

SENATE BILL No. 304

March 15, 2005, Introduced by Senator KUIPERS 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 section 5503 (MCL 324.5503) and by adding section
5515a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5503. The department may do 1 or more of the following:

2 (a) Promulgate rules to establish standards for ambient air
3 quality and for emissions.

4 (b) Issue permits for the construction and operation of
5 sources, processes, and process equipment, subject to enforceable
6 emission limitations and standards and other conditions reasonably
7 necessary to assure compliance with all applicable requirements of

1 this part, rules promulgated under this part, and the clean air
2 act.

3 (c) In accordance with this part and rules promulgated under
4 this part, deny, terminate, modify, or revoke and reissue permits
5 for cause. If an application for a permit is denied or is
6 determined to be incomplete by the department, the department shall
7 state in writing with particularity the reason for **THE** denial or
8 ~~the~~ determination of incompleteness, and, if applicable, the
9 provision of this part or a rule promulgated under this part that
10 controls the decision.

11 (d) Compel the attendance of witnesses at proceedings of the
12 department upon reasonable notice.

13 (e) ~~Make~~ **SUBJECT TO SECTION 5515A, MAKE** findings of fact and
14 determinations.

15 (f) ~~Make~~ **SUBJECT TO SECTION 5515A, MAKE**, modify, or cancel
16 orders that require, in accordance with this part, the control of
17 air pollution.

18 (g) Enforce permits, air quality fee requirements, and the
19 requirements to obtain a permit.

20 (h) ~~Institute~~ **SUBJECT TO SECTION 5515A, INSTITUTE** in a court
21 of competent jurisdiction proceedings to compel compliance with
22 this part, rules promulgated under this part, or any determination
23 or order issued under this part.

24 (i) Enter and inspect any property as authorized under section
25 5526.

26 (j) Receive and initiate complaints of air pollution in
27 alleged violation of this part, rules promulgated under this part,

1 or any determination, permit, or order issued under this part and,
2 **SUBJECT TO SECTION 5515A**, take action with respect to the complaint
3 as provided in this part.

4 (k) Require reports on sources and the quality and nature of
5 emissions, including, but not limited to, information necessary to
6 maintain an emissions inventory.

7 (l) Prepare and develop a general comprehensive plan for the
8 control or abatement of existing air pollution and for the control
9 or prevention of any new air pollution.

10 (m) Encourage voluntary cooperation by all persons in
11 controlling air pollution and air contamination.

12 (n) Encourage the formulation and execution of plans by
13 cooperative groups or associations of municipalities, counties or
14 districts, or other governmental units, industries, and others who
15 severally or jointly are or may be the source of air pollution, for
16 the control of pollution.

17 (o) Cooperate with the appropriate agencies of the United
18 States or other states or any interstate or international agencies
19 with respect to the control of air pollution and air contamination
20 or for the formulation for the submission to the legislature of
21 interstate air pollution control compacts or agreements.

22 (p) Conduct or cause to be conducted studies and research with
23 respect to air pollution control, abatement, or prevention.

24 (q) Conduct and supervise programs of air pollution control
25 education including the preparation and distribution of information
26 relating to air pollution control.

27 (r) Determine by means of field studies and sampling the

1 degree of air pollution in ~~the~~ **THIS** state.

2 (s) Provide advisory technical consultation services to local
3 communities.

4 (t) Serve as the agency of ~~the~~ **THIS** state for the receipt of
5 money from the federal government or other public or private
6 agencies and the expenditure of that money after it is appropriated
7 for the purpose of air pollution control studies or research or
8 enforcement of this part.

9 (u) Do ~~such~~ **ANY** other things ~~as~~ **THAT** the department
10 considers necessary, proper, or desirable to enforce this part, a
11 rule promulgated under this part, or any determination, permit, or
12 order issued under this part, or the clean air act.

