

Act No. 56
Public Acts of 1998
Approved by the Governor
April 8, 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Jellema, Kaza, Kukuk, Birkholz, Dobb, LaForge, Goschka and DeVuyst

ENROLLED HOUSE BILL No. 5136

AN ACT to amend 1976 PA 399, entitled "An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties of the department of public health; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties," by amending the title and sections 2, 4, 5, 7, 8, 9, 14, and 16 (MCL 325.1002, 325.1004, 325.1005, 325.1007, 325.1008, 325.1009, 325.1014, and 325.1016), the title and sections 2, 7, and 9 as amended by 1993 PA 165, and by adding sections 1a and 3b.

The People of the State of Michigan enact:

TITLE

An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties of the department of environmental quality; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for capacity assessments and source water assessments of public water supplies; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties.

Sec. 1a. It is the intent of the legislature to provide adequate water resources research institutes and other facilities within the state of Michigan so that the state may assure the long-term health of its public water supplies and other vital natural resources.

Sec. 2. As used in this act:

(a) "Bottled drinking water" means water that is ultimately sold, provided, or offered for human consumption in a closed container.

(b) "Capacity assessment" means an evaluation of the technical, financial, and managerial capability of a community supply or nontransient noncommunity water supply to comply and maintain compliance with all requirements of this act and the rules promulgated under this act.

(c) "Community supply" means a public water supply that provides year-round service to not fewer than 15 living units or which regularly provides year-round service to not fewer than 25 residents.

(d) "Contaminant" means a physical, chemical, biological, or radiological substance or matter in water.

(e) "Customer service connection" means the pipe between a water main and customer site piping or building plumbing system.

(f) "Customer site piping" means an underground piping system owned or controlled by the customer that conveys water from the customer service connection to building plumbing systems and other points of use on lands owned or controlled by the customer. Customer site piping does not include any system that incorporates treatment to protect public health.

(g) "Department" means the department of environmental quality or its authorized agent or representative.

(h) "Director" means the director of the department of environmental quality or his or her authorized agent or representative.

(i) "Imminent hazard" means that in the judgment of the director there is a violation, or a condition that may cause a violation, of the state drinking water standards at a public water supply requiring immediate action to prevent endangering the health of people.

(j) "Living unit" means a house, apartment, or other domicile occupied or intended to be occupied on a day to day basis by an individual, family group, or equivalent.

(k) "Noncommunity supply" means a public water supply that is not a community supply, but that has not less than 15 service connections or that serves not fewer than 25 individuals on an average daily basis for not less than 60 days per year.

(l) "Nontransient noncommunity water supply" means a noncommunity public water supply that serves not fewer than 25 of the same individuals on an average daily basis over 6 months per year. This definition includes water supplies in places of employment, schools, and day-care centers.

(m) "Person" means an individual, partnership, copartnership, cooperative, firm, company, public or private association or corporation, political subdivision, agency of the state, agency of the federal government, trust, estate, joint structure company, or any other legal entity, or their legal representative, agent, or assigns.

(n) "Plans and specifications" means drawings, data, and a true description or representation of an entire waterworks system or parts of the system as it exists or is to be constructed, and a statement on how a waterworks system is to be operated.

(o) "Political subdivision" means a city, village, township, charter township, county, district, authority or portion or combination thereof.

(p) "Public water supply" means a waterworks system that provides water for drinking or household purposes to persons other than the supplier of the water, and does not include either of the following:

(i) A waterworks system that supplies water to only 1 living unit.

(ii) A waterworks system that consists solely of customer site piping.

(q) "State drinking water standards" means quality standards setting limits for contaminant levels or establishing treatment techniques to meet standards necessary to protect the public health.

(r) "Service connection" means a direct connection from a distribution water main to a living unit or other site to provide water for drinking or household purposes.

