

HOUSE BILL NO. 4365

April 22, 2025, Introduced by Reps. St. Germaine, Mentzer, DeBoyer, Greene, Rigas, Alexander, Harris, Wozniak, DeSana, Robinson, BeGole, Aragona, Woolford, Tisdell, Martin, Cavitt, McFall, Xiong, Steele, Thompson, McKinney, Kunse, Beson and Bruck and referred to Committee on Natural Resources and Tourism.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3112a and 3115 (MCL 324.3112a and 324.3115), section 3112a as amended by 2004 PA 72 and section 3115 as amended by 2004 PA 143, and by adding section 3119a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112a. (1) Except for ~~a sewer systems~~**system** described in
2 subsection (8), if untreated sewage or partially treated sewage is
3 directly or indirectly discharged from a sewer system onto land or

1 into the waters of the state, the person responsible for the sewer
 2 system shall immediately, but not more than 24 hours ~~after~~**before**
 3 the discharge begins, ~~notify~~**provide notice to all of** the
 4 **following:**

5 (a) ~~The~~ department. †

6 (b) ~~The~~ local health departments ~~as defined in section 1105 of~~
 7 ~~the public health code, 1978 PA 368, MCL 333.1105; a~~ **department in**
 8 **each contiguous county that may be affected by the discharge.**

9 (c) ~~A~~ daily newspaper of general circulation in ~~the~~**each**
 10 **contiguous** county ~~or counties in which a municipality notified~~
 11 ~~pursuant to subsection (4) is located; and a~~ **that may be affected**
 12 **by the discharge.**

13 (d) ~~A~~ daily newspaper of general circulation in the county in
 14 which the discharge occurred or is occurring. ~~of all of the~~
 15 ~~following:~~

16 ~~(a) Promptly after the discharge starts, by telephone or in~~
 17 ~~another manner required by the department, that the discharge is~~
 18 ~~occurring.~~

19 ~~(b) At the conclusion of the discharge, in writing or in~~
 20 ~~another manner required by the department, all of the following:~~

21 (e) ~~The~~ county board of commissioners for each contiguous
 22 county that may be affected by the discharge.

23 (f) ~~The~~ county drain commissioner, public works commissioner,
 24 or water resources commissioner for each contiguous county that may
 25 be affected by the discharge.

26 (2) ~~The~~ notice required under subsection (1) must contain all
 27 of the following:

28 (a) ~~(i)~~ The volume and quality of the discharge as measured
 29 ~~pursuant to~~ **in accordance with** procedures and analytical methods

1 approved by the department.

2 (b) ~~(ii)~~—The reason for the discharge.

3 (c) ~~(iii)~~—The waters or land area, or both, ~~receiving~~**that will**
4 **receive** the discharge **or that will otherwise be impacted by the**
5 **discharge.**

6 (d) ~~(iv)~~—The time the discharge began and ended as measured
7 ~~pursuant to~~**in accordance with** procedures approved by the
8 department.

9 (e) ~~(v)~~—Verification of the person's compliance status with
10 the requirements of ~~its~~**the person's** national pollutant discharge
11 elimination system permit or groundwater discharge permit and
12 applicable state and federal statutes, rules, and orders.

13 (3) ~~(2) Upon being~~**After the department is** notified ~~of a~~
14 ~~discharge~~ under subsection (1), the department shall promptly post
15 the notification on ~~its~~**the department's** website.

16 (4) ~~(3)~~—Each time a discharge to surface waters occurs under
17 subsection (1), the person responsible for the sewer system shall
18 test the affected waters for E. coli to assess the risk to the
19 public health as a result of the discharge and ~~shall~~ provide the
20 test results to ~~the any~~ affected local ~~county~~ health departments
21 **department** and to the department. The testing ~~shall~~**must** be done at
22 locations specified by each affected local ~~county~~ health department
23 but ~~shall~~**must** not exceed 10 tests for each separate discharge
24 event. The requirement for this testing may be waived by the
25 affected local ~~county~~ health department if the affected local
26 ~~county~~ health department determines that ~~such~~**the** testing is not
27 needed to assess the risk to the public health as a result of the
28 discharge event.

