

HOUSE BILL No. 5337

September 10, 2009, Introduced by Reps. Proos, Horn, Crawford, Wayne Schmidt, Tyler, Haines, DeShazor and Lori and referred to the Committee on Appropriations.

A bill to amend 1941 PA 207, entitled
"Fire prevention code,"
by amending sections 3c, 5c, 5d, 5e, 5i, 5j, 5n, 5o, and 5p (MCL
29.3c, 29.5c, 29.5d, 29.5e, 29.5i, 29.5j, 29.5n, 29.5o, and 29.5p),
as amended by 2006 PA 189.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3c. (1) The bureau shall promulgate rules as provided
2 under section 2a pertaining to fire safety requirements for the
3 construction, operation, or maintenance of all of the following:

4 (a) Schools and dormitories, including state supported
5 schools, colleges, and universities and school, college, and
6 university dormitories.

7 (b) Buildings owned or leased by this state.

8 (c) A health facility or agency as defined in section 20106 of

1 the public health code, 1978 PA 368, MCL 333.20106.

2 (d) Places of public assemblage.

3 (e) Penal facilities as described in section 62 of the
4 corrections code of 1953, 1953 PA 232, MCL 791.262.

5 (f) Mental facilities as described in section 135 of the
6 mental health code, 1974 PA 258, MCL 330.1135.

7 (2) The bureau shall promulgate other rules as provided in
8 section 2a as necessary to implement this act.

9 (3) ~~Consistent with Executive Reorganization Order Nos. 1997-2~~
10 ~~and 1998-2, MCL 29.451 and 29.461, the~~ **THE** department of
11 ~~environmental quality~~ **NATURAL RESOURCES** shall promulgate rules
12 pertaining to all of the following:

13 (a) Fire safety requirements for the construction, operation,
14 and maintenance of dry cleaning establishments that use flammable
15 liquids.

16 (b) The storage, transportation, and handling of liquefied
17 petroleum gas and for the storage, noncommercial transportation,
18 and handling of other hazardous materials to the extent authorized
19 by federal law.

20 (4) Rules promulgated under this act shall be consistent with
21 recognized good practice as evidenced by standards adopted by
22 nationally recognized authorities in the field of fire protection.
23 Experiences identified in the fire incident reports received by
24 this state may be considered by the board and the bureau when
25 reviewing rules promulgated or considering promulgation of new
26 rules under this act.

27 (5) The bureau shall promulgate rules as provided under

1 section 2a for the certification of a firm that does any of the
2 following:

3 (a) Installs, modifies, or documents the installation or
4 modification of a fire suppression system.

5 (b) Documents the installation or modification of a fire alarm
6 system.

7 (c) Performs testing, servicing, inspections, or maintenance
8 that has not been exempted by the rules promulgated by the bureau
9 on fire alarm systems or fire suppression systems.

10 (d) Submits a drawing, plan, or specification of a fire alarm
11 system or fire suppression system to the bureau for approval under
12 section 29, except an architect or professional engineer licensed
13 under article 20 of the occupational code, 1980 PA 299, MCL
14 339.2001 to 339.2014.

15 (6) A person may request a variation of the application of a
16 rule promulgated under this act by applying to the state fire
17 marshal. The state fire marshal may make a variation upon a finding
18 that the variation does not result in a hazard to life or property.
19 The finding shall be transmitted to the person requesting the
20 variation and entered into the records of the bureau. If the
21 variation requested concerns a building, the finding shall also be
22 transmitted to the governing body of the city, village, or township
23 in which the building is located.

24 (7) The entire board, except as provided in section 3b(4),
25 shall act as a hearing body in accordance with the administrative
26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to
27 review and decide a contested case or a ruling of the state fire

1 marshal interpreting or applying the rules. After a hearing, the
2 board may vary the application of a rule or may modify the ruling
3 or interpretation of the state fire marshal if the enforcement of
4 the ruling or interpretation would do manifest injustice and would
5 be contrary to the spirit and purpose of the rules or the public
6 interest.

7 (8) A decision of the board to vary the application of a rule,
8 or to modify or change a ruling of the state fire marshal, shall
9 specify the variation, modification, or change made, the conditions
10 upon which it is made, and the reasons for the variation,
11 modification, or change.

