

HOUSE BILL No. 5743

April 1, 2004, Introduced by Rep. Wenke and referred to the Committee on Commerce.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 20510, 20511,
20512, and 20513.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20510. (1) An accredited laboratory shall ensure that
2 the quality of analytical data produced by the laboratory is
3 suitable for its intended purpose and is supported by appropriate
4 documentation.

5 (2) An accredited laboratory shall ensure that the quality of
6 analytical data is maintained through quality systems in which
7 staff responsibilities and operational procedures are defined,
8 documented, and subjected to assessment on a regular basis, with
9 timely corrective action taken by the laboratory as needed. The
10 quality systems shall include quality assurance policies and

1 quality control procedures and shall be documented in a written
2 plan.

3 (3) An accredited laboratory shall meet any additional or
4 more stringent requirements specified by analytical methods or
5 specific regulatory programs for which the data is being used to
6 demonstrate compliance.

7 Sec. 20511. (1) If an application submitted to the
8 department under this part is not administratively complete, the
9 department shall notify the applicant in writing within 30 days
10 after receipt of the application. The notice shall identify what
11 information is required to make the application administratively
12 complete.

13 (2) The department shall deny an application for initial
14 accreditation or to renew or augment accreditation or shall
15 revoke accreditation if any of the following occur:

16 (a) Failure to pay required fees.

17 (b) Failure of laboratory staff to meet the personnel
18 qualifications of education, training, and experience as required
19 by the department's accreditation standards.

20 (c) Failure to successfully analyze and report proficiency
21 testing samples.

22 (d) Failure to respond to any deficiencies identified in an
23 assessment report from the on-site assessment with a corrective
24 action report within 30 calendar days after receipt of the
25 assessment report.

26 (e) Failure to implement the corrective actions detailed in
27 the corrective action report within the time frame as approved by

1 the department.

2 (f) Failure to implement a quality system.

3 (g) Knowingly making a false statement or misrepresentation
4 of any material fact pertinent to receiving or maintaining
5 accreditation.

6 (h) Denial of entry during normal business hours for an
7 on-site assessment as required by the department's accreditation
8 standards.

9 (3) The department shall deny an application for initial
10 accreditation or to renew or augment accreditation or shall
11 revoke accreditation only for those specific categories,
12 parameters, analytes, or methods connected with unsatisfactory
13 laboratory performance, practices, or actions.

14 (4) A laboratory aggrieved by a decision of the department to
15 revoke or deny accreditation for the laboratory is entitled to a
16 contested case hearing on the matter pursuant to the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328. To invoke its right to a contested case hearing, the
19 laboratory shall file with the department a written petition for
20 the contested case hearing setting forth the grounds on which the
21 laboratory is aggrieved. The department may reject as untimely a
22 petition filed more than 60 days after the department's action.

23 Sec. 20512. (1) To determine the ability of an accredited
24 laboratory to produce valid analytical results, to evaluate the
25 validity of any previously reported analytical results, or to
26 evaluate compliance with the requirements of this part, the
27 assessor may require the laboratory director to furnish

1 information that the laboratory is required to maintain as
2 specified in this part and any supporting information. Privilege
3 and protection from disclosure do not apply to information
4 required to be reported to the department under this subsection.

5 (2) A person required to furnish information under subsection
6 (1) shall at the option of the department do either of the
7 following:

8 (a) Grant the department access during normal business hours
9 to inspect and copy the information.

10 (b) Copy and furnish the information to the department.

11 (3) All inspections and investigations undertaken by the
12 department shall be completed with reasonable promptness.

13 (4) If the department is refused entry or information under
14 this section, the attorney general may do 1 or more of the
15 following:

16 (a) Petition a court of appropriate jurisdiction for a
17 warrant authorizing access to the laboratory or laboratory
18 records pursuant to this section.

19 (b) Commence a civil action to compel compliance with a
20 request for information or entry pursuant to this section, to
21 authorize information gathering and entry provided for in this
22 section, and to enjoin interference with the exercise of
23 authority provided in this section.

24 (c) Seek civil sanctions on behalf of the state, as specified
25 in section 20513, for failure to comply with an information or
26 access request.

27 Sec. 20513. (1) In addition to other relief authorized by

1 law, the attorney general may, on behalf of the state, commence a
2 civil action against a laboratory for 1 or more of the
3 following:

4 (a) Recovery of state investigative, sampling, or analytical
5 costs if data is unusable because of the act or omission of the
6 laboratory.

7 (b) Enforcement of information gathering and entry authority
8 under section 20512.

9 (2) Except as otherwise provided in this part, an action
10 brought under this part may be brought in the circuit court for
11 Ingham county or in the county in which the laboratory is
12 located.

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

16 (a) Senate Bill No. _____ or House Bill No. 5744
17 (request no. 06433'04 **).

18 (b) Senate Bill No. 1135 or House Bill No.
19 (request no. 06495'04 **).

20 (c) Senate Bill No. _____ or House Bill No. 5742
21 (request no. 06496'04 **).