

HOUSE BILL No. 4322

March 1, 1989, Introduced by Reps. Scott, Perry Bullard, Hart, DeBeaussaert, Gubow, Bandstra, Sparks, Sikkema, London, Spaniola and Weeks and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title of Act No. 245 of the Public Acts of 1929, entitled as amended

"An act to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the Great Lakes, to have control over the alteration of the watercourses and the flood plains of all rivers and streams, with powers to make rules governing the same, and to prescribe the powers and duties of such commission; to require the registration of manufacturing products, production materials and waste products where certain wastes are discharged; to provide for surveillance fees upon discharges to the waters of the state in order to provide for investigation, monitoring and surveillance necessary to prevent and abate water pollution; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation of this act,"

1 Section 1. The title of Act No. 245 of the Public Acts of
2 1929, as amended, being sections 323.1 to 323.13 of the Michigan
3 Compiled Laws, is amended and sections 1a, 1b, 2b, 2c, 2d, 2e,
4 and 2f are added to read as follows:

6 An act to create a water resources commission; to protect,
7 and conserve the water resources of the state, to have control
8 over the pollution of any waters of the state and the Great
9 Lakes, to have control over the alteration of the watercourses
0 and the ~~flood plains~~ FLOODPLAINS of all rivers and streams,
1 with powers to make rules governing the same; ~~, and~~ to pre-
2 scribe the powers and duties of ~~such commission~~ CERTAIN STATE
3 AGENCIES AND OFFICIALS; to require the registration of manufac-
4 turing products, production materials, and waste products where
5 certain wastes are discharged; to provide for surveillance fees
6 upon discharges to the waters of the state in order to provide
7 for investigation, monitoring, and surveillance necessary to pre-
8 vent and abate water pollution; to require permits to regulate
9 the discharge or storage of any substance which may affect the
0 quality of the waters of the state and to establish restrictions
1 to assure compliance with applicable state standards and to
2 authorize the establishment of permit restrictions and programs
3 to assure compliance with applicable federal law and regulations;

1 to prohibit the pollution of any waters of the state and the
2 Great Lakes; to prohibit the obstruction of the floodways of the
3 rivers and streams of the state; to designate the commission as
4 the state agency to cooperate and negotiate with other govern-
5 ments and agencies in matters concerning the water resources of
6 the state; and to provide penalties AND REMEDIES for the viola-
7 tion of this act.

8 SEC. 1A. AS USED IN THIS ACT:

9 (A) "COMMISSION" MEANS THE WATER RESOURCE COMMISSION CREATED
10 IN SECTION 1.

11 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

12 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS
13 OR HER DESIGNEE.

14 (D) "MUNICIPALITY" MEANS THE STATE, A COUNTY, CITY, VILLAGE,
15 OR TOWNSHIP, OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, A
16 COUNTY, CITY, VILLAGE, OR TOWNSHIP.

17 (E) "PERSON" MEANS AN INDIVIDUAL; SOLE PROPRIETORSHIP; PART-
18 NERSHIP; ASSOCIATION; A PUBLIC OR PRIVATE CORPORATION, INCLUDING
19 A FEDERAL CORPORATION; THIS STATE OR AN AGENCY OR DEPARTMENT OF
20 THIS STATE; OR A MUNICIPALITY IN THIS STATE.

21 (F) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
22 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
23 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
24 LAWS.

25 (G) "WATERS OF THE STATE" MEANS GROUNDWATER, LAKES, RIVERS,
26 STREAMS, AND ALL OTHER WATERCOURSES AND BODIES OF WATER WITHIN

1 THE CONFINES OF THE STATE AND ALSO INCLUDES THE GREAT LAKES
2 BORDERING THE STATE.

3 SEC. 1B. AS USED IN SECTIONS 2B, 2C, 2D, 2E, AND 2F:

4 (A) "ADL" OR "ALLOWABLE DISCHARGE LEVEL" MEANS CONCENTRATION
5 LIMITATIONS FOR DISCHARGES TO GROUNDWATER ESTABLISHED BY THE
6 DIRECTOR PURSUANT TO GUIDELINES ADOPTED BY THE COMMISSION PURSU-
7 ANT TO SECTION 2B, OR DIRECTLY ESTABLISHED BY THE COMMISSION.