29 ~~(4) A person responsible for a sewer system that may discharge~~

1 ~~untreated sewage or partially treated sewage into the waters of the~~
2 ~~state shall annually contact each municipality whose jurisdiction~~
3 ~~contains waters that may be affected by the discharge. If those~~
4 ~~contacted municipalities wish to be notified in the same manner as~~
5 ~~provided in subsection (1), the person responsible for the sewer~~
6 ~~system shall provide that notification.~~

7 (5) A person ~~who~~**that** is responsible for a discharge of
8 untreated sewage or partially treated sewage from a sewer system
9 into the waters of the state shall comply with the requirements of
10 ~~its~~**the person's** national pollutant discharge elimination system
11 permit or groundwater discharge permit and applicable state and
12 federal statutes, rules, and orders.

13 (6) This section does not authorize the discharge of untreated
14 sewage or partially treated sewage into the waters of the state or
15 limit the state from bringing legal action as otherwise authorized
16 by this part.

17 (7) The penalties and fines provided for in section 3115 apply
18 to a violation of this section.

19 (8) For sewer systems that discharge to the groundwater via a
20 subsurface disposal system, that do not have a groundwater
21 discharge permit issued by the department, and the discharge of
22 untreated sewage or partially treated sewage is not to surface
23 waters, the person responsible for the sewer system shall ~~notify~~
24 ~~the local health department in accordance with subsection (1) (a)~~
25 ~~and (b),~~**provide the notice described in subsection (2) to the**
26 **persons described under subsection (1) (b), (e), and (f),** but the
27 requirements of subsections ~~(2),~~(3), (4), and (5) do not apply.

28 (9) As used in this section:

29 (a) "Local health department" means that term as defined in

1 **section 1105 of the public health code, 1978 PA 368, MCL 333.1105.**

2 (b) ~~(a)~~—"Partially treated sewage" means any sewage, sewage
3 and ~~storm water,~~**stormwater**, or sewage and wastewater, from
4 domestic or industrial sources that meets 1 or more of the
5 following:

6 (i) Is not treated to national secondary treatment standards
7 for wastewater or that is treated to a level less than that
8 required by the person's national pollutant discharge elimination
9 system permit.

10 (ii) Is treated to a level less than that required by the
11 person's groundwater discharge permit.

12 (iii) Is found on the ground surface.

13 (c) ~~(b)~~—"Sewer system" means a public or privately owned sewer
14 system designed and used to convey or treat sanitary sewage or
15 sanitary sewage and ~~storm water.~~**stormwater**. Sewer system does not
16 include an on-site wastewater treatment system serving 1
17 residential unit or duplex.

18 (d) ~~(e)~~—"Surface water" means all of the following, but does
19 not include drainage ways and ponds used solely for wastewater
20 conveyance, treatment, or control:

21 (i) The Great Lakes and their connecting waters.

22 (ii) Inland lakes.

23 (iii) Rivers.

24 (iv) Streams.

25 (v) Impoundments.

26 (vi) Open drains.

27 (vii) Other surface bodies of water.

28 Sec. 3115. (1) The department may request **that** the attorney
29 general ~~to~~ commence a civil action for appropriate relief,

1 including a permanent or temporary injunction, for a violation of
 2 this part or a provision of a permit or order issued or rule
 3 promulgated under this part. An action under this subsection may be
 4 brought in the circuit court for ~~the county of~~ Ingham **County** or ~~for~~
 5 the county in which the defendant is located, resides, or is doing
 6 business. If requested by the defendant ~~within~~ **not later than** 21
 7 days after service of process, the court shall grant a change of
 8 venue to the circuit court for ~~the county of~~ Ingham **County** or ~~for~~
 9 the county in which the alleged violation occurred, is occurring,
 10 or, in the event of a threat of violation, will occur. The court
 11 has jurisdiction to restrain the violation and ~~to~~ require
 12 compliance. In addition to any other relief granted under this
 13 subsection, the court, except as otherwise provided in this
 14 subsection, shall impose a civil fine of not less than \$2,500.00
 15 and the court may award reasonable attorney fees and costs to the
 16 prevailing party. However, all of the following apply:

17 (a) The maximum fine imposed by the court shall be not more
 18 than \$25,000.00 per day of violation.

