

SENATE BILL No. 254

March 4, 2003, Introduced by Senators SCHAUER, BRATER, CHERRY, EMERSON and BERNERO and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 3112 (MCL 324.3112) and by adding section 3113b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112. (1) A person shall not discharge any waste or
2 waste effluent into the waters of this state unless the person is
3 in possession of a valid permit from the department. ~~Compliance~~
4 ~~with the terms of an outstanding order of determination or final~~
5 ~~order of determination or stipulation with the former water~~
6 ~~resources commission that is in effect on April 15, 1973, shall~~
7 ~~be considered to meet the requirements of this section until the~~
8 ~~department issues its permit.~~

9 (2) The department shall condition the continued validity of
10 a permit upon ~~the~~ **both of the following:**

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1 **(a)** The permittee's meeting the effluent requirements that
2 the department considers necessary to prevent unlawful pollution
3 by the dates that the department considers to be reasonable and
4 necessary and to assure compliance with applicable federal law
5 and regulations.

6 **(b) Payment of the annual wastewater discharge environmental**
7 **fee provided for in section 3113b.**

8 **(3)** If the department finds that the terms of a permit have
9 been, are being, or may be violated, it may modify, suspend, or
10 revoke the permit or grant the permittee a reasonable period of
11 time in which to comply with the permit. The department may
12 reissue a revoked permit upon a showing satisfactory to the
13 department that the permittee has corrected the violation. A
14 person who has had a permit revoked may apply for a new permit.

15 **(4)** ~~-(2)-~~ If the department determines that a person is
16 causing or is about to cause unlawful pollution of the waters of
17 this state, the department may notify the alleged offender of its
18 determination and enter an order requiring the person to abate
19 the pollution or refer the matter to the attorney general for
20 legal action, or both.

21 **(5)** ~~-(3)-~~ A person who is aggrieved by an order of abatement
22 of the department or by the reissuance, modification, suspension,
23 or revocation of an existing permit of the department executed
24 pursuant to this section may file a sworn petition with the
25 commission setting forth the grounds and reasons for the
26 complaint and asking for a contested case hearing on the matter
27 pursuant to the administrative procedures act of 1969, ~~Act~~

1 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
2 ~~24.328 of the Michigan Compiled Laws— 1969 PA 306, MCL 24.201 to~~
3 **24.328.** A petition filed more than 60 days after action on the
4 order or permit may be rejected by the commission as being
5 untimely.

6 **Sec. 3113b. (1) There is established an annual wastewater**
7 **discharge environmental fee. The fee shall be paid by each**
8 **person required to obtain a permit under section 3113. The fee**
9 **shall consist of an administrative fee of \$100.00 plus an**
10 **additional fee established by the department under this section.**

11 **(2) The department shall establish, by rule, a fee schedule**
12 **to calculate the annual wastewater discharge environmental fee**
13 **under subsection (1). The fee schedule shall be established**
14 **based on the pollutants included in the permit under section**
15 **3113, the environmental or public health harm caused by the**
16 **pollutants discharged, the concentration or quantity, or both, of**
17 **the pollutants discharged, and the quality of the receiving**
18 **waters.**

19 **(3) In establishing the fee schedule under subsection (2),**
20 **the department shall distinguish among substances discharged**
21 **directly to surface waters, those discharged into land disposal**
22 **systems, and those discharged into groundwater, based on their**
23 **relative impacts on the quality of groundwaters and surface**
24 **waters.**

25 **(4) In determining the amount of the annual wastewater**
26 **discharge environmental fee that is assessed to a person under**
27 **this section, the department shall do all of the following:**

1 (a) Use a 5-year rolling average of discharges by that
2 person.

3 (b) Use a performance-based approach that increases a
4 person's fees in proportion to increases in the number of units
5 of pollutants discharged by the person as determined under
6 subdivision (a) and decreases a person's fees in proportion to
7 decreases in the number of units of pollutants discharged by the
8 person as determined under subdivision (a).

9 (c) Not use any multiplier or similar mechanism that would
10 increase a person's fees in order to compensate for decreases in
11 overall amounts of discharges.

12 (d) Not use any provision that would increase the fee per
13 unit of pollutant discharged in order to compensate for decreases
14 in overall amounts of discharges.