

HOUSE BILL No. 4400

March 6, 2001, Introduced by Reps. Lemmons, Williams, Lipsey, Reeves, Clark, McConico, Garza, Kolb and DeWeese and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 20114 (MCL 324.20114), as amended by 1995 PA
71.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20114. (1) Except as provided in subsection (4), an
2 owner or operator of property who has knowledge that the property
3 is a facility and who is liable under section 20126 shall do all
4 of the following:

5 (a) Determine the nature and extent of a release at the
6 facility.

7 (b) Report the release to the department within 24 hours
8 after obtaining knowledge of the release. The requirements of
9 this subdivision ~~shall~~ apply to reportable quantities of
10 hazardous substances established pursuant to 40 C.F.R. 302.4 and

1 302.6 (1989), unless the department establishes through rules
2 alternate or additional reportable quantities as necessary to
3 protect the public health, safety, or welfare, or the
4 environment.

5 (c) Immediately stop or prevent the release at the source.

6 (d) Immediately implement source control or removal measures
7 to remove or contain hazardous substances that are released after
8 ~~the effective date of the 1995 amendments to this section~~ JUNE
9 5, 1995, if those measures are technically practical, cost effec-
10 tive, and provide protection to the environment. At a facility
11 where hazardous substances are released after ~~the effective date~~
12 ~~of the 1995 amendments to this section~~ JUNE 5, 1995, and those
13 hazardous substances have not affected groundwater but are likely
14 to, groundwater contamination shall be prevented if it can be
15 prevented by measures that are technically practical, cost effec-
16 tive, and provide protection to the environment.

17 (e) Immediately identify and eliminate any threat of fire or
18 explosion or any direct contact hazards.

19 (f) Immediately initiate removal of a hazardous substance
20 that is in a liquid phase, that is not dissolved in water, and
21 that has been released.

22 (g) Diligently pursue response activities necessary to
23 achieve the cleanup criteria specified in this part and the rules
24 promulgated under this part. ~~For a period of 2 years after the~~
25 ~~effective date of the 1995 amendments to this section, fines and~~
26 ~~penalties shall not be imposed under this part for a violation of~~
27 ~~this subdivision.~~

1 (h) Upon written request by the department, take the
2 following actions:

3 (i) Provide a plan for and undertake interim response
4 activities.

5 (ii) Provide a plan for and undertake evaluation
6 activities.

7 (iii) Take any other response activity determined by the
8 department to be technically sound and necessary to protect the
9 public health, safety, welfare, or the environment.

10 (iv) Submit to the department for approval a remedial action
11 plan that, when implemented, will achieve the cleanup criteria
12 specified in this part and the rules promulgated under this
13 part.

14 (v) Implement an approved remedial action plan in accordance
15 with a schedule approved by the department pursuant to this
16 part.

17 (2) A person may undertake response activity without prior
18 approval by the department unless that response activity is being
19 done pursuant to an administrative order or agreement or judicial
20 decree ~~which~~ THAT requires prior department approval. Any such
21 action ~~shall~~ DOES not relieve any person of liability for fur-
22 ther response activity as may be required by the department.

23 (3) Except as provided in subsection (4), a person who holds
24 an easement interest in a portion of a property who has knowledge
25 that there may be a release within that easement shall report the
26 release to the department within 24 hours after obtaining
27 knowledge of the release. Unless the department establishes

1 through rules alternate or additional reportable quantities as
2 necessary to protect the public health, safety, or welfare, or
3 the environment, this subsection ~~shall apply~~ APPLIES to report-
4 able quantities of hazardous substances established pursuant to
5 40 C.F.R. 302.4 and 302.6 (1989).

6 (4) The requirements of subsections (1) and (3) do not apply
7 to a permitted release or a release in compliance with applicable
8 federal, state, and local air pollution control laws.

9 (5) Upon a determination by the department that a person has
10 completed all response activity at a facility pursuant to an
11 approved remedial action plan prepared and implemented in compli-
12 ance with this part and the rules promulgated under this part,
13 the department, upon request of a person, shall execute and
14 present a document stating that all response activities required
15 in the approved remedial action plan have been completed.

16 (6) An owner or operator of a facility from which a hazard-
17 ous substance is released that is determined to be reportable
18 under subsection (1)(b), other than a permitted release, who
19 fails to notify the department within 24 hours after obtaining
20 knowledge of the release or who submits in such notification any
21 information that the person knows to be false or misleading, is
22 subject to a civil fine of not more than \$25,000.00 for each day
23 in which the violation occurs or the failure to comply
24 continues. A fine imposed under this subsection shall be based
25 upon the seriousness of the violation and any good faith efforts
26 by the violator to comply with this subsection.

(7) This section does not do either of the following:

(a) Limit the authority of the department to take or conduct response activities pursuant to this part.

(b) Limit the liability of a person who is liable under section 20126.

(8) Any request for approval of a plan shall be granted or denied within 6 months of submittal of the information necessary or required for the department to make its decision. If the department does not approve the plan, the reasons for the denial shall be provided by the department in writing with a complete and specific statement of the conditions or requirements necessary to obtain approval. The department may not add additional items to this statement after it has been issued. ~~Failure~~ HOWEVER, FAILURE of the department to act within the specified time period ~~shall~~ DOES NOT result in the request being considered approved. The time frame for decision may be extended by the mutual consent of the department and the person submitting the plan.