12 (9) If a local school board passed a resolution calling for an
13 election on the question of the issuance of bonds for the
14 construction or remodeling of or an addition to a school, if the
15 election was held not later than September 28, 1989 and approved
16 issuance of the bonds, and if construction was reasonably
17 anticipated to begin not later than June 30, 1990, the
18 construction, remodeling, or addition to that school was exempt
19 from the rules promulgated by the fire safety board entitled
20 "schools, colleges, and universities", former R 29.301 to R 29.321
21 of the Michigan administrative code, filed with the secretary of
22 state on July 14, 1989 and effective on July 29, 1989. The
23 construction, remodeling, or addition to that school was, however,
24 subject to the standards contained in rules promulgated by the
25 board entitled "school fire safety", former R 29.1 to R 29.298 of
26 the Michigan administrative code.

27 Sec. 5c. (1) A person shall not establish or maintain 1 or

1 more of the following without obtaining a certificate from the
2 department of ~~environmental quality~~ **NATURAL RESOURCES**:

3 (a) A flammable compressed gas or liquefied petroleum gas
4 container filling location.

5 (b) An aboveground flammable compressed gas or liquefied
6 petroleum gas storage location that has a tank with a water
7 capacity of more than 2,000 gallons or has 2 or more tanks with an
8 aggregate water capacity of more than 4,000 gallons.

9 (c) An aboveground storage location for a flammable liquid or
10 combustible liquid that has an individual tank storage capacity of
11 more than 1,100 gallons. Crude petroleum collection tanks that
12 receive crude petroleum directly from a wellhead and are certified
13 by the department of ~~environmental quality~~ **NATURAL RESOURCES** may be
14 maintained without further inspection by the department of
15 ~~environmental quality~~ **NATURAL RESOURCES**, except as the department
16 of ~~environmental quality~~ **NATURAL RESOURCES** considers necessary to
17 assure compliance with this act.

18 (2) The department of ~~environmental quality~~ **NATURAL RESOURCES**
19 may require that a person obtain approval from the department of
20 ~~environmental quality~~ **NATURAL RESOURCES** before the installation of
21 an aboveground storage tank for flammable or combustible liquids
22 that has an individual tank storage capacity of 1,100 gallons or
23 less. However, this requirement does not apply to farm location
24 storage tanks of 1,100 gallons or less capacity used for storing
25 motor fuel for noncommercial purposes or heating oil for
26 consumptive use on the premises where stored.

27 Sec. 5d. (1) The certificates specified in section 5c shall be

1 issued every 3 years by the department of ~~environmental quality~~
2 **NATURAL RESOURCES** after the department of ~~environmental quality~~
3 **NATURAL RESOURCES** determines by an inspection that the firm
4 location is in satisfactory compliance with this act. The
5 department of ~~environmental quality~~ **NATURAL RESOURCES** may authorize
6 a firm specified in section 5c to conduct inspections required in
7 this section after application to the department of ~~environmental~~
8 ~~quality~~ **NATURAL RESOURCES** and payment of an annual fee of
9 \$1,000.00. Upon annual determination by the department of
10 ~~environmental quality~~ **NATURAL RESOURCES** that the firm is in
11 satisfactory compliance with this act, the department of
12 ~~environmental quality~~ **NATURAL RESOURCES** may grant the
13 authorization. This authorization may be revoked by the department
14 of ~~environmental quality~~ **NATURAL RESOURCES** for cause. Firms
15 authorized to conduct inspections required in this section are
16 exempt from the fees provided in subsection (2). The department of
17 ~~environmental quality~~ **NATURAL RESOURCES** may review procedures
18 utilized by the firm to assure compliance with this act.

19 (2) Each firm required to be certified under section 5c shall
20 submit an installation application to the department of
21 ~~environmental quality~~ **NATURAL RESOURCES** according to rules
22 promulgated under this act. Each firm shall pay a fee of \$203.00
23 per tank. This fee shall be submitted with the installation
24 application to the department of ~~environmental quality~~ **NATURAL**
25 **RESOURCES**. The department of ~~environmental quality~~ **NATURAL**
26 **RESOURCES** shall not approve an installation application unless this
27 fee has been paid as required in this subsection. Payment of this

1 fee shall waive the first annual storage tank fee required in this
2 subsection. The owner of a firm specified in section 5c shall pay
3 an annual fee of \$61.50 for each tank located at each storage or
4 filling location specified in section 5c. Fees required by this
5 subsection shall be paid before the issuance of a certificate when
6 storage tanks operated by firms described in section 5c are used
7 and until such tanks are closed or removed, and notification of the
8 closure or removal is received by the department of ~~environmental~~
9 ~~quality~~ **NATURAL RESOURCES**. Owners of firms described in section 5c
10 shall notify the department of ~~environmental quality~~ **NATURAL**
11 **RESOURCES** of the closure or removal of storage tanks within 30 days
12 after closure or removal on a form provided by the department of
13 ~~environmental quality~~ **NATURAL RESOURCES**. Storage tanks that receive
14 crude petroleum directly from a wellhead are exempt from fees under
15 this section.

