

HOUSE BILL NO. 5333

December 02, 2025, Introduced by Reps. Morgan, Miller, Koleszar, Price, Mentzer, Breen and Dievendorf and referred to Committee on Government Operations.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 5529, 5530, 5531, 11546, and 11549 (MCL
324.5529, 324.5530, 324.5531, 324.11546, and 324.11549), sections
11546 and 11549 as amended by 2022 PA 247.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5529. (1) The department may assess an administrative
2 fine of ~~up to~~ **not more than** \$10,000.00, **or, if the violator is the**
3 **owner or operator of a landfill as defined in section 11504, not**

1 **more than \$100,000.00**, for each instance of violation and, if the
 2 violation continues, for each day of continued noncompliance, if
 3 the department, on the basis of available information, finds that
 4 the person has violated or is in violation of this part, ~~or a rule~~
 5 ~~promulgated under this part, has failed to obtain a permit required~~
 6 ~~under this part, violates an order under this part, or has failed~~
 7 ~~to comply with the terms of a permit issued under this part. a~~
 8 **permit issued under this part, or an order issued under this part.**

9 If a single event constitutes an instance of violation of any
 10 combination of this part, a rule promulgated **under this part, a**
 11 **permit issued under this part, or an order issued** under this part,
 12 ~~or a permit issued or order entered under this part,~~ the amount of
 13 the administrative fine for that single event shall not exceed
 14 \$10,000.00, **or, if the violator is the owner or operator of a**
 15 **landfill as defined in section 11504, not more than \$100,000.00,**
 16 for that violation. ~~The assessment of an administrative fine may be~~
 17 ~~either a part of~~ **An administrative fine may be assessed in a**
 18 compliance order or a separate order issued by the department.

19 (2) The authority of the department under this section is
 20 limited to matters where the total administrative fine sought does
 21 not exceed \$100,000.00, **or, if the violator is the owner or**
 22 **operator of a landfill as defined in section 11504, \$1,000,000.00,**
 23 **and the administrative action is initiated within 12 months after**
 24 the first alleged date of violation. ~~occurred within 12 months~~
 25 ~~prior to initiation of the administrative action.~~ Except as may
 26 otherwise be provided by applicable law, the department shall not
 27 condition the issuance of a permit on the payment of an
 28 administrative fine assessed pursuant to this section.

29 (3) Within 28 days ~~of~~ **after** being assessed an administrative

1 fine ~~from~~**by** the department, a person may file a petition with the
 2 department for review of ~~this~~**the** fine. Review of the fine shall be
 3 conducted pursuant to the contested case procedures of **chapter 4 of**
 4 the administrative procedures act of 1969, ~~Act No. 306 of the~~
 5 ~~Public Acts of 1969, being sections 24.271 to 24.287 of the~~
 6 ~~Michigan Compiled Laws. 1969 PA 306, MCL 24.271 to 24.288.~~ If
 7 ~~issued~~**an administrative fine is assessed** as part of a consent
 8 order issued pursuant to section 5528, only the amount of the
 9 administrative fine and the alleged violation on which the fine is
 10 based are subject to the contested case procedures. ~~of Act No. 306~~
 11 ~~of the Public Acts of 1969.~~

12 Sec. 5530. (1) The attorney general may commence a civil
 13 action against a person for appropriate relief, including
 14 injunctive relief, and a civil fine as provided in subsection (2)
 15 for any of the following:

16 (a) Violating this part or a rule promulgated under this part.

17 (b) Failure to obtain a permit under this part.

18 (c) Failure to comply with the terms of a permit or an order
 19 issued under this part.

20 (d) Failure to pay an air quality fee or comply with a filing
 21 requirement under this part.

22 (e) Failure to comply with the inspection, entry, and
 23 monitoring requirements of this part.

24 (f) A violation described in section 5518(2).

25 (2) In addition to any other relief authorized under this
 26 section, the court may impose a civil fine of not more than
 27 \$10,000.00, ~~for each instance of violation and, if the violation~~
 28 ~~continues, for each day of continued violation.~~**or, if the defendant**
 29 **is the owner or operator of a landfill as defined in section 11504,**

1 **not more than \$100,000.00.**

2 (3) In addition to other relief authorized under this section,
3 the attorney general may, at the request of the department, file an
4 action in a court of competent jurisdiction to recover the full
5 value of the injuries done to the natural resources of ~~the~~**this**
6 state.

7 (4) In issuing a final order in an action brought pursuant to
8 this section, the court may award costs of litigation, including,
9 but not limited to, reasonable attorney and expert witness fees, to
10 the prevailing or substantially prevailing party if the court
11 determines that such an award is appropriate.