19 (b) For a failure to report a release to the department or to
 20 the primary public safety answering point under section 3111b(1),
 21 the court shall impose a civil fine of not more than \$2,500.00.

22 (c) For a failure to report a release to the local health
 23 department under section 3111b(2), the court shall impose a civil
 24 fine of not more than \$500.00.

25 (2) ~~A~~ **Except as otherwise provided under subsection (4), a**
 26 person ~~who~~ **that** at the time of the violation knew or should have
 27 known that ~~he or she~~ **a substance was** discharged ~~a substance~~
 28 ~~contrary to~~ **in violation of the requirements under** this part ~~or~~
 29 ~~contrary to~~ a permit or order issued or rule promulgated under this

1 part, or ~~who~~**that** intentionally makes a false statement,
2 representation, or certification in an application for or form
3 pertaining to a permit or in a notice or report required by the
4 terms and conditions of an issued permit, or ~~who~~**that** intentionally
5 renders inaccurate a monitoring device or record required to be
6 maintained by the department, is guilty of a felony. ~~and shall be~~
7 ~~fined~~**The court may sentence the person to imprisonment for not**
8 **more than 2 years or impose probation and shall impose a fine of**
9 not less than \$2,500.00 or more than \$25,000.00 for each violation.
10 The court may impose an additional fine of not more than \$25,000.00
11 for each day during which the unlawful discharge occurred. ~~If the~~
12 ~~conviction is for a violation committed after a first conviction of~~
13 ~~the person under this subsection,~~**For each subsequent violation**
14 **described in this subsection,** the court shall impose a fine of not
15 less than \$25,000.00 per day and not more than \$50,000.00 per day
16 of violation. ~~Upon conviction, in addition to a fine, the court in~~
17 ~~its discretion may sentence the defendant to imprisonment for not~~
18 ~~more than 2 years or impose probation upon a person for a violation~~
19 ~~of this part.~~ With the exception of the issuance of criminal
20 complaints, issuance of warrants, and the holding of an
21 arraignment, the circuit court for the county in which the
22 violation occurred has exclusive jurisdiction. However, the person
23 shall not be subject to the penalties of this subsection if the
24 discharge of the effluent is in conformance with and obedient to a
25 rule, order, or permit of the department. In addition to a fine
26 **authorized under this subsection,** the attorney general may file a
27 civil suit ~~in a court of competent jurisdiction~~ to recover the full
28 value of the injuries done to the natural resources of ~~the~~**this**
29 state and the costs of surveillance and enforcement by ~~the~~**this**

1 state resulting from the violation.

2 (3) A person that fails to provide notice under section 3112a
3 is subject to a civil fine of not more than \$500,000.00. The
4 attorney general may bring an action to collect the civil fine. A
5 civil fine collected under this subsection must be deposited in the
6 discharge recovery fund created in section 3119a.

7 (4) If a county discharges waste, waste effluent, untreated or
8 partially treated sewage, or any other substance in violation of a
9 volumetric limit imposed under this part or a permit or order
10 issued or rule promulgated under this part and the discharge
11 directly or indirectly impacts the watershed of a contiguous
12 county, the county is subject to a civil fine of \$5,000,000.00 or
13 20 cents per gallon of substance discharged in excess of the
14 volumetric limit, whichever is greater. The attorney general may
15 bring an action to collect the civil fine. A civil fine collected
16 under this subsection must be deposited in the discharge recovery
17 fund created in section 3119a.

18 (5) ~~(3) Upon~~ **On** a finding by the court that the actions of a
19 civil defendant pose or posed a substantial endangerment to the
20 public health, safety, or welfare, the court shall impose, in
21 addition to the sanctions ~~set forth in~~ **under** subsection (1), a fine
22 of not less than \$500,000.00 and not more than \$5,000,000.00.

