

HOUSE BILL No. 5064

September 24, 2003, Introduced by Rep. Whitmer and referred to the Committee on 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).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112. (1) A person shall not discharge any waste or
2 waste effluent into the waters of this state unless the person is
3 in possession of a valid permit from the department. ~~Compliance~~
4 ~~with the terms of an outstanding order of determination or final~~
5 ~~order of determination or stipulation with the former water~~
6 ~~resources commission that is in effect on April 15, 1973, shall~~
7 ~~be considered to meet the requirements of this section until the~~
8 ~~department issues its permit.~~

9 (2) 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

1 proposed discharge and the cumulative health risk to children in
2 the area posed by all discharges, including the proposed
3 discharge.

4 (3) The department shall condition the continued validity of
5 a permit upon the permittee's meeting the effluent requirements
6 that the department considers necessary to prevent unlawful
7 pollution by the dates that the department considers to be
8 reasonable and necessary and to assure compliance with applicable
9 federal law and regulations. If the department finds that the
10 terms of a permit have been, are being, or may be violated, it
11 may modify, suspend, or revoke the permit or grant the permittee
12 a reasonable period of time in which to comply with the permit.
13 The department may reissue a revoked permit upon a showing
14 satisfactory to the department that the permittee has corrected
15 the violation. A person who has had a permit revoked may apply
16 for a new permit.

17 (4) ~~(2)~~ If the department determines that a person is
18 causing or is about to cause unlawful pollution of the waters of
19 this state, the department may notify the alleged offender of its
20 determination and enter an order requiring the person to abate
21 the pollution or refer the matter to the attorney general for
22 legal action, or both.

23 (5) ~~(3)~~ A person who is aggrieved by an order of abatement
24 of the department or by the reissuance, modification, suspension,
25 or revocation of an existing permit of the department executed
26 pursuant to this section may file a sworn petition with the
27 ~~commission~~ **director of the department** setting forth the grounds

1 and reasons for the complaint and asking for a contested case
2 hearing on the matter pursuant to the administrative procedures
3 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
4 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA**
5 **306, MCL 24.201 to 24.328.** A petition filed more than 60 days
6 after action on the order or permit may be rejected by the
7 ~~commission~~ **director of the department** as being untimely.

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

12 (a) Installation, modification, or operation of the source
13 will violate this part, rules promulgated under this part, or the
14 clean air act, unless the source is in compliance with a legally
15 enforceable schedule of compliance contained in a permit or
16 order.

17 (b) Installation, construction, reconstruction, relocation,
18 alteration, or operation of the source presents or may present an
19 imminent and substantial endangerment to human health, safety, or
20 welfare, or the environment.

21 (c) The person applying for the permit makes a false
22 representation or provides false information during the permit
23 review process.

24 (d) The source has not been installed, constructed,
25 reconstructed, relocated, altered, or operated in a manner
26 consistent with the application for a permit or as specified in a
27 permit.

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

3 (f) The person proposes a major offset source or ~~the owner~~
4 ~~or operator of a proposed~~ a major offset modification ~~that~~ **and**
5 **the person** owns or operates another source in the state that has
6 the potential to emit 100 tons or more per year of any air
7 contaminant regulated under the clean air act and that ~~source~~
8 is in violation of this part, rules promulgated under this part,
9 the clean air act, or a permit or order issued under this part,
10 unless the **other** source is in compliance with a legally
11 enforceable schedule of compliance contained in a permit or
12 order.

13 (2) **In determining whether to issue a permit under this part,**
14 **the department shall consider and make written findings on the**
15 **increased health risk to children in the area posed by the**
16 **proposed emissions and the cumulative health risk to children in**
17 **the area posed by all emissions, including the proposed emission.**