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Senate Bill 107 (as introduced 2-6-01)  
Sponsor: Senator Ken Sikkema  
Committee: Natural Resources and Environmental Affairs

Date Completed: 2-13-01

### **CONTENT**

**The bill would add Part 50 (On-Site Disposal Systems) to the Natural Resources and Environmental Protection Act to require the Department of Environmental Quality (DEQ) to establish standards for residential on-site disposal systems; require the inspection of an on-site disposal system before a home was sold; and require each county to provide educational materials to on-site disposal system owners.**

("On-site disposal system" or "system" would mean a natural system or mechanical device used to collect, treat, and discharge or reclaim wastewater from one or more dwelling units without the use of community-wide sewers or a centralized treatment facility.)

#### Standards

The DEQ would have to promulgate rules establishing standards for the design, installation, and maintenance of on-site disposal systems. The rules would have to include a prioritization procedure that identified and addressed first those systems that were at greatest risk of contaminating ground or surface waters of the State, including waters that were identified as impaired on the list prepared under Section 303(d) of Title III of the Federal Water Pollution Control Act for pathogens or untreated sewage, and areas identified as having significant ecological importance.

The rules also would have to include the following:

- Standards for siting minimum height above groundwater before fill.
- Standards for siting and maintenance that required consideration of soil permeability.
- Standards for siting and maintenance based on distance from a water body.
- Standards that addressed the appropriateness of a system based on current use.

The rules could require different standards for on-site disposal systems based upon the geologic conditions in which a system was located or proposed to be located.

#### Inspection

Property containing an on-site disposal system could not be transferred unless the system had been inspected and a written copy of the inspection report was provided to the prospective transferee. The inspection would have to be conducted by the county in which the system was located or a person authorized by that county to conduct the inspection. The county or authorized person could charge a reasonable fee not to exceed the costs of conducting the inspection. The inspection would have to determine all of the following:

- Whether the system complied with the rules promulgated by the DEQ.
- Whether the system was functioning in the manner that it was designed to function.
- Whether the holding tank of the system needed to be emptied.

- The actions needed to bring the system into compliance with the DEQ's rules, for systems installed on or after the effective date of the rules.
- The actions needed to allow the system to function in the manner that it was designed to function, for systems installed before the rules' effective date.

The actions needed would have to be undertaken within one year after the inspection report was provided to the prospective purchaser.

The written copy of the inspection report would have to be given to the prospective transferee no later than the time prescribed for providing a written disclosure statement under the Seller Disclosure Act. (The Act requires a written disclosure statement to be delivered to a prospective transferee before the transferor executes a binding purchase agreement or an installment sales contract with the transferee.)

The bill provides that the inspection requirements would not apply to transfers of property described in Section 3 of the Seller Disclosure Act. (Section 3 provides that seller disclosure requirements do not apply to transfers pursuant to court order; to a mortgagee; by a sale under any power of sale or foreclosure; by a nonoccupant fiduciary; from one co-tenant to another; to a spouse, parent, grandparent, child, or grandchild; between spouses pursuant to a divorce or separation; to or from any governmental entity; or by licensed residential builders of uninhabited property.)

#### Educational Materials

Each county would have to provide educational materials to the owners of on-site disposal systems located within its jurisdiction at least once each year. The educational materials would have to be developed by the Department and provided to each county for distribution.

Proposed MCL 324.5001-324.5004

Legislative Analyst: N. Nagata

#### **FISCAL IMPACT**

The bill would result in an indeterminate increase in State administrative costs, and in local government inspection costs and revenues. The State costs, primarily for printing and distributing educational materials, would probably be less than \$100,000 per year. The increase in county inspection costs would be offset by the fees allowed by the bill.

Fiscal Analyst: P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.