

HOUSE BILL No. 6141

November 8, 1990, Introduced by Reps. O'Connor, Walberg, Jaye, Wartner, Sparks, Stopczynski, Hoffman, Crandall, Hertel, Dunaskiss, Pridnia, Brown, Dolan, Nye and Miller and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 18 of Act No. 64 of the Public Acts of 1979, entitled as amended

"Hazardous waste management act,"

as amended by Act No. 106 of the Public Acts of 1990, being section 299.518 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 18 of Act No. 64 of the Public Acts of
2 1979, as amended by Act No. 106 of the Public Acts of 1990, being
3 section 299.518 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 18. (1) Except as otherwise provided in section 21a, a
6 person shall not establish a treatment, storage, or disposal
7 facility without a construction permit from the director. A
8 person proposing the establishment of a treatment, storage, or
9 disposal facility subject to the construction permit requirement

1 of this act, but not including a limited storage facility, shall
2 make application for a construction permit to the director on a
3 form provided by the director or an authorized representative of
4 the director.

5 (2) If an amendment to this act or to the rules promulgated
6 under this act subjects activities lawfully being conducted at a
7 treatment, storage, or disposal facility at the time the amend-
8 ment takes effect to the operating license requirements of this
9 act solely because of the amendment, the activities carried out
10 at the facility prior to the effective date of the amendment
11 shall not be subject to the construction permit requirements of
12 this act, except for an expansion of the facility with respect to
13 such activities beyond its original authorized design capacity or
14 beyond the area specified in an original permit, license, or
15 other authorization or an alteration of the method of hazardous
16 waste treatment or disposal.

17 (3) The application for a construction permit shall contain
18 the name and residence of the applicant, the location of the pro-
19 posed treatment, storage, or disposal facility, and other infor-
20 mation specified in this section, by rule, or by federal regula-
21 tion issued under title II of the solid waste disposal act. The
22 application shall be accompanied by a construction permit appli-
23 cation fee. The fee shall be calculated as provided in
24 subsection (10) or may be based on the actual cost of construc-
25 tion permit review according to procedures established by rule.
26 Construction permit application fees shall be deposited in the
27 general fund of the state. The application shall include a copy

1 of the actual published notice as described in subsection (9) and
2 a determination of existing hydrogeological characteristics spec-
3 ified in a hydrogeological report and monitoring program consis-
4 tent with rules promulgated pursuant to this act, an environmen-
5 tal assessment, an engineering plan, and the procedures for clo-
6 sure and postclosure monitoring. The environmental assessment
7 shall include, at a minimum, an evaluation of the proposed
8 facility's impact on the air, water, and other natural resources
9 of the state; and also shall contain an environmental failure
10 mode assessment.

11 (4) Except as otherwise provided in this subsection, the
12 construction permit application shall include a disclosure state-
13 ment ~~which~~ THAT includes all of the following:

14 (a) The full name and business address of all of the
15 following:

16 (i) The applicant.

17 (ii) The 5 persons holding the largest shares of the equity
18 in or debt liability of the proposed facility. The director may
19 waive all or any portion of this requirement for an applicant
20 that is a corporation with publicly traded stock.

21 (iii) The operator, if known.

22 (iv) If known, the 3 employees of the operator who will have
23 the most responsibility for the day-to-day operation of the
24 facility.

25 (v) Any other business entity listed in the definition of
26 person in section 5(2) in which any person required to be listed
27 in subparagraphs (i) to (iv) has at any time had 25% or more of

1 the equity in or debt liability of that business entity. The
2 director may waive all or any portion of this requirement for an
3 applicant that is a corporation with publicly traded stock.

4 (b) All convictions for criminal violations of any environ-
5 mental statute enacted by a federal, state, Canadian, or provin-
6 cial agency for each person required to be listed under this
7 subsection. If debt liability is held by a chartered lending
8 institution, information required in this ~~subsection and subsec-~~
9 ~~tion (4)(c) and (d)~~ SUBDIVISION AND SUBDIVISIONS (C) AND (D)
10 shall not be required from that institution.

11 (c) A listing of all environmental permits or licenses
12 issued by a federal, state, Canadian, or provincial agency held
13 by each person required to be listed under this subsection that
14 were permanently revoked because of noncompliance.

15 (d) A listing of all activities at property owned or oper-
16 ated by each person required to be listed under this subsection,
17 if the incident resulted in a threat or potential threat to the
18 environment, and public funds were used to finance an activity to
19 mitigate the threat or potential threat to the environment,
20 except if the public funds expended to facilitate the mitigation
21 of environmental contamination were voluntarily and expeditiously
22 recovered from the applicant or other listed person without
23 litigation.

24 (5) If any information required to be included in the dis-
25 closure statement changes, or is supplemented after the filing of
26 the statement, the applicant, permittee, or licensee shall

1 provide that information to the department in writing, within 30
2 days of the change or addition.

3 (6) Notwithstanding any other provision of law, the director
4 may deny an application for a construction permit if there are
5 any listings pursuant to subsection (4)(b), (c), or (d) as origi-
6 nally disclosed or as supplemented. IN ADDITION, THE DIRECTOR
7 SHALL DENY AN APPLICATION FOR A CONSTRUCTION PERMIT IF THE APPLI-
8 CANT HAS BEEN CONVICTED OF A CRIMINAL VIOLATION OR CIVIL VIOLA-
9 TION OF ANY ENVIRONMENTAL STATUTE ENACTED BY A FEDERAL, STATE,
10 CANADIAN, OR PROVINCIAL AGENCY.

