processing, collecting, management, transport, storage, disposal, or possession of waste. It shall be sufficient probable cause to show any of the following:

(a) The sample collection, test, inspection, or examination is pursuant to a general administrative action to

determine compliance with this part.

(b) An agent or employee of the department has reason to believe that a violation of this part has occurred or may occur.

(c) An agent or employee of the department has been refused access to the waste, property, building, premise, place, vehicle, book, record, document, paper, sample results, or other physical evidence related to the generation, management, processing, collecting, transport, or disposal of waste, or has been prevented from collecting samples or conducting tests, surveillance, inspections, monitoring, or examinations.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368