8 (B) "AQUIFER" MEANS UNDERGROUND WATER-BEARING EARTH MATERI-
9 ALS THROUGH WHICH GROUNDWATER MOVES IN SUFFICIENT QUANTITY TO
10 SERVE AS A SOURCE OF WATER SUPPLY.

11 (C) "CARCINOGEN" MEANS A SUBSTANCE THAT CAUSES AN INCREASED
12 INCIDENCE OF BENIGN OR MALIGNANT NEOPLASMS OR A SUBSTANTIAL
13 DECREASE IN THE LATENCY PERIOD BETWEEN EXPOSURE AND ONSET OF NEO-
14 PLASMS IN AT LEAST 1 MAMMALIAN SPECIES, OR HUMAN BEINGS.
15 EXPOSURE MAY BE ORAL OR DERMAL. EXPOSURE MAY ALSO BE BY INHALA-
16 TION WHEN NEOPLASMS OCCUR AT NONRESPIRATORY SITES OR, IF CONSID-
17 ERED APPROPRIATE BY THE COMMISSION, WHEN NEOPLASMS OCCUR AT RES-
18 PIRATORY SITES. IF THE COMMISSION, ON THE BASIS OF CREDIBLE SCI-
19 ENTIFIC EVIDENCE, DETERMINES THAT THERE IS SIGNIFICANT UNCER-
20 TAINTY REGARDING THE CREDIBILITY, VALIDITY, OR SIGNIFICANCE OF
21 AVAILABLE DATA REGARDING CARCINOGENICITY, IT SHALL REFER THE
22 QUESTION OF CARCINOGENICITY TO EXPERTS IN THE FIELD OF CARCINOGE-
23 NESIS AND SHALL CONSIDER THE RECOMMENDATION OF THOSE EXPERTS IN
24 MAKING A FINAL DETERMINATION.

25 (D) "DISCHARGE" MEANS THE ADDITION OF MATERIALS TO GROUNDWA-
26 TER FROM A PERSON BY A POINT SOURCE, SEEPAGE, OR PERCOLATION
27 THROUGH THE SOIL.

1 (E) "GENOTOXIC TERATOGEN" MEANS A SUBSTANCE THAT IS ALL OF
2 THE FOLLOWING:

3 (i) POSITIVE IN A BATTERY OF TESTS FOR GENE MUTATION, WITH
4 OR WITHOUT METABOLIC ACTIVATION.

5 (ii) ITS GENOTOXIC METABOLITES ARE PLACENTALLY TRANSFERRED
6 IN 1 OR MORE MAMMALIAN SPECIES.

7 (iii) IT ELICITS A TERATOGENIC RESPONSE WHEN ADMINISTERED
8 ORALLY, DERMALLY, OR BY INHALATION IN 1 OR MORE MAMMALIAN
9 SPECIES.

10 (F) "GERM-LINE MUTAGEN" MEANS A SUBSTANCE THAT MAY CAUSE A
11 HERITABLE CHANGE IN THE GENOME OF THE GERMINAL CELLS THROUGH
12 ORAL, DERMAL, OR INHALATION EXPOSURE IN 1 OR MORE MAMMALIAN
13 SPECIES.

14 (G) "GROUNDWATER" MEANS UNDERGROUND WATERS WITHIN THE ZONE
15 OF SATURATION.

16 (H) "HUMAN LIFE CYCLE SAFE CONCENTRATION" MEANS THE HIGHEST
17 CONCENTRATION OF A CHEMICAL ACTING BY A THRESHOLD MECHANISM TO
18 WHICH HUMANS ARE EXPOSED CONTINUOUSLY FOR A LIFETIME THAT IS NOT
19 EXPECTED TO RESULT IN ADVERSE EFFECTS TO AN INDIVIDUAL OR TO THE
20 PROGENY OF AN INDIVIDUAL.

