

HOUSE BILL No. 4925

July 2, 2003, Introduced by Reps. Kooiman, Hart, Voorhees, Steil and Koetje and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 20107a (MCL 324.20107a), as amended by 1996
PA 383, and by adding sections 11548a and 61519a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11548a. (1) If property containing a landfill
2 regulated under this part is transferred to a county for use as a
3 converted public park, all responsibilities under this part
4 related to the landfill, including, but not limited to,
5 postclosure monitoring and maintenance, financial assurance,
6 maintenance of a perpetual care fund, and corrective action,
7 shall be conducted by the prior owner or operator of the landfill
8 or other person as provided by law but not the county or an
9 authority associated with or authorized by the county.

10 (2) As used in this section, "converted public park" means

1 property that is owned and operated by a county or an authority
2 associated with or authorized by a county, that contains 1 or
3 more oil or gas wells as defined in section 61601 or 1 or more
4 abandoned oil or gas wells as defined in section 61601, that
5 contains a landfill regulated under this part, and that is being
6 used or is intended to be used as a public park.

7 Sec. 20107a. (1) A person who owns or operates property
8 that he or she has knowledge is a facility shall do all of the
9 following with respect to hazardous substances at the facility:

10 (a) Undertake measures as are necessary to prevent
11 exacerbation of the existing contamination.

12 (b) Exercise due care by undertaking response activity
13 necessary to mitigate unacceptable exposure to hazardous
14 substances, mitigate fire and explosion hazards due to hazardous
15 substances, and allow for the intended use of the facility in a
16 manner that protects the public health and safety.

17 (c) Take reasonable precautions against the reasonably
18 foreseeable acts or omissions of a third party and the
19 consequences that foreseeably could result from those acts or
20 omissions.

21 (2) Notwithstanding any other provision of this part, a
22 person who violates subsection (1) is liable for response
23 activity costs and natural resource damages attributable to any
24 exacerbation of existing contamination and any fines or penalties
25 imposed under this part resulting from the violation of
26 subsection (1) but is not liable for performance of additional
27 response activities unless the person is otherwise liable under

1 this part for performance of additional response activities. The
2 burden of proof in a dispute as to what constitutes exacerbation
3 shall be borne by the party seeking relief.

4 (3) Compliance with this section does not satisfy a person's
5 obligation to perform response activities as otherwise required
6 under this part.

7 (4) Subsection (1) does not apply to ~~the~~ **any of the**
8 **following:**

9 (a) **The** state or ~~to~~ a local unit of government that is not
10 liable under section 20126(3)(a), (b), (c), or (e). ~~or to a~~

11 (b) **A** local unit of government that acquired property by
12 purchase, gift, transfer, or condemnation prior to ~~the effective~~
13 ~~date of this section or to a~~ **June 5, 1995.**

14 (c) **A county or an authority associated with or authorized by**
15 **a county for a converted public park, if the county or authority**
16 **has adopted a plan for the proposed use of the converted public**
17 **park and for any response activities that are necessary for the**
18 **use of the converted public park.**

19 (d) **A person who is exempt from liability under**
20 **section 20126(4)(c).**

21 (5) Subsection (1) does not apply to a person who is exempt
22 from liability under section 20126(3)(c) or (d) except with
23 regard to that person's activities at the facility.

24 (6) **As used in this section, "converted public park" means**
25 **property that is owned and operated by a county or an authority**
26 **associated with or authorized by a county, that contains 1 or**
27 **more oil or gas wells as defined in section 61601 or 1 or more**

1 abandoned oil or gas wells as defined in section 61601, that
2 contains a landfill regulated under part 115, and that is being
3 used or is intended to be used as a public park.

4 Sec. 61519a. (1) If property is transferred to a county for
5 use as a converted public park, all responsibilities and
6 liabilities under this part relating to a well located on that
7 property, including, but not limited to, the prior construction,
8 operation, maintenance, and casing and the past or future
9 plugging of, repair of, or any corrective action associated with
10 the well and any restoration and remediation of the well sites,
11 shall be conducted by the prior or existing owner or operator of
12 the well or other person as provided by law but not the county or
13 an authority associated with or authorized by the county.

14 (2) As used in this section, "converted public park" means
15 property that is owned and operated by a county or an authority
16 associated with or authorized by a county, that contains 1 or
17 more oil or gas wells as defined in section 61601 or 1 or more
18 abandoned oil or gas wells as defined in section 61601, that
19 contains a landfill regulated under part 115, and that is being
20 used or is intended to be used as a public park.