16 (3) ~~Beginning October 1, 1990, a~~ **A** local unit of government
17 shall not enact or enforce a provision of an ordinance that
18 requires a permit, license, approval, inspection, or the payment of
19 a fee or tax for the installation, use, closure, or removal of an
20 aboveground storage tank system.

21 (4) The fees specified in subsection (2) shall be collected
22 and deposited into the hazardous materials storage tank regulatory
23 enforcement fund created in subsection (5).

24 (5) The hazardous materials storage tank regulatory
25 enforcement fund is created in the state treasury. The fund may
26 receive money as provided in this act and as otherwise provided by
27 law. The state treasurer shall direct the investment of the fund.

1 Interest and earnings of the fund shall be credited to the fund.
2 Money in the fund at the close of the fiscal year shall remain in
3 the fund and shall not revert to the general fund. **THE DEPARTMENT**
4 **OF NATURAL RESOURCES SHALL BE THE ADMINISTRATOR OF THE FUND FOR**
5 **AUDITING PURPOSES.** Money in the fund shall be used only by the
6 department of ~~environmental quality~~ **NATURAL RESOURCES** to enforce
7 this act and the rules promulgated under this act pertaining to the
8 delivery, dispensing, noncommercial transportation, or storage of
9 hazardous materials. If at the close of any fiscal year the amount
10 of money in the fund exceeds \$1,000,000.00, the department of
11 ~~environmental quality~~ **NATURAL RESOURCES** shall not collect a fee for
12 the following year for the fund from existing storage tank systems.
13 After the fee has been suspended under this subsection, it shall
14 only be reinstated if at the close of any succeeding fiscal year,
15 the amount of money in the fund is less than \$250,000.00. The
16 department of treasury shall, before November 1 of each year,
17 notify the department of ~~environmental quality~~ **NATURAL RESOURCES** of
18 the balance in the fund at the close of the preceding fiscal year.

19 Sec. 5e. Upon a finding of noncompliance with this act, or
20 rules promulgated pursuant to this act, the state fire marshal or
21 the director of the department of ~~environmental quality~~ **NATURAL**
22 **RESOURCES** may revoke or deny the renewal of a certificate obtained
23 under section 5c and order the person or firm required to be
24 certified to cease all or part of its operation until the firm is
25 in compliance.

26 Sec. 5i. (1) A firm that is engaged in a dry cleaning
27 operation that uses a flammable liquid shall not establish or

1 maintain such an operation at a location unless the firm obtains a
2 certificate from the department of ~~environmental quality~~ **NATURAL**
3 **RESOURCES** for that location.

4 (2) A certificate shall not be issued until payment is made of
5 a fee of \$15.00 for the first dry cleaning machine in the firm's
6 location and \$6.00 for each additional dry cleaning machine in the
7 firm's location. Beginning October 1, 1981, the fees imposed by
8 this section shall be adjusted each year by the annual average
9 percentage increase or decrease in the Detroit consumer price
10 index—all items. The adjustment shall be made by multiplying the
11 annual average percentage increase or decrease in the Detroit
12 consumer price index for the prior calendar year by the current fee
13 as adjusted by this subsection. The resultant product shall be
14 added to the current fee as adjusted by this subsection and then
15 rounded off to the nearest half dollar which shall be the new fee.

16 (3) This section applies when a class IV installation is
17 operated in the same building or establishment as other classes of
18 dry cleaning installations.

19 (4) As used in this section, "class IV installation" means
20 that term as defined in section 13301 of the public health code,
21 1978 PA 368, MCL 333.13301.

22 Sec. 5j. (1) Each terminal at which a tank filled by pipeline
23 is located shall comply with the following requirements:

24 (a) Each terminal shall be equipped with a high level alarm
25 system.

26 (b) The high level alarm system shall be set to activate at a
27 predetermined level in each tank filled by pipeline at the terminal

1 to allow sufficient time for the flow of the flammable liquid to be
2 shut down before the tank overfills. The level shall be determined
3 by the maximum filling rate expected and the time required for
4 personnel to take appropriate action to stop the flow of the
5 flammable liquid.

6 (c) The high level alarm system shall be maintained in
7 accordance with its manufacturer's recommendations.

8 (d) The high level alarm system shall be tested every 3 months
9 by the owner of the terminal and a record of the test shall be
10 maintained.