23 (6) ~~(4) Upon~~ **On** a finding by the court that the actions of a
24 criminal defendant pose or posed a substantial endangerment to the
25 public health, safety, or welfare, the court shall **sentence a**
26 **person to imprisonment for not more than 5 years and** impose, in
27 addition to the penalties ~~set forth in~~ **under** subsection (2), a fine
28 of not less than \$1,000,000.00. ~~and, in addition to a fine, a~~
29 ~~sentence of 5 years' imprisonment.~~

1 (7) ~~(5)~~—To find a defendant civilly or criminally liable for
 2 substantial endangerment under subsection ~~(3) or (4)~~, **(5) or (6)**,
 3 the court shall determine that the defendant knowingly or
 4 recklessly acted in ~~such a manner as to cause~~ **that caused** a danger
 5 of death or serious bodily injury and that either of the following
 6 occurred:

7 (a) The defendant had an actual awareness, belief, or
 8 understanding that ~~his or her~~ **the defendant's** conduct would cause a
 9 substantial danger of death or serious bodily injury.

10 (b) The defendant acted in gross disregard of the standard of
 11 care that any reasonable person should observe in similar
 12 circumstances.

13 (8) ~~(6)~~—Knowledge possessed by a person other than the
 14 defendant under subsection ~~(5)~~ **(7)** may be attributable to the
 15 defendant if the defendant took affirmative steps to ~~shield himself~~
 16 ~~or herself~~ **be shielded** from the relevant information.

17 (9) ~~(7)~~ **A** ~~Except for a civil fine collected under subsection~~
 18 **(5), a** civil fine or other award ordered paid ~~pursuant to in~~
 19 **accordance with** this section ~~shall~~ **must** do both of the following:

20 (a) Be payable to the state of Michigan and credited to the
 21 general fund.

22 (b) Constitute a lien on any property, of any nature or kind,
 23 owned by the defendant.

24 (10) ~~(8)~~—A lien under subsection ~~(7)(b)~~ ~~shall take~~ **(9) (b)**
 25 **takes** effect and ~~have~~ **has** priority over all other liens and
 26 encumbrances except those filed or recorded ~~prior to~~ **before** the
 27 date of judgment only if notice of the lien is filed or recorded as
 28 required by state or federal law.

29 (11) ~~(9)~~—A lien filed or recorded ~~pursuant to in~~ **accordance**

1 **with** subsection ~~(8) shall~~ **(10) must** be terminated ~~according to in~~
2 **compliance with** the procedures required by state or federal law
3 ~~within not later than~~ 14 days after the fine or other award ordered
4 to be paid is paid.

5 **(12)** ~~(10)~~ In addition to any other method of collection, ~~any a~~
6 fine or other award ordered paid may be recovered by right of
7 setoff to any debt owed to the defendant by ~~the state of Michigan,~~
8 **this state**, including the right to a refund of income taxes paid.

9 **Sec. 3119a. (1) The discharge recovery fund is created in the**
10 **state treasury.**

11 **(2) The state treasurer may receive money or other assets from**
12 **any source for deposit into the discharge recovery fund. The state**
13 **treasurer shall direct the investment of money in the discharge**
14 **recovery fund and credit to the discharge recovery fund interest**
15 **and earnings from fund investments. Money in the discharge recovery**
16 **fund at the end of the fiscal year remains in the discharge**
17 **recovery fund and does not lapse to the general fund. The**
18 **department is the administrator of the discharge recovery fund for**
19 **auditing purposes.**

20 **(3) The department shall expend money from the discharge**
21 **recovery fund, on appropriation, to provide grants to a county**
22 **whose watershed is impacted by a discharge of waste, waste**
23 **effluent, untreated or partially treated sewage, or any other**
24 **substance in violation of this part or a permit or order issued or**
25 **rule promulgated under this part. An application for a grant under**
26 **this subsection must be made on a form and in a manner prescribed**
27 **by the department. The department shall publish criteria on how the**
28 **grants will be issued under this subsection and make that**
29 **information available on the department's website.**