

HOUSE BILL No. 4034

January 27, 2005, Introduced by Rep. Whitmer and referred to the Committee on Natural Resources, Great Lakes, Land Use and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3112 and 5510 (MCL 324.3112 and 324.5510), section 3112 as amended by 2004 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112. (1) A person shall not discharge any waste or waste
2 effluent into the waters of this state unless the person is in
3 possession of a valid permit from the department.

4 (2) An application for a permit under subsection (1) shall be
5 submitted to the department. Within 30 days after an application
6 for a new or increased use is received, the department shall
7 determine whether the application is administratively complete.

1 Within 90 days after an application for reissuance of a permit is
2 received, the department shall determine whether the application is
3 administratively complete. If the department determines that an
4 application is not complete, the department shall notify the
5 applicant in writing within the applicable time period. If the
6 department does not make a determination as to whether the
7 application is complete within the applicable time period, the
8 application shall be considered to be complete.

9 **(3) IN DETERMINING WHETHER TO ISSUE A PERMIT UNDER THIS PART,**
10 **THE DEPARTMENT SHALL CONSIDER AND MAKE WRITTEN FINDINGS ON THE**
11 **INCREASED HEALTH RISK TO CHILDREN IN THE AREA POSED BY THE PROPOSED**
12 **DISCHARGE AND THE CUMULATIVE HEALTH RISK TO CHILDREN IN THE AREA**
13 **POSED BY ALL DISCHARGES, INCLUDING THE PROPOSED DISCHARGE.**

14 **(4)** ~~(3)~~ The department shall condition the continued validity
15 of a permit upon the permittee's meeting the effluent requirements
16 that the department considers necessary to prevent unlawful
17 pollution by the dates that the department considers to be
18 reasonable and necessary and to assure compliance with applicable
19 federal law and regulations. If the department finds that the terms
20 of a permit have been, are being, or may be violated, it may
21 modify, suspend, or revoke the permit or grant the permittee a
22 reasonable period of time in which to comply with the permit. The
23 department may reissue a revoked permit upon a showing satisfactory
24 to the department that the permittee has corrected the violation. A
25 person who has had a permit revoked may apply for a new permit.

26 **(5)** ~~(4)~~ If the department determines that a person is causing
27 or is about to cause unlawful pollution of the waters of this

1 state, the department may notify the alleged offender of its
2 determination and enter an order requiring the person to abate the
3 pollution or refer the matter to the attorney general for legal
4 action, or both.

5 (6) ~~(5)~~ A person who is aggrieved by an order of abatement of
6 the department or by the reissuance, modification, suspension, or
7 revocation of an existing permit of the department executed
8 pursuant to this section may file a sworn petition with the
9 department setting forth the grounds and reasons for the complaint
10 and asking for a contested case hearing on the matter pursuant to
11 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
12 to 24.328. A petition filed more than 60 days after action on the
13 order or permit may be rejected by the department as being
14 untimely.

15 Sec. 5510. (1) In accordance with this part and rules
16 promulgated under this part, the department may, after notice and
17 opportunity for public hearing, deny or revoke a permit issued
18 under this part if any of the following circumstances exist:

19 (a) Installation, modification, or operation of the source
20 will violate this part, rules promulgated under this part, or the
21 clean air act, unless the source is in compliance with a legally
22 enforceable schedule of compliance contained in a permit or order.

23 (b) Installation, construction, reconstruction, relocation,
24 alteration, or operation of the source presents or may present an
25 imminent and substantial endangerment to human health, safety, or
26 welfare, or the environment.

27 (c) The person applying for the permit makes a false

1 representation or provides false information during the permit
2 review process.

3 (d) The source has not been installed, constructed,
4 reconstructed, relocated, altered, or operated in a manner
5 consistent with the application for a permit or as specified in a
6 permit.

7 (e) The person owning or operating the source fails to pay an
8 air quality fee assessed under this part.

9 (f) The person proposes a major offset source or ~~the owner or~~
10 ~~operator of a proposed~~ **A** major offset modification ~~that~~ **AND THE**
11 **PERSON** owns or operates another source in the state that has the
12 potential to emit 100 tons or more per year of any air contaminant
13 regulated under the clean air act and that ~~source~~ is in violation
14 of this part, rules promulgated under this part, the clean air act,
15 or a permit or order issued under this part, unless the **OTHER**
16 source is in compliance with a legally enforceable schedule of
17 compliance contained in a permit or order.

18 **(2) IN DETERMINING WHETHER TO ISSUE A PERMIT UNDER THIS PART,**
19 **THE DEPARTMENT SHALL CONSIDER AND MAKE WRITTEN FINDINGS ON THE**
20 **INCREASED HEALTH RISK TO CHILDREN IN THE AREA POSED BY THE PROPOSED**
21 **EMISSIONS AND THE CUMULATIVE HEALTH RISK TO CHILDREN IN THE AREA**
22 **POSED BY ALL EMISSIONS, INCLUDING THE PROPOSED EMISSION.**