

Act No. 6
Public Acts of 1993
Approved by the Governor
March 16, 1993
Filed with the Secretary of State
March, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senator Ehlers

ENROLLED SENATE BILL No. 19

AN ACT to amend section 2 of Act No. 348 of the Public Acts of 1965, entitled as amended "An act to control air pollution in this state; to create an air pollution control commission within the state health department; to prescribe its powers and duties; to prescribe the powers and duties of certain county agencies; to provide for the establishment of fees; and to provide penalties," as amended by Act No. 218 of the Public Acts of 1987, being section 336.12 of the Michigan Compiled Laws; and to add sections 14b, 14c, and 14d.

The People of the State of Michigan enact:

Section 1. Section 2 of Act No. 348 of the Public Acts of 1965, as amended by Act No. 218 of the Public Acts of 1987, being section 336.12 of the Michigan Compiled Laws, is amended and sections 14b, 14c, and 14d are added to read as follows:

Sec. 2. As used in this act:

- (a) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor or any combination thereof.
- (b) "Air pollution" means the presence in the outdoor atmosphere of air contaminants in quantities, of characteristics and under conditions and circumstances, and of a duration that are or can become injurious to human health or welfare, to animal life, to plant life, or to property, or that interfere with the enjoyment of life and property in this state and excludes all aspects of employer-employee relationships as to health and safety hazards. With respect to any mode of transportation, nothing in this act or in the rules promulgated under this act shall be inconsistent with the federal regulations, emission limits, standards or requirements on various modes of transportation. Air pollution does not mean those usual and ordinary odors associated with a farm operation if the person engaged in the farm operation is following generally accepted agricultural and management practices.
- (c) "Air cleaning device" means any method, process, or equipment that removes, reduces, or renders less noxious air contaminants discharged into the atmosphere.
- (d) "Commission" means the air pollution control commission.
- (e) "Department" means the department of natural resources.
- (f) "Farm operation" has the meaning ascribed to it in the Michigan right to farm act, Act No. 93 of the Public Acts of 1981, being sections 286.471 to 286.474 of the Michigan Compiled Laws.
- (g) "Fund" means the emissions control fund created in section 14d.
- (h) "Generally accepted agricultural and management practices" has the meaning ascribed to it in Act No. 93 of the Public Acts of 1981.

- (i) "Major emitting facility" means a stationary source that emits 100 tons or more per year of any of the following:
- (i) Particulates.
- (ii) Sulfur dioxides.
- (iii) Volatile organic compounds.
- (iv) Oxides of nitrogen.

Sec. 14b. (1) By March 15 of each year, the owner or operator of a major emitting facility shall submit information regarding the facility's emissions to the department pursuant to the emission inventory system established in rules promulgated under this act.

(2) If the owner or operator of a major emitting facility has not submitted the information required under subsection (1) by April 15, the department shall use the previous year's emission data for purposes of the emission inventory system and shall assess the owner or operator a penalty. The penalty shall be 5% of what the owner's or operator's bill for that major emitting facility would be under section 14c, using the previous year's emission data, for each month the information is late up to a maximum penalty of 25% of this amount. A penalty assessed under this section shall be collected at the time emission fees are collected under section 14c.

(3) Emissions data that the department receives after April 15 of each year shall be entered into the emission inventory system when the data are quality assured.

Sec. 14c. (1) For state fiscal years ending September 30, 1993 and September 30, 1994, the owner or operator of a major emitting facility shall pay to the department an emission fee of \$3.00 for each ton of particulates, sulfur dioxides, volatile organic compounds, and oxides of nitrogen that the facility emits, up to 4,000 tons maximum for each pollutant listed in this subsection. This fee shall be based upon actual emissions as determined by the most recent calendar year for which quality assured data from the emission inventory system as provided in rules promulgated under this act are available. The department shall forward money collected pursuant to this subsection to the state treasurer for deposit into the clean air act implementation account within the fund.

(2) In addition to the emission fee provided in subsection (1), for state fiscal years ending September 30, 1993 and September 30, 1994, the owner or operator of a major emitting facility shall pay to the department an emission fee of \$3.00 for each ton of particulates, sulfur dioxides, volatile organic compounds, and oxides of nitrogen that the facility emits, up to 4,000 tons maximum for each pollutant listed in this subsection. This fee shall be based upon actual emissions as determined by the most recent calendar year for which quality assured data from the emission inventory system as provided in rules promulgated under this act are available. The department shall forward money collected pursuant to this subsection to the state treasurer for deposit into the permit review and urban airshed study account within the fund.

(3) The department shall provide the owner or operator of each major emitting facility a bill for the amount of the emission fees the facility owes under this section and any penalty assessed under section 14b. The bill shall be for emissions during the most recent calendar year for which quality assured data from the emission inventory system are available. The owner or operator of the major emitting facility shall pay the amount due within 45 days of the date of the bill. If the owner or operator of the major emitting facility fails to submit the amount due within this time period, the department shall assess the owner or operator a penalty of 5% of the amount of unpaid emission fees for each month that the payment is overdue up to a maximum penalty of 25% of the total emission fees owed.

(4) The attorney general may bring an action for the collection of the fees imposed under this section and any penalty assessed under this section or section 14b.

Sec. 14d. (1) The emissions control fund is created within the state treasury. The state treasurer may receive money from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(2) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) The state treasurer shall establish, within the fund, a clean air act implementation account and a permit review and urban airshed study account.

(4) The department shall expend money from the fund, upon appropriation, only for the following purposes:

(a) Money in the clean air act implementation account shall be used for 1 or more of the following:

(i) Developing and implementing requirements of Public Law 101-549, 104 Stat. 2399, commonly referred to as the clean air act amendments of 1990.

(ii) Emissions and ambient air monitoring.

(iii) Audits and inspections of source-operated monitoring programs.

(iv) Preparing generally applicable rules to implement requirements of Public Law 101-549, 104 Stat. 2399, commonly referred to as the clean air act amendments of 1990.

(v) Modeling, analyses, or demonstrations.

(vi) Preparing inventories and tracking emissions.

(b) Money in the permit review and urban airshed study account shall be used for both of the following:

(i) Not more than \$545,000.00 to provide grants for local air pollution programs that collect data for the urban airshed model.

(ii) To process permit applications pursuant to this act until such time that all permit applications received by the department are being processed in a timely manner. When permit applications under this act are being processed in a timely manner, money in the permit review and urban airshed study account that is not allocated for grants under subparagraph (i) shall be used for the purposes described in subdivision (a), unless the department recommends and the appropriations committees of the senate and house of representatives approve continued use of this money or a portion of this money to process permit applications.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.