(s) "Source water assessment" means a state program to delineate the boundaries of areas in the state from which 1 or more public water supplies receive supplies of drinking water, to identify contaminants regulated under this act for which monitoring is required because the state has determined they may present a threat to public health, and, to the extent practical, to determine the susceptibility of the public water supply in the delineated area to these contaminants.

(t) "Supplier of water" or "supplier" means a person who owns or operates a public water supply, and includes a water hauler.

(u) "Transient noncommunity water supply" means a noncommunity supply that does not meet the definition of nontransient noncommunity water supply.

(v) "Water hauler" means a person engaged in bulk vehicular transportation of water to other than the water hauler's own household which is intended for use or used for drinking or household purposes. Excluded from this definition are those persons providing water solely for employee use.

(w) "Water main" means a pipe owned or controlled by a supplier that may convey water to a customer service connection or to a fire hydrant.

(x) "Waterworks system" or "system" means a system of pipes and structures through which water is obtained and distributed, including but not limited to wells and well structures, intakes and cribs, pumping stations, treatment plants,

storage tanks, pipelines and appurtenances, or a combination thereof, actually used or intended for use for the purpose of furnishing water for drinking or household purposes.

(y) "Year-round service" means the ability of a supplier of water to provide drinking water on a continuous basis to a living unit or facility.

Sec. 3b. (1) The department may do 1 or more of the following:

(a) Conduct a capacity assessment at a community supply, a nontransient noncommunity water supply, or a public water supply applying to the department for assistance under part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(b) Conduct a source water assessment at a public water supply.

(c) Enter the facilities and business offices used in the operation of a public water supply.

(2) Public water supplies shall make available to the department records needed to conduct a capacity assessment or source water assessment. The department may request information in writing or during on-site visits to conduct capacity assessments or source water assessments.

Sec. 4. (1) A supplier of water shall file with the department the plans and specifications of the entire waterworks system owned or operated by the supplier, unless the department determines that its existing records are adequate. A general plan of the waterworks system for each public water supply shall be provided to the department by a supplier of water and shall be updated as determined necessary by the department.

(2) Upon receipt of the plans and specifications for a proposed waterworks system, the department shall evaluate the adequacy of the proposed system to protect the public health by supplying water meeting the state drinking water standards. The department shall also conduct a capacity assessment for a proposed community supply or nontransient noncommunity water supply and determine if the system has the technical, financial, and managerial capacity to meet all requirements of this act and the rules promulgated under this act, on the date of commencement of operations. If upon evaluation the department determines the plans and specifications to be inadequate or the capacity assessment shows the system to be inadequate, the department may return the plans and specifications to the applicant and require additions or modifications as may be appropriate. The department may reject plans and specifications for a waterworks system which it determines will not satisfactorily provide for the protection of the public health. The department may deny a permit for construction of a proposed community supply or a nontransient noncommunity water supply if the capacity assessment shows that the proposed system does not have adequate technical, financial, or managerial capacity to meet the requirements of this act and the rules promulgated under this act.

(3) Before commencing the construction of a waterworks system or an alteration, addition, or improvement to a system, a supplier of water shall submit the plans and specifications for the improvements to the department and secure from the department a permit for construction of the same as provided by rule. Plans and specifications submitted to the department shall be prepared by a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder, or supplier of water shall not engage in or begin the construction of a waterworks system or an alteration, addition, or improvement thereto until a valid permit for the construction has been secured from the department. A contractor, builder, or supplier of water who permits or allows construction to proceed without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, violates this act. A supplier of water shall not issue a voucher or check or in any other way expend money or provide consideration for construction of a waterworks system unless a valid permit issued by the department is in effect.

(4) The department may deny a permit for construction of a waterworks system or an alteration, addition, or improvement to a waterworks system if the most recent capacity assessment shows that the waterworks system does not have adequate technical, financial, or managerial capacity to meet the requirements of this act and the rules promulgated under this act, and the deficiencies identified in that capacity assessment remain uncorrected, unless the proposed construction will remedy the deficiencies.