11 (2) A device shall not be used in a high level alarm system
12 described in subsection (1) unless the device has been tested for
13 its intended use by a nationally recognized testing laboratory as
14 determined by the director of the department of ~~environmental~~
15 ~~quality~~ **NATURAL RESOURCES**.

16 (3) Plans and specifications for a high level alarm system
17 described in subsection (1) shall be submitted to the director of
18 the department of ~~environmental quality~~ **NATURAL RESOURCES** for
19 approval before the installation of the system.

20 (4) Upon the completion of the installation of a high level
21 alarm system described in subsection (1), the director of the
22 department of ~~environmental quality~~ **NATURAL RESOURCES** shall be
23 notified and a final inspection shall be made to determine if the
24 installation is in compliance with this section.

25 (5) The owner of a terminal described in subsection (1) shall
26 develop a fire and emergency plan in conjunction with the organized
27 fire department having jurisdiction over the terminal.

1 Sec. 5n. A firm shall not deliver a flammable liquid that has
2 a flash point below 100 degrees Fahrenheit directly into an above
3 ground liquid storage tank by pipeline at a remote control terminal
4 unless the firm does each of the following:

5 (a) Furnishes to the director of the department of
6 ~~environmental quality~~ **NATURAL RESOURCES**, and receives the approval
7 from the director of the department of ~~environmental quality~~
8 **NATURAL RESOURCES** of, a detailed description of the firm's
9 capabilities and procedures to deliver a flammable liquid by remote
10 control to an above ground liquid storage tank.

11 (b) Furnishes to the director of the department of
12 ~~environmental quality~~ **NATURAL RESOURCES**, and receives the approval
13 from the director of the department of ~~environmental quality~~
14 **NATURAL RESOURCES** of, a description of the firm's procedures to be
15 followed if an above ground storage tank is overfilled.

16 Sec. 5o. (1) The director of the department of ~~environmental~~
17 ~~quality~~ **NATURAL RESOURCES** may, at the request of the organized fire
18 department having jurisdiction over a terminal, require additional
19 safety equipment and procedures when the public safety is
20 endangered.

21 (2) A person may request a variation of the requirements of
22 section 5j, 5k, 5l, 5m, or 5n, or subsection (1), under the
23 procedures provided in section 3c.

24 (3) A local unit of government shall not enact an ordinance or
25 ordinances more restrictive than the requirements included in
26 sections 5j to 5n.

27 Sec. 5p. (1) A person who is an employer under the Michigan

occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, shall provide, ~~the information described in this section~~ upon written request by the fire chief for the jurisdiction where the person is located, -

~~----- (2) A person subject to this section shall, subject to subsection (1), provide a copy of a list required to be developed by the standard incorporated by reference in section 14a of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014a, and a material safety data sheet for each hazardous chemical identified on the list. THE PERSON SHALL PROVIDE THE INFORMATION~~ within 10 working days after receipt of the request.

(2) ~~(3)~~ Except as provided in subsection ~~(4)~~ **(3)**, a person subject to this section shall provide a description of the quantity and location of any hazardous chemical specified by the fire chief for the jurisdiction where the person is located within 10 working days after receipt of a written request made by the fire chief after review of a list provided under subsection ~~(2)~~ **(1)**. Upon request, the fire chief may extend the time to provide the information described in this subsection by 5 ~~working~~ **BUSINESS** days. The information obtained by a fire chief under this subsection may be made available to a public official, agency, or employee, but is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) ~~(4)~~ The department of ~~environmental quality~~ **NATURAL RESOURCES** may promulgate rules to exempt from the application of subsection ~~(3)~~ **(2)** de minimis and portable quantities of hazardous chemicals.

1 (4) ~~(5)~~—A person subject to this section shall provide to the
2 fire chief for the jurisdiction where the person is located a
3 written update of information required by this section when there
4 is a significant change relating to fire hazards in the quantity,
5 location, or presence of hazardous chemicals in the person's
6 workplace.

7 (5) ~~(6)~~—An ordinance, law, rule, regulation, policy, or
8 practice of a city, township, village, county, governmental
9 authority created by statute, or other political subdivision of the
10 state shall not require that a person who is an employer under the
11 Michigan occupational safety and health act, 1974 PA 154, MCL
12 408.1001 to 408.1094, provide to a fire chief information regarding
13 hazardous chemicals in the workplace in any other manner or to any
14 greater extent than is required by this section or rules authorized
15 by this section.

16 Enacting section 1. This amendatory act does not take effect
17 unless Senate Bill No. 807 or House Bill No.____ (request no.
18 04046'09) of the 95th Legislature is enacted into law.