

SENATE BILL No. 1092

March 11, 2004, Introduced by Senators McMANUS and BIRKHOLZ 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 30316 (MCL 324.30316), as added by 1995 PA
59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30316. (1) The attorney general may commence a civil
2 action for appropriate relief, including injunctive relief, upon
3 request of the department under section 30315(1). An action
4 under this subsection may be brought in the circuit court for the
5 county of Ingham or for a county in which the defendant is
6 located, resides, or is doing business. The court has
7 jurisdiction to restrain the violation and to require compliance
8 with this part. In addition to any other relief granted under
9 this section, the court may impose a civil fine of not more than
10 \$10,000.00 per day of violation. A person who violates an order

1 of the court is subject to a civil fine not to exceed \$10,000.00
2 for each day of violation.

3 (2) A person who violates this part is guilty of a
4 misdemeanor ~~—~~ punishable by a fine of not more than \$2,500.00.

5 (3) A person who willfully or recklessly violates a condition
6 or limitation in a permit issued by the department under this
7 part, or a corporate officer who has knowledge of or is
8 responsible for a violation, is guilty of a misdemeanor ~~—~~
9 punishable by a fine of not less than \$2,500.00 ~~—~~ ~~nor~~ or more
10 than \$25,000.00 per day of violation ~~—~~ or by imprisonment for
11 not more than 1 year, or both. A person who violates this
12 section a second or subsequent time is guilty of a felony ~~—~~
13 punishable by a fine of not more than \$50,000.00 for each day of
14 violation ~~—~~ or by imprisonment for not more than 2 years, or
15 both.

16 (4) In addition to the penalties provided under subsections
17 (1), (2), and (3), the court may ~~order~~ **do 1 or both of the**
18 **following:**

19 (a) **Order** a person who violates this part to restore as
20 nearly as possible the wetland that was affected by the violation
21 to its original condition immediately before the violation. The
22 restoration may include the removal of fill material deposited in
23 the wetland or the replacement of soil, sand, or minerals.

24 (b) **Enjoin construction activity on either or both of the**
25 **following for not more than 10 years:**

26 (i) **The parcel on which the violation took place.**

27 (ii) **Another parcel to which both of the following apply:**

1 (A) The parcel is adjacent to and, at the time of the
2 violation, was under the same ownership as the parcel on which
3 the violation took place.

4 (B) At the time of the violation, construction activity was
5 taking place on the parcel.