

HOUSE BILL NO. 6207

June 09, 2022, Introduced by Reps. Beeler, Steven Johnson, Tisdell, Bollin, Calley, Meerman, Rendon, Bellino, Hoitenga, Clements, Lightner, Eisen, Allor, Outman and Alexander and referred to the Committee on Oversight.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 63221 (MCL 324.63221), as added by 2004 PA 449.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 63221. (1) If the department determines that an operator
2 has violated this part, a rule promulgated under this part, or a
3 mining permit issued under this part, the department shall require
4 the operator to correct the violation.

5 (2) If the department determines that a violation under
6 subsection (1) is causing or resulting in an imminent and

1 substantial endangerment to the public health or safety,
2 environment, or natural resources, the department shall take action
3 necessary to abate or eliminate the endangerment. ~~Such~~**The** action
4 may include 1 or more of the following:

5 (a) Revoking the mining permit.

6 (b) Issuing an order to the operator requiring immediate
7 suspension of activities at the mining operation, including the
8 removal of metallic product from the site.

9 (c) Issuing an order to the operator to undertake ~~such~~ other
10 response actions ~~as may be~~ necessary to abate or eliminate the
11 endangerment.

12 (3) Before taking action under this section to suspend
13 operations or revoke a mining permit, or to otherwise prevent the
14 continuation of mining operations, the department shall give
15 written notice, in person or by mail, to the operator. Subject to
16 subsection (4), the department shall provide the operator an
17 opportunity for an evidentiary hearing.

18 (4) If the department finds that emergency action is required
19 to protect the public health, safety, or welfare, or to protect the
20 environment, the department may issue an emergency order without a
21 public hearing to require an operator to suspend operations or to
22 take other corrective actions. An emergency order shall remain in
23 force and effect for not more than 21 days. **Within 24 hours after**
24 **issuing an emergency order under this subsection, the department**
25 **shall notify the senate and house of representatives in writing.**

26 (5) If the operator or surety fails or neglects to correct the
27 violation or take corrective actions as specified under an order of
28 the department, the department may, after giving written notice to
29 the operator and surety, enter in or upon the mining area and upon

1 and across any private or public property necessary to reach the
2 mining area and take whatever action is necessary to curtail and
3 remediate any damage to the environment and public health resulting
4 from the violation, and the operator and surety are jointly and
5 severally liable for all expenses incurred by the department. The
6 claim shall be paid by the operator or surety within 30 days, and,
7 if the claim is not paid within that time, the department may bring
8 suit against the operator or surety, jointly or severally, for the
9 collection of the claim in any court of competent jurisdiction.

10 This part does not limit the department's authority to take
11 whatever response activities it determines necessary to protect the
12 public health, safety, and welfare and the environment.

13 (6) The revocation of a mining permit or suspension of
14 activities under subsection (2) does not relieve a permittee of the
15 responsibility to complete reclamation, maintain financial
16 assurance required under section 63211, and undertake all
17 appropriate measures to protect the environment, natural resources,
18 and public health and safety.

19 (7) If the department receives an allegation of improper
20 action under or a violation of this part, a rule promulgated under
21 this part, or a condition of a permit issued under this part, and
22 the person making the allegation provides evidence or corroboration
23 sufficient to support the allegation, as determined by the
24 department, the department shall do all of the following:

25 (a) Make a record of the allegation.

26 (b) Conduct an inspection of the mining operation to
27 investigate the allegation not more than 5 business days after
28 receipt of the complaint or allegation. If the complaint or
29 allegation is of a highly serious nature, as determined by the

1 department, the mining operation shall be inspected as quickly as
2 possible. However, an investigation or inspection under this
3 subsection shall comply with the United States ~~constitution,~~
4 **Constitution**, the state constitution of 1963, and this section.

5 (c) Not more than 15 business days after completing an
6 investigation of the allegation, make a written report of the
7 allegation and the results of the investigation to the operator and
8 the person who made the allegation.

9 (8) The department shall comply with the administrative
10 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in its
11 actions under this section.