21 (I) "INCREASED CANCER RISK OF 1 IN 1,000,000" MEANS THE 95%
22 UPPER BOUND ON RISK OF 1 ADDITIONAL CANCER ABOVE THE BACKGROUND
23 CANCER RATE PER 1,000,000 INDIVIDUALS EXPOSED.

24 (J) "SECONDARY DRINKING WATER STANDARDS" OR "SDWS" MEANS
25 SDWS ESTABLISHED PURSUANT TO THE SAFE DRINKING WATER ACT, TITLE
26 XIV OF THE PUBLIC HEALTH SERVICE ACT, CHAPTER 373, 88 STAT. 1660,
27 42 U.S.C. 300f TO 300j-3, 300j-4 TO 300j-9, AND 300j-11, FOR

1 SUBSTANCES THAT MAY ADVERSELY AFFECT THE TASTE, ODOR, COLOR,
2 APPEARANCE, OR THE AESTHETIC QUALITY OF DRINKING WATER.

3 (K) "STANDARD" MEANS A GROUNDWATER QUALITY STANDARD ESTAB-
4 LISHED PURSUANT TO SECTION 2B.

5 (L) "SUBSTANCE" MEANS ANY SOLID, LIQUID, SEMISOLID, DIS-
6 SOLVED SOLID, OR GASEOUS MATERIAL, NATURALLY OCCURRING OR
7 HUMAN-MADE CHEMICAL, PARAMETER FOR MEASUREMENT OF WATER QUALITY,
8 VIRUS OR BIOLOGICAL ORGANISM THAT, IN ITS ORIGINAL FORM, OR AS A
9 METABOLITE OR A DEGRADATION OR WASTE PRODUCT, MAY DECREASE THE
10 QUALITY OF GROUNDWATER.

11 (M) "TOTAL INORGANIC NITROGEN" MEANS THE TOTAL OF AMMONIA
12 PLUS NITRATE PLUS NITRITE, EXPRESSED AS NITROGEN.

13 (N) "USABLE AQUIFER" MEANS AN AQUIFER, OR THAT PORTION OF AN
14 AQUIFER OR AQUIFER SYSTEM, THAT IS CAPABLE OF PROVIDING WATER IN
15 SUFFICIENT QUANTITY AND OF SATISFACTORY QUALITY TO SERVE 1 OR
16 MORE HUMAN USES. USABLE AQUIFERS DO NOT INCLUDE AQUIFERS THAT
17 ARE RESERVOIRS REGULATED BY THE MINERAL WELL ACT, ACT NO. 315 OF
18 THE PUBLIC ACTS OF 1969, BEING SECTIONS 319.211 TO 319.236 OF THE
19 MICHIGAN COMPILED LAWS, OR ACT NO. 61 OF THE PUBLIC ACTS OF 1939,
20 BEING SECTIONS 319.1 TO 319.27 OF THE MICHIGAN COMPILED LAWS.

21 SEC. 2B. (1) THE COMMISSION SHALL ESTABLISH GROUNDWATER
22 QUALITY STANDARDS THAT ARE AT LEAST AS STRINGENT AS ALL OF THE
23 FOLLOWING:

24 (A) THE 1 IN 1,000,000 TOTAL CANCER RISK FOR CARCINOGENS
25 THAT ARE NOT DETERMINED TO CAUSE CANCER BY A THRESHOLD
26 MECHANISM.

1 (B) THE HUMAN LIFE CYCLE SAFE CONCENTRATION FOR SUBSTANCES
2 THAT ARE DETERMINED NOT TO CAUSE CANCER, OR TO BE A GENOTOXIC
3 TERATOGEN OR A GERM LINE MUTAGEN.

4 (C) LEVELS PROTECTIVE OF PUBLIC HEALTH FOR CARCINOGENS
5 DETERMINED TO CAUSE CANCER BY A THRESHOLD MECHANISM.

6 (D) LEVELS PROTECTIVE OF PUBLIC HEALTH FOR SUBSTANCES WHICH
7 ARE A GENOTOXIC TERATOGEN OR A GERM LINE MUTAGEN.

