

HOUSE BILL No. 5812

March 19, 2002, Introduced by Reps. Vander Roest, Ehardt, Raczkowski, Richardville, Rocca and Lemmons and referred to the Committee on Land Use and Environment.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 12541 (MCL 333.12541).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12541. (1) ~~The local health officer or an authorized~~
2 ~~representative of the local health department having jurisdiction~~
3 ~~may test and otherwise evaluate the quality of water at bathing~~
4 ~~beaches open to the public to determine whether the water is safe~~
5 ~~for bathing purposes.~~ EXCEPT AS PROVIDED IN SUBSECTION (5),
6 WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2002 AMENDATORY ACT
7 THAT AMENDED THIS SUBSECTION, EACH COUNTY SHALL ESTABLISH A BEACH
8 MONITORING PROGRAM TO MONITOR THE WATER QUALITY OF BATHING
9 BEACHES WITHIN THE COUNTY. DURING THE DEVELOPMENT OF THIS BEACH
10 MONITORING PROGRAM, THE COUNTY SHALL HOLD AT LEAST 2 PUBLIC
11 HEARINGS TO ALLOW INPUT FROM THE PUBLIC. UPON ADOPTION, THE

1 COUNTY'S BEACH MONITORING PROGRAM SHALL BE FILED WITH THE
2 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE DEPARTMENT AND SHALL
3 BE MADE AVAILABLE AT THE COUNTY'S OFFICES. THE DEPARTMENT OF
4 ENVIRONMENTAL QUALITY SHALL POST EACH COUNTY'S BEACH MONITORING
5 PROGRAM ON THE DEPARTMENT'S WEBSITE.

6 (2) A BEACH MONITORING PROGRAM ESTABLISHED UNDER SUBSECTION
7 (1) SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING:

8 (A) THE WATER QUALITY AT ALL BATHING BEACHES WITHIN THE
9 COUNTY SHALL BE TESTED AT LEAST MONTHLY FROM MAY THROUGH
10 SEPTEMBER UNLESS THE DEPARTMENT OF ENVIRONMENTAL QUALITY HAS
11 ESTABLISHED A DIFFERENT SWIMMING SEASON FOR AN AREA BASED ON HIS-
12 TORICAL USE DATA.

13 (B) IF A TEST OF WATER QUALITY CONDUCTED AT A BATHING BEACH
14 CONFIRMS THAT THE WATER QUALITY DOES NOT MEET THE STANDARDS
15 PROMULGATED UNDER SECTION 12544, THE WATER SHALL BE TESTED AT
16 LEAST WEEKLY FOR THE REMAINDER OF THE SWIMMING SEASON. DURING
17 THE FOLLOWING YEAR'S SWIMMING SEASON, THE WATER QUALITY SHALL
18 ALSO BE TESTED ON A WEEKLY BASIS FOR 4 WEEKS, AND IF THE TESTING
19 DEMONSTRATES COMPLIANCE WITH THE STANDARDS, THE TESTING MAY BE
20 CONTINUED ON A MONTHLY BASIS.

21 (C) EACH BATHING BEACH SHALL HAVE POSTED AT EACH ENTRANCE TO
22 THE BATHING BEACH A NOTICE THAT LISTS THE DATE OF THE MOST RECENT
23 WATER QUALITY TEST AND THE RESULTS OF THE TEST. IF THE TEST
24 INDICATES THAT THE WATER QUALITY DOES NOT MEET THE STANDARDS
25 PROMULGATED UNDER SECTION 12544, THE NOTICE SHALL STATE THAT THE
26 BEACH IS NOT SAFE FOR SWIMMING.

(D) TESTING OF WATER QUALITY AT BATHING BEACHES SHALL BE CONDUCTED USING TECHNIQUES APPROVED BY THE DEPARTMENT. THE DEPARTMENT SHALL APPROVE TECHNIQUES THAT MAKE USE OF THE MOST EFFECTIVE TECHNOLOGY THAT IS WIDELY AVAILABLE AT A REASONABLE COST.

(3) PRIVATE BEACHES WITHIN A COUNTY MAY PARTICIPATE IN THE COUNTY'S BEACH MONITORING PROGRAM ON A VOLUNTARY BASIS. PRIVATE BEACHES THAT WISH TO PARTICIPATE MAY BE REQUIRED TO REIMBURSE THE COUNTY FOR THE COSTS OF TESTING.

(4) THE DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL APPLY FOR ALL FEDERAL FUNDS THAT WOULD ASSIST IN FUNDING THE COUNTY BEACH MONITORING PROGRAMS PROVIDED FOR IN THIS SECTION.

(5) A COUNTY MAY, BY RESOLUTION ADOPTED BY THE COUNTY BOARD OF COMMISSIONERS OF THE COUNTY, ELECT TO NOT ESTABLISH A BEACH MONITORING PROGRAM UNDER THIS SECTION. IF A COUNTY ELECTS TO NOT ESTABLISH A BEACH MONITORING PROGRAM, THE COUNTY SHALL FORWARD A COPY OF THE RESOLUTION TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL POST ON ITS WEBSITE NOTICE OF THE COUNTIES THAT HAVE ELECTED NOT TO ESTABLISH A BEACH MONITORING PROGRAM.

(6) If, based upon the standards ~~prescribed by the rules~~ promulgated under section 12544, the health officer OF THE LOCAL HEALTH DEPARTMENT HAVING JURISDICTION OVER A BATHING BEACH or ~~the~~ HIS OR HER authorized representative determines ~~the~~ THAT water is unsafe for bathing, he or she may petition the circuit court of the county in which the beach is located for an

1 injunction ordering the person owning or operating the bathing
2 beach to close the beach for use by bathers or other measures
3 that the court ~~deems~~ CONSIDERS proper to keep persons from
4 entering ~~thereon~~ THE BATHING BEACH. The court may grant an
5 injunction if circumstances warrant it.