

SENATE BILL No. 1653

December 2, 2008, Introduced by Senator VAN WOERKOM and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3101 and 3109 (MCL 324.3101 and 324.3109), section 3101 as amended by 2006 PA 97 and section 3109 as amended by 2005 PA 241.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3101. As used in this part:

2 **(A) "AGRICULTURAL STORM WATER DISCHARGE" MEANS AN AGRICULTURAL**
3 **STORM WATER DISCHARGE AS DESCRIBED IN 40 CFR 122.23.**

4 **(B) ~~(a)~~**"Aquatic nuisance species" means a nonindigenous
5 species that threatens the diversity or abundance of native species
6 or the ecological stability of infested waters, or commercial,
7 agricultural, aquacultural, or recreational activities dependent on
8 such waters.

9 **(C) ~~(b)~~**"Ballast water" means water and associated solids

1 taken on board a vessel to control or maintain trim, draft,
2 stability, or stresses on the vessel, without regard to the manner
3 in which it is carried.

4 (D) ~~(e)~~—"Ballast water treatment method" means a method of
5 treating ballast water and sediments to remove or destroy living
6 biological organisms through 1 or more of the following:

7 (i) Filtration.

8 (ii) The application of biocides or ultraviolet light.

9 (iii) Thermal methods.

10 (iv) Other treatment techniques approved by the department.

11 (E) ~~(d)~~—"Department" means the department of environmental
12 quality.

13 (F) ~~(e)~~—"Detroit consumer price index" means the most
14 comprehensive index of consumer prices available for the Detroit
15 area from the United States department of labor, bureau of labor
16 statistics.

17 (G) ~~(f)~~—"Emergency management coordinator" means that term as
18 defined in section 2 of the emergency management act, 1976 PA 390,
19 MCL 30.402.

20 (H) ~~(g)~~—"Great Lakes" means the Great Lakes and their
21 connecting waters, including Lake St. Clair.

22 (I) ~~(h)~~—"Group 1 facility" means a facility whose discharge is
23 described by R 323.2218 of the Michigan administrative code.

24 (J) ~~(i)~~—"Group 2 facility" means a facility whose discharge is
25 described by R 323.2210(y), R 323.2215, or R 323.2216 of the
26 Michigan administrative code.

27 (K) ~~(j)~~—"Group 3 facility" means a facility whose discharge is

1 described by R 323.2211 or R 323.2213 of the Michigan
2 administrative code.

3 (L) ~~(k)~~—"Local health department" means that term as defined in
4 section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

5 (M) ~~(l)~~—"Local unit" means a county, city, village, or township
6 or an agency or instrumentality of any of these entities.

7 (N) ~~(m)~~—"Municipality" means this state, a county, city,
8 village, or township, or an agency or instrumentality of any of
9 these entities.

10 (O) ~~(n)~~—"National response center" means the national
11 communications center established under the clean water act, 33 USC
12 1251 to 1387, located in Washington, DC, that receives and relays
13 notice of oil discharge or releases of hazardous substances to
14 appropriate federal officials.

15 (P) ~~(o)~~—"Nonocean-going vessel" means a vessel that is not an
16 ocean-going vessel.

17 (Q) ~~(p)~~—"Ocean-going vessel" means a vessel that operates on
18 the Great Lakes or the St. Lawrence waterway after operating in
19 waters outside of the Great Lakes or the St. Lawrence waterway.

20 (R) ~~(q)~~—"Open water disposal of contaminated dredge materials"
21 means the placement of dredge materials contaminated with toxic
22 substances as defined in R 323.1205 of the Michigan administrative
23 code into the open waters of the waters of the state but does not
24 include the siting or use of a confined disposal facility
25 designated by the United States army corps of engineers or beach
26 nourishment activities utilizing uncontaminated materials.

27 (S) ~~(r)~~—"Primary public safety answering point" means that

1 term as defined in section 102 of the emergency ~~telephone 9-1-1~~
 2 service enabling act, 1986 PA 32, MCL 484.1102.