Sec. 5. (1) The department shall promulgate and enforce rules to carry out this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules, at a minimum, shall include the following:

(a) Requirements for the submission of reports, plans, and specifications for the design and construction of a waterworks system or a part thereof, and a plan for operating and maintaining all or a part of the waterworks system, including the protection of water quality within the distribution system as necessary to protect the public health.

(b) State drinking water standards and associated monitoring requirements, the attainment and maintenance of which are necessary to protect the public health.

(c) The classification of waterworks systems or portions thereof, the examination for certification of the operators of those systems including shift operators of water treatment systems, and for the issuance, suspension, and revocation of certificates.

(d) Criteria for capacity assessments performed by the department at community supplies, nontransient noncommunity water supplies, or a public water supply applying to the department for assistance under part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(e) Requirements for provision of facilities by public water supplies that will assure an adequate and reliable supply of drinking water on a continuous basis.

(2) Rules governing public water supplies promulgated under former 1913 PA 98, and which were in effect on January 4, 1977 are continued in accordance with section 31 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.231, and may be amended or rescinded by the director under this act.

(3) No rule promulgated may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

Sec. 7. (1) The supplier of water shall collect water samples or have them collected on a schedule at least equal to that outlined in the rules, shall cause those samples to be analyzed in the state laboratory or a laboratory certified by the department or by the United States environmental protection agency for contaminants listed in the state drinking water standards, and shall report the results of the analyses to the department in a timely manner as specified in the rules.

(2) If a supplier of water who serves a population of 10,000 or fewer individuals fails to comply with subsection (1), the department may do any of the following:

(a) Impose against that supplier an administrative fine of \$200.00 for each failure to collect and have analyzed a water sample required under this act.

(b) For each failure to collect and have analyzed a water sample required under this act within the 12-month period following a failure described in subdivision (a), impose against that supplier an administrative fine of \$400.00.

(c) In addition to an administrative fine imposed under subdivision (a) or (b), obtain a sampling or analysis or both required under this act at the supplier's cost.

(d) Proceed pursuant to section 22.

(3) If a supplier of water serving a population of 10,000 or less fails to meet state drinking water standards, the department may do any of the following:

(a) Impose against that supplier an administrative fine of not less than \$400.00 per day per violation and not more than \$1,000.00 per day per violation. An administrative fine for a single violation shall not exceed a cumulative total of \$2,000.00.

(b) Proceed pursuant to section 22.

(4) If a supplier of water serving a population of more than 10,000 fails to comply with state drinking water standards or any monitoring or reporting requirement, the department may do any of the following:

(a) Impose against that supplier an administrative fine of not less than \$1,000.00 per day per violation and not more than \$2,000.00 per day per violation. An administrative fine for a single violation may not exceed a cumulative total of \$10,000.00.

(b) In addition to an administrative fine imposed under subdivision (a), obtain at the supplier's cost water samples and secure analyses of the water samples at a certified laboratory if monitoring has not met minimum requirements under this act.

(c) Proceed pursuant to section 22.

(5) A supplier may appeal an administrative fine imposed under this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(6) Administrative fines collected under this section shall be forwarded to the state treasurer for deposit into the state drinking water revolving fund established under section 16b of the shared credit rating act, 1985 PA 227, MCL 141.1066b.

Sec. 8. The department shall give due consideration to the size, type, location, and other conditions at public water supplies for the purpose of specifying design and operation standards, and for the purpose of establishing criteria for capacity assessments.

Sec. 9. (1) The department shall classify public water supplies, including water treatment and distribution systems at community supplies with regard to size, type, location, and other physical conditions for the purpose of establishing the skill, knowledge, and experience that individuals need to maintain and operate the systems effectively.

(2) The director shall appoint an advisory board of examiners which shall assist the department in the examination of individuals as to their competency to operate water treatment systems and water distribution systems. The advisory board shall make recommendations to the department relative to the certification of those individuals.

