



**INCREASE PENALTIES FOR WATER
POLLUTION**

**House Bills 6158 and 6159
Sponsor: Rep. Bruce Patterson
Committee: Criminal Justice**

Complete to 10-30-02

A SUMMARY OF HOUSE BILLS 6158 AND 6159 AS INTRODUCED 6-4-02

House Bills 6158 and 6159 would amend Part 31 of the Natural Resources and Environmental Protection Act (NREPA) (MCL 324.3115), pertaining to water resources protection, and Chapter XVII of the Code of Criminal Procedure (MCL 777.13c), respectively, to increase the penalties imposed for polluting Michigan waters. House Bill 6159 is tie-barred to House Bill 6158.

Under current law, the Department of Environmental Quality (DEQ) may bring civil or criminal proceedings against a person who violates the provisions of Part 31 of the NREPA, or a provision of a departmental permit, order, rule, or stipulation. House Bill 6158 would amend Part 31 to double the fines and penalties currently imposed for violations, as follows:

Civil Action. In a civil action for appropriate relief, including a permanent or temporary injunction, the court may currently impose a civil fine of not less than \$2,500, but not exceeding \$25,000 per day of violation. Under House Bill 6158, the minimum fine would be \$5,000, and the maximum \$50,000 per day. In addition to these sanctions, the court is required to impose a civil fine of between \$500,000 and \$5 million should it find that the actions of a civil defendant pose a substantial endangerment to the public health, safety, or welfare. Under the bill, the fine would be between \$1 million and \$10 million.

Criminal Action. Currently, a person who knowingly discharges a prohibited substance into state waters or who intentionally makes a false statement, representation, or certification in a permit application is guilty of a felony, punishable by a fine of between \$2,500 and \$25,000 for each violation. The court may also impose an additional fine of not more than \$25,000 for each day during which the unlawful discharge occurs. Under House Bill 6158, the fine would be between \$5,000 and \$50,000, and the additional fine would have a cap of \$50,000 for each day the violation occurred.

In addition to these penalties, if the court finds that the actions of a criminal defendant pose a substantial endangerment to the public health, safety, or welfare, the court is required to impose a penalty of not less than \$1 million and five years imprisonment. Under the bill, the penalty would be at least \$2 million and ten years' imprisonment.

Further, a fine of between \$25,000 and \$50,000 per day of violation is currently imposed for a second or subsequent violation of a discharge; under the bill, the fine would be between \$50,000 and \$100,000 per day. Also, in addition to a fine, the court may sentence a defendant in these cases to not more than two years imprisonment, or impose probation. Under the bill, the penalty would be four years, or probation.

House Bills 6158 and 6159 (10-30-02)

Disposition of Fines. Currently, the act specifies that any fine or other award ordered collected from polluters must be payable to the state, credited to the general fund, and constitute a lien on any property, of any nature or kind, owned by the defendant. The bill would specify, instead, that only a fine or award recovered in a civil action would be credited to the general fund.

House Bill 6159 would amend Chapter XVII of the Code of Criminal Procedure to reflect the increased penalties in the sentencing guidelines, as follows:

- The sentence for a waste discharge violation, Class H, would be increased from two to four years.
- The sentence for a waste discharge violation, substantial endangerment, Class G, would be increased from five to ten years.

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.