3 (T) ~~(s)~~—"Sediments" means any matter settled out of ballast
 4 water within a vessel.

5 (U) ~~(t)~~—"Sewage sludge" means sewage sludge generated in the
 6 treatment of domestic sewage, other than only septage or industrial
 7 waste.

8 (V) ~~(u)~~—"Sewage sludge derivative" means a product for land
 9 application derived from sewage sludge that does not include solid
 10 waste or other waste regulated under this act.

11 (W) ~~(v)~~—"Sewage sludge generator" means a person who generates
 12 sewage sludge that is applied to land.

13 (X) ~~(w)~~—"Sewage sludge distributor" means a person who
 14 applies, markets, or distributes, except at retail, a sewage sludge
 15 derivative.

16 (Y) ~~(x)~~—"St. Lawrence waterway" means the St. Lawrence river,
 17 the St. Lawrence seaway, and the gulf of St. Lawrence.

18 (Z) ~~(y)~~—"Threshold reporting quantity" means that term as
 19 defined in R 324.2002 of the Michigan administrative code.

20 (AA) ~~(z)~~—"Waters of the state" means groundwaters, lakes,
 21 rivers, and streams and all other watercourses and waters,
 22 including the Great Lakes, within the jurisdiction of this state.

23 Sec. 3109. (1) A person shall not directly or indirectly
 24 discharge into the waters of the state a substance that is or may
 25 become injurious to any of the following:

26 (a) To the public health, safety, or welfare.

27 (b) To domestic, commercial, industrial, agricultural,

1 recreational, or other uses that are being made or may be made of
2 such waters.

3 (c) To the value or utility of riparian lands.

4 (d) To livestock, wild animals, birds, fish, aquatic life, or
5 plants or to their growth or propagation.

6 (e) To the value of fish and game.

7 (2) The discharge of any raw sewage of human origin, directly
8 or indirectly, into any of the waters of the state ~~shall be~~
9 ~~considered~~ IS prima facie evidence of a violation of this part by
10 the municipality in which the discharge originated unless the
11 discharge is permitted by an order or rule of the department. If
12 the discharge is not the subject of a valid permit issued by the
13 department, a municipality responsible for the discharge may be
14 subject to the remedies provided in section 3115. If the discharge
15 is the subject of a valid permit issued by the department pursuant
16 to section 3112, and is in violation of that permit, a municipality
17 responsible for the discharge is subject to the penalties
18 prescribed in section 3115.

19 (3) Notwithstanding subsection (2), a municipality is not
20 responsible or subject to the remedies provided in section 3115 for
21 an unauthorized discharge from a sewerage system as defined in
22 section 4101 that is permitted under this part and owned by a party
23 other than the municipality, unless the municipality has accepted
24 responsibility in writing for the sewerage system and, with respect
25 to the civil fine and penalty under section 3115, the municipality
26 has been notified in writing by the department of its
27 responsibility for the sewerage system.

1 (4) Unless authorized by a permit, order, or rule of the
2 department, the discharge into the waters of this state of any
3 medical waste, as defined in part 138 of the public health code,
4 1978 PA 368, MCL 333.13801 to 333.13831, is prima facie evidence of
5 a violation of this part and subjects the responsible person to the
6 penalties prescribed in section 3115.

7 (5) Beginning January 1, 2007, unless a discharge is
8 authorized by a permit, order, or rule of the department, the
9 discharge into the waters of this state from an oceangoing vessel
10 of any ballast water is prima facie evidence of a violation of this
11 part and subjects the responsible person to the penalties
12 prescribed in section 3115.

13 (6) A violation of this section is prima facie evidence of the
14 existence of a public nuisance and in addition to the remedies
15 provided for in this part may be abated according to law in an
16 action brought by the attorney general in a court of competent
17 jurisdiction.

18 **(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, AN**
19 **AGRICULTURAL STORM WATER DISCHARGE SHALL NOT BE CONSIDERED A**
20 **VIOLATION OF THIS PART OR THE RULES PROMULGATED UNDER THIS PART.**