

SUBSTITUTE FOR
HOUSE BILL NO. 5742

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 205.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 205 LABORATORY DATA QUALITY ASSURANCE

2 Sec. 20501. This part may be cited as the "V. Harry
3 Adrounie laboratory data quality assurance act".

4 Sec. 20503. As used in this part:

5 (a) "Analytical data" means the qualitative or quantitative
6 measurements generated by chemical, physical, biological,
7 microbiological, radiological, or other scientific
8 determination.

9 (b) "Calibration" means a set of operations that establish,
10 under specified conditions, the relationship between values of
11 quantities indicated by a measuring instrument or measuring

1 system, or values represented by a material measure or a
2 reference material, and the corresponding values realized by
3 standards established as follows:

4 (i) In calibration of support equipment, through the use of
5 reference standards that are traceable to the international
6 system of units.

7 (ii) In calibration according to analytical methods,
8 typically through the use of reference materials that are either
9 purchased by the laboratory with a certificate of analysis or
10 purity, or prepared by the laboratory using support equipment
11 that has been calibrated or verified to meet specifications.

12 (c) "Commercial laboratory" means a privately owned
13 laboratory that generates analytical data required under this act
14 pertaining to the operations of a third person regulated under
15 this act.

16 (d) "Council" means the laboratory data quality assurance
17 advisory council created in section 20517.

18 (e) "Department" means the department of environmental
19 quality.

20 (f) "Director" means the director of the department.

21 (g) "Fund" means the laboratory data quality recognition
22 program fund created in section 20509.

23 (h) "In-house laboratory" means a privately owned laboratory
24 that generates analytical data required under this act pertaining
25 to the operations of the owner of that laboratory or an affiliate
26 of the owner.

27 (i) "Laboratory" means a body that engages in calibration or

1 testing, or both, at a specified location.

2 (j) "Proficiency testing" means a method of evaluating a
3 laboratory's performance under controlled conditions relative to
4 a given set of criteria through analysis of unknown samples
5 provided by an external source.

6 (k) "Public laboratory" means a municipal or other publicly
7 owned laboratory that generates analytical data for submission to
8 the department under this act.

9 (l) "Quality recognition program" means the laboratory data
10 quality recognition program provided for in section 20505.

11 Sec. 20505. (1) The department shall implement a laboratory
12 data quality recognition program to identify commercial
13 laboratories that the department considers to be qualified to
14 generate analytical data for submission to the department for
15 compliance purposes under this act.

16 (2) Participation in the quality recognition program by a
17 commercial laboratory is voluntary. A commercial laboratory
18 shall not be restricted or prohibited from generating analytical
19 data for submission to the department for compliance purposes
20 under this act based on nonparticipation or unsuccessful
21 participation in the quality recognition program.

22 (3) However, successful participation in the quality
23 recognition program is mandatory for a commercial laboratory that
24 seeks to perform testing associated with a state-funded project
25 or program authorized under this act. When the department lets
26 contracts for state-funded laboratory work authorized under this
27 act, the department shall use only those commercial laboratories

1 that are successful participants in the quality recognition
2 program. Exceptions may be made if desired analytical support
3 services are not available from a commercial laboratory that is a
4 successful participant in the quality recognition program.

5 (4) The quality recognition program shall determine whether
6 the quality of analytical data is maintained through quality
7 systems in which staff responsibilities and operational
8 procedures are defined, documented, and subjected to an internal
9 assessment by the commercial laboratory itself on a regular
10 basis, with timely corrective action taken by the commercial
11 laboratory as needed. The quality systems shall include quality
12 assurance policies and quality control procedures and shall be
13 documented in a written plan.

14 Sec. 20507. To participate in the quality recognition
15 program, a commercial laboratory shall do all of the following:

16 (a) Submit an application to the department.

17 (b) Pay the department a fee based on the department's
18 actual costs of administering the quality recognition program but
19 not exceeding \$750.00 for an initial application or \$500.00 for a
20 renewal application.

21 (c) Grant the department access to the laboratory and
22 laboratory records for inspections during normal business hours
23 without prior notice.

24 (d) If required by the department, participate in
25 proficiency testing conducted by the department, the United
26 States environmental protection agency, or any other nationally
27 recognized proficiency testing program.

1 Sec. 20509. (1) The laboratory data quality recognition
2 program fund is created within the state treasury.

3 (2) Fees collected under section 20507 shall be deposited in
4 the fund. The state treasurer may also receive money or other
5 assets from any other source for deposit into the fund. The
6 state treasurer shall direct the investment of the fund. The
7 state treasurer shall credit to the fund interest and earnings
8 from fund investments.

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

11 (4) The department shall expend money from the fund, upon
12 appropriation, only to administer the quality recognition
13 program.

14 Sec. 20511. (1) Subject to subsection (3), the department
15 shall maintain and post on its website all of the following
16 information:

17 (a) A list of laboratories that have successfully
18 participated in the quality recognition program together with a
19 statement that substantially sets forth the provisions of section
20 20505(2) and (3).

21 (b) The types of analytical data with respect to which a
22 laboratory successfully participated in the quality recognition
23 program, if the laboratory successfully participated only with
24 respect to certain types of analytical data.

25 (2) Subject to subsection (3), the successful participation
26 of a commercial laboratory in the quality recognition program
27 shall be recognized by the department as provided in subsection

1 (1) and section 20505(3) for a 2-year period. A laboratory may
2 apply under section 20507 to renew its participation in the
3 quality recognition program.

4 (3) The department may terminate recognition of a commercial
5 laboratory as a successful participant in the quality recognition
6 program upon determining that the commercial laboratory no longer
7 meets the standards for successful participation in the quality
8 recognition program.

9 Sec. 20515. The department shall enforce this part and,
10 pursuant to the administrative procedures act of 1969, 1969 PA
11 306, MCL 24.201 to 24.328, may promulgate rules as it considers
12 necessary to carry out its duties under this part. However, the
13 department shall not promulgate any additional rules under this
14 part after December 31, 2006.

15 Enacting section 1. This amendatory act does not take
16 effect unless all of the following bills of the 92nd Legislature
17 are enacted into law:

18 (a) Senate Bill No. 1135.

19 (b) House Bill No. 5743.