

SENATE BILL No. 1428

September 28, 2004, Introduced by Senators KUIPERS, VAN WOERKOM and PATTERSON 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 5503 (MCL 324.5503) and by adding section 5515a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5503. The department may do 1 or more of the
2 following:

3 (a) Promulgate rules to establish standards for ambient air
4 quality and for emissions.

5 (b) Issue permits for the construction and operation of
6 sources, processes, and process equipment, subject to enforceable
7 emission limitations and standards and other conditions
8 reasonably necessary to assure compliance with all applicable
9 requirements of this part, rules promulgated under this part, and
10 the clean air act.

1 (c) In accordance with this part and rules promulgated under
2 this part, deny, terminate, modify, or revoke and reissue permits
3 for cause. If an application for a permit is denied or is
4 determined to be incomplete by the department, the department
5 shall state in writing with particularity the reason for denial
6 or the determination of incompleteness, and, if applicable, the
7 provision of this part or a rule promulgated under this part that
8 controls the decision.

9 (d) Compel the attendance of witnesses at proceedings of the
10 department upon reasonable notice.

11 (e) ~~Make~~ **Subject to section 5515a, make** findings of fact
12 and determinations.

13 (f) ~~Make~~ **Subject to section 5515a, make**, modify, or cancel
14 orders that require, in accordance with this part, the control of
15 air pollution.

16 (g) Enforce permits, air quality fee requirements, and the
17 requirements to obtain a permit.

18 (h) ~~Institute~~ **Subject to section 5515a, institute** in a
19 court of competent jurisdiction proceedings to compel compliance
20 with this part, rules promulgated under this part, or any
21 determination or order issued under this part.

22 (i) Enter and inspect any property as authorized under
23 section 5526.

24 (j) Receive and initiate complaints of air pollution in
25 alleged violation of this part, rules promulgated under this
26 part, or any determination, permit, or order issued under this
27 part and, **subject to section 5515a**, take action with respect to

1 the complaint as provided in this part.

2 (k) Require reports on sources and the quality and nature of
3 emissions, including, but not limited to, information necessary
4 to maintain an emissions inventory.

5 (l) Prepare and develop a general comprehensive plan for the
6 control or abatement of existing air pollution and for the
7 control or prevention of any new air pollution.

8 (m) Encourage voluntary cooperation by all persons in
9 controlling air pollution and air contamination.

10 (n) Encourage the formulation and execution of plans by
11 cooperative groups or associations of municipalities, counties or
12 districts, or other governmental units, industries, and others
13 who severally or jointly are or may be the source of air
14 pollution, for the control of pollution.

15 (o) Cooperate with the appropriate agencies of the United
16 States or other states or any interstate or international
17 agencies with respect to the control of air pollution and air
18 contamination or for the formulation for the submission to the
19 legislature of interstate air pollution control compacts or
20 agreements.

21 (p) Conduct or cause to be conducted studies and research
22 with respect to air pollution control, abatement, or prevention.

23 (q) Conduct and supervise programs of air pollution control
24 education including the preparation and distribution of
25 information relating to air pollution control.

26 (r) Determine by means of field studies and sampling the
27 degree of air pollution in ~~the~~ **this** state.

1 (s) Provide advisory technical consultation services to local
2 communities.

3 (t) Serve as the agency of ~~the~~ **this** state for the receipt
4 of money from the federal government or other public or private
5 agencies and the expenditure of that money after it is
6 appropriated for the purpose of air pollution control studies or
7 research or enforcement of this part.

8 (u) Do ~~such~~ **any** other things ~~as~~ **that** the department
9 considers necessary, proper, or desirable to enforce this part, a
10 rule promulgated under this part, or any determination, permit,
11 or order issued under this part, or the clean air act.

12 **Sec. 5515a. (1) The department shall not do either of the**
13 **following unless the department has received complaints as**
14 **described in subsection (2) from 25% or more of the businesses**
15 **and households located within a 1/2-mile radius from the emission**
16 **source:**

17 (a) Find that a person has violated this part or a rule
18 promulgated, permit or order issued, or determination made under
19 this part by causing or permitting an emission that results in an
20 objectionable odor.

21 (b) Take or commence any action against a person for
22 violating this part or a rule promulgated, permit or order
23 issued, or determination made under this part by causing or
24 permitting an emission that results in an objectionable odor.

25 (2) To qualify as a complaint of an objectionable odor under
26 subsection (1), all of the following must apply:

27 (a) The complaint is received by the department within 6

1 months before the department's finding or action.

2 (b) The complaint is contained in a writing made by a
3 complaining individual or by the department from information
4 provided by the complaining individual.

5 (c) The complaint contains all of the following specific
6 information:

7 (i) The name and address of the complaining individual or, if
8 the complaint is made on behalf of a business, the name and
9 address of the business.

10 (ii) The time the odor was detected.

11 (iii) The nature of the odor.

12 (iv) The duration of the odor.

13 (v) How the odor affected the complaining individual's or
14 another individual's health, safety, or comfort.

15 (3) If the department takes or commences an action against a
16 person as described in subsection (1), or if the department takes
17 or commences an action against a person as the result of a
18 finding described in subsection (1), and the person prevails in
19 the action, the department shall pay the person the reasonable
20 costs incurred in defending against the action.

21 (4) On or before December 31, 2006, the department shall
22 promulgate rules that establish objective criteria for duration,
23 intensity, and frequency thresholds for odors to constitute a
24 violation of this part or a rule promulgated, permit or order
25 issued, or determination made under this part.

26 (5) As used in this section:

27 (a) "Business" means a person or group of related or

1 connected persons engaged in commerce that operate from the same,
2 contiguous, or closely located premises.

3 (b) "Household" means an individual or group of individuals
4 who reside in a single detached dwelling unit or a single unit of
5 a multiple dwelling, including a seasonal dwelling, but not
6 including a motel, hotel, or other transient dwelling.