8 (2) IN ESTABLISHING THE GROUNDWATER QUALITY STANDARDS UNDER
9 SUBSECTION (1), THE COMMISSION SHALL UTILIZE THE BEST AVAILABLE
10 DATA AND EXPERTISE.

11 (3) THE COMMISSION SHALL ADOPT GUIDELINES PURSUANT TO THE
12 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
13 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
14 COMPILED LAWS, SETTING FORTH PROCEDURES TO BE USED BY THE DIREC-
15 TOR IN DEVELOPING STANDARDS INCLUDING THE MINIMUM DATA NECESSARY
16 TO DERIVE HUMAN LIFE CYCLE SAFE CONCENTRATIONS OR UPPER BOUNDS ON
17 THE CARCINOGEN RISK VALUES.

18 (4) WHEN DEVELOPING STANDARDS IN ACCORDANCE WITH THE ADOPTED
19 GUIDELINES, THE DIRECTOR SHALL DOCUMENT IN WRITING THE INFORMA-
20 TION AND METHODOLOGY USED, AND THE CONCLUSIONS REACHED IN DETER-
21 MINING THE STANDARD. IF ADEQUATE DATA IS NOT AVAILABLE TO DERIVE
22 AN ALLOWABLE DISCHARGE LEVEL, THE DIRECTOR OR THE COMMISSION
23 SHALL REQUIRE THE PERMIT APPLICANT TO PROVIDE THE NECESSARY
24 INFORMATION.

25 SEC. 2C. (1) THE COMMISSION SHALL ESTABLISH ALLOWABLE DIS-
26 CHARGE LEVELS OF SUBSTANCES TO GROUNDWATER IN ACCORDANCE WITH THE
27 FOLLOWING:

1 (A) FOR SUBSTANCES THAT HAVE A SECONDARY DRINKING WATER
2 STANDARD, THE ADL SHALL BE 100% OF THAT ESTABLISHED STANDARD. IF
3 A PARAMETER IN THE ORIGINAL SOURCE OF WATER SUPPLY UNIMPACTED BY
4 DISCHARGE EVENTS OR ACTIVITIES EXCEEDS THE SDWS, THE ADL SHALL BE
5 THE BACKGROUND LEVEL OF THE CONSTITUENT PLUS A 10% INCREASE.

6 (B) FOR SUBSTANCES THAT MEET THE CRITERIA DESCRIBED IN
7 SECTION 2B(1)(B), THE ADL SHALL NOT EXCEED 20% OF THE ESTABLISHED
8 STANDARD.

9 (C) FOR SUBSTANCES THAT MEET THE CRITERIA DESCRIBED IN
10 SECTION 2B(1)(A), THE ADL SHALL NOT EXCEED 10% OF THE ESTABLISHED
11 STANDARD AND THE TOTAL COMBINED CANCER RISK ESTIMATE SHALL NOT
12 EXCEED AN INCREASED CANCER RISK OF 1 IN 1,000,000 RISK LEVEL ON
13 AN ADDITIVE BASIS.

14 (D) FOR SUBSTANCES THAT MEET THE CRITERIA DESCRIBED IN SEC-
15 TION 2B(1)(C) AND (D), THE ADL SHALL NOT EXCEED 10% OF THE ESTAB-
16 LISHED STANDARD.

17 (2) THE COMMISSION MAY ESTABLISH AN ADL FOR A SUBSTANCE THAT
18 IS LOWER THAN THE LEVEL SPECIFIED UNDER SUBSECTION (1) IF THE
19 COMMISSION CONCLUDES THAT A MORE STRINGENT LEVEL IS NECESSARY TO
20 PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE FROM THE INTERAC-
21 TIVE EFFECTS OF THE SUBSTANCE OR WHERE A GREATER DEGREE OF PRO-
22 TECTION IS CURRENTLY BEING ACHIEVED OR CAN BE ACHIEVED THROUGH
23 UTILIZATION OF CONTROL MEASURES ALREADY IN PLACE.

24 (3) THE ADL SHALL APPLY TO THE DISCHARGE PRIOR TO APPLICA-
25 TION ONTO SOIL OR MIXING WITH GROUNDWATER.