13 **SEC. 5515A. (1) THE DEPARTMENT SHALL NOT DO EITHER OF THE**
14 **FOLLOWING UNLESS THE DEPARTMENT HAS RECEIVED COMPLAINTS AS**
15 **DESCRIBED IN SUBSECTION (2) FROM 25% OR MORE OF THE BUSINESSES AND**
16 **HOUSEHOLDS LOCATED WITHIN A 1/2-MILE RADIUS FROM THE EMISSION**
17 **SOURCE:**

18 (A) FIND THAT A PERSON HAS VIOLATED THIS PART OR A RULE
19 PROMULGATED, PERMIT OR ORDER ISSUED, OR DETERMINATION MADE UNDER
20 THIS PART BY CAUSING OR PERMITTING AN EMISSION THAT RESULTS IN AN
21 OBJECTIONABLE ODOR.

22 (B) TAKE OR COMMENCE ANY ACTION AGAINST A PERSON FOR VIOLATING
23 THIS PART OR A RULE PROMULGATED, PERMIT OR ORDER ISSUED, OR
24 DETERMINATION MADE UNDER THIS PART BY CAUSING OR PERMITTING AN
25 EMISSION THAT RESULTS IN AN OBJECTIONABLE ODOR.

26 (2) TO QUALIFY AS A COMPLAINT OF AN OBJECTIONABLE ODOR UNDER
27 SUBSECTION (1), ALL OF THE FOLLOWING MUST APPLY:

1 (A) THE COMPLAINT IS RECEIVED BY THE DEPARTMENT WITHIN 6
2 MONTHS BEFORE THE DEPARTMENT'S FINDING OR ACTION.

3 (B) THE COMPLAINT IS CONTAINED IN A WRITING MADE BY A
4 COMPLAINING INDIVIDUAL OR BY THE DEPARTMENT FROM INFORMATION
5 PROVIDED BY THE COMPLAINING INDIVIDUAL.

6 (C) THE COMPLAINT CONTAINS ALL OF THE FOLLOWING SPECIFIC
7 INFORMATION:

8 (i) THE NAME AND ADDRESS OF THE COMPLAINING INDIVIDUAL OR, IF
9 THE COMPLAINT IS MADE ON BEHALF OF A BUSINESS, THE NAME AND ADDRESS
10 OF THE BUSINESS.

11 (ii) THE TIME THE ODOR WAS DETECTED.

12 (iii) THE NATURE OF THE ODOR.

13 (iv) THE DURATION OF THE ODOR.

14 (v) HOW THE ODOR AFFECTED THE COMPLAINING INDIVIDUAL'S OR
15 ANOTHER INDIVIDUAL'S HEALTH, SAFETY, OR COMFORT.

16 (3) IF THE DEPARTMENT TAKES OR COMMENCES AN ACTION AGAINST A
17 PERSON AS DESCRIBED IN SUBSECTION (1), OR IF THE DEPARTMENT TAKES
18 OR COMMENCES AN ACTION AGAINST A PERSON AS THE RESULT OF A FINDING
19 DESCRIBED IN SUBSECTION (1), AND THE PERSON PREVAILS IN THE ACTION,
20 THE DEPARTMENT SHALL PAY THE PERSON THE REASONABLE COSTS INCURRED
21 IN DEFENDING AGAINST THE ACTION.

22 (4) ON OR BEFORE DECEMBER 31, 2007, THE DEPARTMENT SHALL
23 PROMULGATE RULES THAT, SUBJECT TO SUBSECTION (1), ESTABLISH
24 OBJECTIVE CRITERIA FOR DURATION, INTENSITY, AND FREQUENCY
25 THRESHOLDS FOR ODORS TO CONSTITUTE A VIOLATION OF THIS PART OR A
26 RULE PROMULGATED, PERMIT OR ORDER ISSUED, OR DETERMINATION MADE
27 UNDER THIS PART.

1 (5) AS USED IN THIS SECTION:

2 (A) "BUSINESS" MEANS A PERSON OR GROUP OF RELATED OR CONNECTED
3 PERSONS ENGAGED IN COMMERCE THAT OPERATE FROM THE SAME, CONTIGUOUS,
4 OR CLOSELY LOCATED PREMISES.

5 (B) "HOUSEHOLD" MEANS AN INDIVIDUAL OR GROUP OF INDIVIDUALS
6 WHO RESIDE IN A SINGLE DETACHED DWELLING UNIT OR A SINGLE UNIT OF A
7 MULTIPLE DWELLING, INCLUDING A SEASONAL DWELLING, BUT NOT INCLUDING
8 A MOTEL, HOTEL, OR OTHER TRANSIENT DWELLING.