

SUBSTITUTE FOR
SENATE BILL NO. 727

A bill to amend 1976 PA 399, entitled
"Safe drinking water act,"
by amending section 17 (MCL 325.1017), as amended by 2006 PA 37.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) A person engaged in producing bottled drinking
2 water shall utilize a water source meeting the requirements of this
3 section and the requirements otherwise provided in this act.
4 Bottling or packaging facilities and their operation shall remain
5 under the supervision of the ~~Michigan~~ department of agriculture as
6 provided for in the food law of 2000, 2000 PA 92, MCL 289.1101 to
7 289.8111. ~~, and regulation no. 549, R285.549.1 through R285.549.29~~
8 ~~of the Michigan administrative code, and other pertinent rules and~~
9 ~~laws.~~

1 (2) A person producing bottled drinking water from an out-of-
2 state source shall submit proof to the director that the source and
3 bottling facilities were approved by the agency having
4 jurisdiction. The director may withhold approval of the bottled
5 water if the other agency's inspection, surveillance, and approval
6 procedures and techniques are determined to be inadequate.

7 (3) A person who proposes to engage in producing bottled
8 drinking water from a new or increased large quantity withdrawal of
9 more than ~~250,000~~ 200,000 gallons of water per day **FROM THE WATERS**
10 **OF THE STATE OR THAT WILL RESULT IN AN INTRABASIN TRANSFER OF MORE**
11 **THAN 100,000 GALLONS PER DAY AVERAGE OVER ANY 90-DAY PERIOD** shall
12 ~~demonstrate to the satisfaction of the department that all of the~~
13 ~~following conditions will be met:~~ **SUBMIT AN APPLICATION TO THE**
14 **DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT CONTAINING AN**
15 **EVALUATION OF ENVIRONMENTAL, HYDROLOGICAL, AND HYDROGEOLOGICAL**
16 **CONDITIONS THAT EXIST AND THE PREDICTED EFFECTS OF THE INTENDED**
17 **WITHDRAWAL THAT PROVIDES A REASONABLE BASIS FOR THE DETERMINATION**
18 **UNDER THIS SECTION TO BE MADE.**

19 ~~—— (a) The proposed use is not likely to have an adverse resource~~
20 ~~impact.~~

21 ~~—— (b) The proposed use is reasonable under common law principles~~
22 ~~of water law in Michigan.~~

23 ~~—— (c) The withdrawal will be conducted in such a manner as to~~
24 ~~protect riparian rights as defined by Michigan common law.~~

25 (4) **THE DEPARTMENT SHALL ONLY APPROVE AN APPLICATION UNDER**
26 **SUBSECTION (3) IF THE DEPARTMENT DETERMINES BOTH OF THE FOLLOWING:**

27 **(A) THE PROPOSED USE WILL MEET THE APPLICABLE STANDARD**

1 PROVIDED IN SECTION 32723 OF THE NATURAL RESOURCES AND
2 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.32723.

3 (B) ~~(d)~~—The person will undertake activities, if needed, to
4 address hydrologic impacts commensurate with the nature and extent
5 of the withdrawal. These activities may include those related to
6 the stream flow regime, water quality, and aquifer protection.

7 (5) ~~(4)~~—Before proposing activities under subsection ~~(3)~~~~(d)~~
8 (4) (B), the person proposing to engage in producing bottled
9 drinking water shall consult with local government officials and
10 interested community members.

11 (6) ~~(5)~~—Before making the determination under subsection ~~(3)~~
12 (4), the department shall provide public notice and an opportunity
13 for public comment **OF NOT LESS THAN 45 DAYS.**

14 (7) ~~(6)~~—If the person proposing to engage in producing bottled
15 drinking water under subsection (3) does not have a permit under
16 section 4, the person shall request a determination under
17 subsection ~~(3)~~~~(4)~~ when that person applies for a permit under
18 section 4. If the person proposing to engage in producing bottled
19 drinking water has previously received a permit under section 4,
20 the person shall ~~request a determination~~**OBTAIN APPROVAL** under
21 subsection ~~(3)~~~~(4)~~ prior to beginning the operations. **A PROPOSED**
22 **USE FOR WHICH THE DEPARTMENT MAKES A DETERMINATION THAT THE**
23 **CONDITIONS OF SUBSECTION (4) WILL BE MET SHALL BE CONSIDERED TO**
24 **SATISFY THE REQUIREMENTS OF SECTION 4.11 OF THE COMPACT.**

25 (8) ~~(7)~~—A person seeking a departmental determination under
26 subsection ~~(3)~~~~(4)~~ shall submit an application fee of \$5,000.00 to
27 the department. The department shall transmit application fees

received under this section to the state treasurer to be credited to the water use protection fund created in section 32714.

(9) ~~(8)~~—This section shall not be construed as affecting, intending to affect, or in any way altering or interfering with common law water rights or the applicability of other laws providing for the protection of natural resources or the environment.

(10) A PERSON WHO PROPOSES TO ENGAGE IN PRODUCING BOTTLED DRINKING WATER AND WHO SUBMITTED AN APPLICATION FOR A PERMIT UNDER SECTION 4 PRIOR TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IS SUBJECT TO THE PROVISIONS OF THIS SECTION THAT EXISTED ON FEBRUARY 28, 2006.

(11) ~~(9)~~—As used in this section, ~~"adverse resource impact"~~ and **"COMPACT"**, **"INTRABASIN TRANSFER"**, "new or increased large quantity withdrawal", **AND "WATERS OF THE STATE"** mean those terms as they are defined in section 32701 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32701.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 858.
- (d) Senate Bill No. 859.
- (e) Senate Bill No. 860.