26 (4) EVEN IF ALLOWABLE DISCHARGE LIMITS ARE OR CAN BE MET BY
27 A PERSON, THE COMMISSION MAY DENY A DISCHARGE INTO THE

1 GROUNDWATER AT A LOCATION WHERE AN AVAILABLE PUBLIC SANITARY
2 SEWER SYSTEM ABUTS THE PROPERTY AND THE COMMISSION DETERMINES THE
3 PUBLIC SEWER SYSTEM AND THE RECEIVING WASTEWATER TREATMENT PLANT
4 HAVE ADEQUATE CAPACITY AND CAPABILITY TO PROCESS THE SUBSTANCE
5 EITHER WITH OR WITHOUT PRETREATMENT. IF THE COMMISSION DETER-
6 MINES THAT THE PUBLIC SEWER SYSTEM AND THE WASTEWATER TREATMENT
7 PLANT HAVE SUCH CAPACITY AND CAPABILITY, THE OWNERS AND OPERATORS
8 OF THESE FACILITIES SHALL BE BOUND BY THE DETERMINATION OF THE
9 COMMISSION.

10 SEC. 2D. THE PROVISIONS OF SECTIONS 2B AND 2C SHALL NOT BE
11 APPLICABLE TO AMMONIA, NITRATE, AND NITRITE NITROGEN. THE CON-
12 CENTRATION OF TOTAL INORGANIC NITROGEN IN A DISCHARGE TO A USABLE
13 AQUIFER SHALL NOT EXCEED 5.0 MILLIGRAMS PER LITER. THE COMMIS-
14 SION MAY LOWER THIS LIMIT THROUGH THE PROMULGATION OF RULES IF IT
15 DETERMINES THAT IMPROVED TECHNOLOGY OR MANAGEMENT PRACTICES ARE
16 REASONABLY AVAILABLE.

17 SEC. 2E. THE COMMISSION MAY AUTHORIZE DISCHARGES TO GROUND-
18 WATER THAT DO NOT COMPLY WITH SECTIONS 2B TO 2D IF ANY OF THE
19 FOLLOWING CIRCUMSTANCES EXIST:

20 (A) THE DISCHARGE IS MADE TO THE LAND SURFACE IN A CON-
21 TROLLED MANNER SUCH THAT ADDITIONAL TREATMENT WILL BE PROVIDED BY
22 PLANT OR SOIL UPTAKE OF POLLUTANTS OR THROUGH OTHER SOIL TREAT-
23 MENT MECHANISMS AS SPECIFIED IN A PERMIT ISSUED BY THE DIRECTOR.

24 (B) THE DISCHARGE IS PART OF A GROUNDWATER CLEANUP ACTIVITY
25 APPROVED BY THE DIRECTOR, OR THE DIRECTOR'S DESIGNATED REPRESENTATIVE
26 AND THE DISCHARGE OCCURS TO CONTAMINATED GROUNDWATER THAT
27 IS BEING TREATED.

1 (C) THE DISCHARGE IS LAWFULLY OCCURRING ON THE EFFECTIVE
2 DATE OF THIS SECTION.

3 SEC. 2F. (1) PERSONS LAWFULLY DISCHARGING TO GROUNDWATER ON
4 THE EFFECTIVE DATE OF THIS SECTION MAY CONTINUE TO DISCHARGE
5 UNTIL THE COMMISSION MAKES A FINAL DECISION ON THE PERSON'S DIS-
6 CHARGE PERMIT APPLICATION OR THE COMMISSION PROMULGATES RULES
7 THAT DIRECTLY REGULATE THE CLASS OR TYPE OF DISCHARGE.

8 (2) THE COMMISSION MAY ESTABLISH A SCHEDULE IN A PERMIT OR
9 RULE UNDER WHICH A DISCHARGE DESCRIBED IN THIS SECTION SHALL COME
10 INTO COMPLIANCE WITH THIS ACT.

11 Section 2. Section 11 of Act No. 245 of the Public Acts of
12 1929, being section 323.11 of the Michigan Compiled Laws, is
13 repealed.