11 (7) A person may indicate an interest in being placed on a
12 department organized mailing list to be kept informed of any
13 rules, plans, construction permit applications, contested case
14 hearings, public hearings, or other information or procedures
15 relating to the administration of this act. A charge may be
16 required by the director to cover the cost of the materials.

17 (8) There is created within the state treasury a revolving
18 fund. When a site construction permit application is referred to
19 a site review board by the director, the applicant shall pay a
20 \$25,000.00 fee to be placed in this fund. The \$25,000.00 fee
21 shall be in addition to the application fee required under sub-
22 section (3). This fund shall cover the expenses of the site
23 review board members, the chairperson, a mediator, and any other
24 expenses necessary to the deliberations of the board. The direc-
25 tor or an authorized representative of the director shall admin-
26 ister the fund and authorize expenditures. The director or an
27 authorized representative of the director shall maintain records

1 to support any expenses charged to the fund. If expenses payable.
2 from the fund exceed the \$25,000.00 fee paid by the applicant,
3 the additional expenses shall be paid from money appropriated by
4 the legislature to the revolving fund created in this
5 subsection. Any unexpended portion of an applicant's \$25,000.00
6 fee that is not expended to pay the expenses listed in this sub-
7 section shall be reimbursed to the applicant after the site
8 review board process is concluded.

9 (9) An application for a site construction permit shall not
10 be complete unless it includes a copy of a newspaper notice which
11 the applicant published at least 30 days prior to submittal of
12 the application in a newspaper having major circulation in the
13 municipality and the immediate vicinity of the proposed treat-
14 ment, storage, or disposal facility. The required published
15 notice shall contain a map indicating the location of the pro-
16 posed treatment, storage, or disposal facility and information on
17 the nature and size of the proposed facility. In addition, the
18 notice shall contain all of the following information provided by
19 the director or an authorized representative of the director:

20 (a) A description of the application review process.

21 (b) The location where the complete application package may
22 be reviewed.

23 (c) How copies of the complete application package may be
24 obtained.

25 (10) An applicant for a construction permit for a treatment,
26 storage, or disposal facility shall calculate the applicable
27 construction permit application fee required under subsection (3)

1 by totaling the following for each construction permit
 2 application:

3 (a) For a landfill, surface impoundment, land
 4 treatment, or waste pile facility.....\$9,000.00

5 (b) For an incinerator or treatment facility other
 6 than a treatment facility in subdivision (a).....\$7,200.00

7 (c) For a storage facility, other than storage that
 8 is associated with treatment or disposal activities that
 9 may be regulated under a single permit.....\$ 500.00

10 (d) For the permitted site size of a landfill, surface
 11 impoundment, land treatment, or waste pile facility, except waste
 12 piles meeting the requirements of 40 C.F.R. 264.250(c), the
 13 following:

14 (i) Less than 5 acres..... \$100.00

15 (ii) 5 to 19 acres..... \$170.00

16 (iii) 20 to 79 acres..... \$240.00

17 (iv) 80 acres or more..... \$320.00

18 (e) For the permitted site size of a treatment or storage
 19 facility, other than a facility listed in subdivision (d), the
 20 following:

21 (i) Less than 5 acres..... \$ 50.00

22 (ii) 5 to 19 acres..... \$100.00

23 (iii) 20 to 79 acres..... \$100.00

24 (iv) 80 acres or more..... \$100.00

25 (f) For the projected waste volume per day for a landfill,
 26 surface impoundment, land treatment, or waste pile facility,

1 except waste piles meeting the requirement of 40

2 C.F.R. 264.250(c), the following:

3 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 60.00

4 (ii) 50 to 100 cubic yards or 10,000 to 20,000

5 gallons..... \$ 80.00

6 (iii) 101 to 700 cubic yards or 20,000 to 140,000

7 gallons..... \$100.00

8 (iv) More than 700 cubic yards or more than 140,000

9 gallons..... \$130.00

10 (g) For the projected waste volume per day for a treatment

11 or storage facility, other than a facility listed in

12 subdivision (f), the following:

13 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 50.00

14 (ii) 50 to 100 cubic yards or 10,000 to 20,000

15 gallons..... \$100.00

16 (iii) 101 to 700 cubic yards or 20,000 to 140,000

17 gallons..... \$100.00

18 (iv) More than 700 cubic yards or more than 140,000

19 gallons..... \$150.00

20 (h) For the hydrogeological characteristics of a landfill,

21 surface impoundment, land treatment, or waste pile facility,

22 except waste piles meeting the requirements of 40

23 C.F.R. 264.250(c), the following:

24 (i) Natural clay..... \$ 40.00

25 (ii) Natural sand..... \$ 60.00

26 (iii) Compacted clay..... \$ 70.00

- 1 (iv) Artificially lined (other materials)..... \$100.00
2 (v) Any combination of the above..... \$100.00
3 (i) For the hydrogeological characteristics of sur-
4 face water in a treatment or storage facility, other than
5 a facility listed in subdivision (h)..... \$ 75.00