

HOUSE BILL No. 5095

October 12, 2017, Introduced by Reps. Lauwers, Barrett, Hernandez, Frederick, Marino, Victory, Bellino, Hornberger, Cole, Allor, Glenn, Roberts and VanderWall and referred to the Committee on Commerce and Trade.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 3112 (MCL 324.3112), as amended by 2005 PA 33.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112. (1) A person shall not discharge any waste or waste
2 effluent into the waters of this state unless the person is in
3 possession of a valid permit from the department.

4 (2) An application for a permit under subsection (1) shall be
5 submitted to the department. Within 30 days after an application
6 for a new or increased use is received, the department shall
7 determine whether the application is administratively complete.
8 Within 90 days after an application for reissuance of a permit is
9 received, the department shall determine whether the application is
10 administratively complete. If the department determines that an

1 application is not complete, the department shall notify the
2 applicant in writing within the applicable time period. If the
3 department does not make a determination as to whether the
4 application is complete within the applicable time period, the
5 application shall be considered to be complete.

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

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

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

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1 department setting forth the grounds and reasons for the complaint
 2 and ~~asking for~~ **REQUESTING** a contested case hearing on the matter
 3 pursuant to the administrative procedures act of 1969, 1969 PA 306,
 4 MCL 24.201 to 24.328. A petition filed more than 60 days after
 5 action on the order or permit may be rejected by the department as
 6 being untimely.

7 (6) ~~Beginning January 1, 2007, all~~ **ALL** oceangoing vessels
 8 engaging in port operations in this state shall obtain a permit
 9 from the department. The department shall issue a permit for an
 10 oceangoing vessel only if the applicant can demonstrate that the
 11 oceangoing vessel ~~will not discharge aquatic nuisance species or if~~
 12 ~~the oceangoing vessel discharges ballast water or other waste or~~

13 ~~waste effluent, that the operator of the vessel will utilize~~
 14 ~~environmentally sound technology and methods, as determined by the~~
 15 ~~department, that can be used to prevent the discharge of aquatic~~
 16 ~~nuisance species. The department shall cooperate to the fullest~~
 17 ~~extent practical with other Great Lakes basin states, the Canadian~~
 18 ~~Great Lakes provinces, the Great Lakes panel on aquatic nuisance~~
 19 ~~species, the Great Lakes fishery commission, the international~~
 20 ~~joint commission, and the Great Lakes commission to ensure~~
 21 ~~development of standards for the control of aquatic nuisance~~
 22 ~~species that are broadly protective of the waters of the state and~~
 23 ~~other natural resources.~~ **COMPLIES WITH [THE FEDERAL AQUATIC NUISANCE**

RULE AS THEN IN EFFECT. HOWEVER, IF THE FEDERAL AQUATIC NUISANCE RULE IS
AMENDED AFTER THE ENACTMENT DATE OF THE 2017 AMENDATORY ACT THAT ADDED
SUBSECTION (8), AND THE DIRECTOR DETERMINES THAT THE AMENDED VERSION OF
THE FEDERAL AQUATIC NUISANCE RULE IS LESS PROTECTIVE OF THE WATERS OF
THIS STATE FROM AQUATIC NUISANCE SPECIES, THE APPLICANT SHALL DEMONSTRATE
THAT THE OCEANGOING VESSEL COMPLIES WITH THE FEDERAL AQUATIC NUISANCE
RULE AS IN EFFECT IMMEDIATELY BEFORE THE EFFECTIVE DATE OF THAT AMENDMENT
TO THE FEDERAL AQUATIC NUISANCE RULE. FURTHERMORE, IF PURSUANT TO A
COMPACT OF GREAT LAKES STATES OF WHICH THIS STATE IS A PART, THIS STATE
ADOPTS STANDARDS MORE PROTECTIVE OF THE WATERS OF THIS STATE FROM AQUATIC
NUISANCE SPECIES THAN THE VERSION OF THE FEDERAL AQUATIC NUISANCE RULE
OTHERWISE APPLICABLE UNDER THIS SUBSECTION, THE STANDARDS ADOPTED
PURSUANT TO THE COMPACT APPLY. THE INTENT OF THE LEGISLATURE IN ADOPTING
THE FEDERAL AQUATIC NUISANCE RULE BY REFERENCE IS TO HELP HARMONIZE
REGULATORY PROGRAMS IN GREAT LAKES STATES FOR PREVENTING THE INTRODUCTION
AND SPREAD OF AQUATIC NUISANCE SPECIES IN THE GREAT LAKES, INCLUDING
BALLAST WATER MANAGEMENT PROGRAMS, AND TO ALLOW REGULATORY AGENCIES TO
COOPERATE IN DEVELOPING STRONGER PROGRAMS.

(7).]

24 Permit fees for permits under this subsection shall be assessed as
 25 provided in section 3120. The permit fees for an individual permit
 26 issued under this subsection ~~shall be~~ **ARE** the fees specified in
 27 section 3120(1)(a) and (5)(a). The permit fees for a general permit

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1 issued under this subsection ~~shall be~~ **ARE** the fees specified in
2 section 3120(1)(c) and (5)(b)(i). Permits under this subsection
3 shall be issued in accordance with the timelines provided in
4 section 3120. The department may promulgate rules to implement this
5 subsection.

**[(8) AS USED IN THIS SECTION, "FEDERAL AQUATIC NUISANCE RULE" MEANS
33 CFR PART 151, SUBPART C, AND APPLICABLE REQUIREMENTS OF 33 CFR
151.2050, 151.2060, AND 151.2070.]**