(3) The membership of the advisory board shall consist of 2 certified water treatment operators, 2 certified water distribution operators, 1 superintendent or manager of a supplier of water, 1 representative of the administrative branch of a local governmental agency, 2 members of the public at large, and 1 professor of sanitary or environmental engineering at a university in the state. A representative of the department shall be the nonvoting secretary for the board.

(4) For individuals meeting the requirements, the department shall issue certificates acknowledging their competency to operate a specified class of waterworks system or portion of waterworks system. The department may suspend or revoke a certificate as specified by rule.

(5) A public water supply shall be under the supervision of a properly certified operator as specified in the rules.

(6) Those individuals now certified to operate water treatment systems under certification rules promulgated under this act, and those meeting the requirements of the voluntary distribution system operator certification program administered by the department, shall be considered to meet the requirements of this section and shall be issued a certificate in an appropriate class in accordance with the certifications system established under this act.

(7) Those individuals who are superintendents of distribution systems shall be considered to meet the requirements of this section only for the waterworks system by which they are now employed, and shall be issued a certificate for continuing operation of that distribution system upon receipt by the department of a completed application by January 4, 1978.

(8) Operators certified under this act shall be required to renew their certificates in accordance with rules promulgated under this act, including mandatory continuing education or competency demonstration.

Sec. 14. (1) A supplier of water shall file with the department such reports and shall maintain such records as the department may by rule require. The department may by rule require a supplier of water to provide additional reports and notices to its customers. The rules shall include the required content of the reports and notices and the frequency and the manner of delivery of the reports and notices.

(2) A supplier of water shall provide to its customers consumer confidence reports as required by title XIV of the public health service act, chapter 373, 88 Stat. 1660, popularly known as the safe drinking water act. The department shall promulgate rules relating to consumer confidence reports including, but not limited to, the following:

(a) The content of the reports.

(b) The manner of delivery of the reports.

(c) Standardized formats that may be used by suppliers of water for providing information in the reports.

(d) If a source water assessment has been completed, a requirement that the reports contain a notification of the availability of the source water assessment and the means to obtain a copy.

(3) If regulated contaminants are detected in a public water supply, and certain subpopulations are particularly vulnerable to the adverse effects because of age, gender, pregnancy, or preexisting medical conditions, the consumer confidence report or other reports and notices, or both, shall contain information related to all of the following:

(a) The contaminant that was detected.

(b) The level of the contaminant that was detected.

(c) The vulnerable population that may be susceptible to the level of contaminant detected.

(d) The potential adverse health effects associated with exposure of the vulnerable population to the level of contaminant detected in the water supply.

(4) The requirement in subsection (3) shall only apply if the department provides suppliers of water with statements derived from the United States environmental protection agency or other sources determined by the department to be reliable concerning the adverse effects of regulated contaminants on vulnerable subpopulations. The statements shall be in a form that can be easily inserted into the consumer confidence reports or other reports and notices provided for in this section.

(5) If feasible from a cost perspective, the department may make consumer confidence reports provided for under this section available at a single website on the internet.

Sec. 16. (1) The department may enter into agreements, contracts, or cooperative arrangements under terms and conditions appropriate with other state agencies, federal agencies, interstate agencies, political subdivisions, educational institutions, local health departments, or other organizations or individuals for the purpose of administering this act. The department may solicit and receive grants of money or other aid from federal and other public or private agencies or individuals for the administration of this act, or a portion thereof, to conduct research and training activities or cause them to be conducted, to cause waterworks systems or portions thereof to be constructed, or for other program purposes.

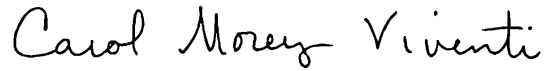
(2) The department may use funds appropriated to implement this act to provide loan or grant assistance to public water supplies for an activity which furthers the objectives of this act. The department may require matching funds from a public water supply when the department is providing loan or grant assistance.

(3) The department may receive funds from another agency and pass through funds to persons eligible for funding assistance where applicable and consistent with this act and title XIV of the public health service act, chapter 373, 88 Stat. 1660.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.