12 (5) A civil action brought under this section may be brought
13 in the county in which the defendant is located, resides, or is
14 doing business ~~or~~ in the circuit court for the county of Ingham,
15 ~~or~~ in the county in which the registered office of a defendant
16 corporation is located, or in the county where the violation
17 occurred.

18 (6) General defenses and affirmative defenses ~~that~~ may
19 otherwise apply under state law may apply in an action brought
20 under this section as determined to be appropriate by a court of
21 competent jurisdiction.

22 (7) Fines imposed under this section shall be assessed for
23 each instance of violation and, if the violation is continuous,
24 ~~shall be~~**are** assessable up to the maximum amount for each day of
25 violation.

26 Sec. 5531. (1) A person who knowingly violates ~~any requirement~~
27 ~~or prohibition of an applicable requirement of this part, or a rule~~
28 promulgated under this part, or ~~who fails to obtain or comply with~~
29 a permit, ~~or comply with a final order, or order of determination~~

1 issued under this part is guilty of a misdemeanor punishable by a
 2 fine of not more than \$10,000.00, **or, if the person is the owner or**
 3 **operator of a landfill as defined in section 11504, not more than**
 4 **\$100,000.00**, per day, for each violation.

5 (2) A person who knowingly makes a false material statement,
 6 representation, or certification in, or omits material information
 7 from, or knowingly alters, conceals, or fails to file any notice,
 8 application, record, report, plan, or other document required to be
 9 submitted pursuant to this part or a rule promulgated under this
 10 part, or who knowingly fails to notify or report information
 11 required to be submitted under this part or a rule promulgated
 12 under this part, or who knowingly falsifies, tampers with, renders
 13 inaccurate, or knowingly fails to install any monitoring device or
 14 method required under this part or a rule promulgated under this
 15 part, is guilty of a misdemeanor punishable by imprisonment for not
 16 more than 1 year and a fine of not more than \$10,000.00, **or, if the**
 17 **person is the owner or operator of a landfill as defined in section**
 18 **11504, not more than \$100,000.00**, per day, for each violation.

19 (3) A person who knowingly fails to pay any air quality fee
 20 owed under this part is guilty of a misdemeanor punishable by a
 21 fine of not more than \$10,000.00, **or, if the person is the owner or**
 22 **operator of a landfill as defined in section 11504, not more than**
 23 **\$100,000.00**.

24 (4) A person who knowingly releases into the ambient air any
 25 specific chemical or any hazardous air pollutant listed in 40
 26 ~~C.F.R. part 68, section 68.130 (January 19, 1993)~~ **CFR 68.130**
 27 pursuant to the authority of section 112(r) of ~~part A of title I of~~
 28 the clean air act, ~~84 Stat. 1685, 42 U.S.C. 42 USC~~ 7412, or both,
 29 contrary to ~~applicable~~ federal, state, or local requirements, or

contrary to a permit issued under this part, and because of the quantities or concentrations of the substance released knows or should have known at the time that the release places another person in imminent danger of death or serious bodily injury is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, **or, if the person is the owner or operator of a landfill as defined in section 11504, not more than \$100,000.00**, or both.

(5) A person who knowingly releases or causes the release into the ambient air ~~of~~ any specific chemical or any hazardous air pollutant listed in ~~40 C.F.R. part 68, section 68.130 (January 19, 1993)~~ **CFR 68.130** pursuant to the authority of section 112(r) ~~of part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 42~~ **USC 7412**, or both, contrary to ~~applicable~~ federal, state, or local requirements, or contrary to a permit issued under this part, ~~and~~ who knows or should have known at the time that the release places another person in imminent danger of death or serious bodily injury, ~~and the release results~~ **whose actions result** in death or serious bodily injury to any person, is guilty of a felony punishable by imprisonment for not more than 6 years or a fine of not more than \$25,000.00, **or, if the person is the owner or operator of a landfill as defined in section 11504, not more than \$250,000.00**, or both.

(6) A person who knowingly releases into the ambient air any specific chemical or any hazardous air pollutant listed in ~~40 C.F.R. part 68, section 68.130 (January 19, 1993)~~ **CFR 68.130** pursuant to the authority of section 112(r) ~~of part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 42~~ **USC 7412**, or both, contrary to ~~applicable~~ federal, state, or local requirements, or

1 contrary to a permit issued under this part, ~~and~~ who intended at
2 that time to place another person in imminent danger of death or
3 serious bodily injury, and whose actions ~~do~~ result in death or
4 cause serious bodily injury to any person is guilty of a felony
5 punishable by imprisonment for not more than 15 years or a fine of
6 not more than \$250,000.00, **or, if the person is the owner or**
7 **operator of a landfill as defined in section 11504, not more than**
8 **\$2,500,000.00, or both.**

9 (7) In determining whether a defendant who is an individual
10 knew that the violation placed another person in imminent danger of
11 death or serious bodily injury as required under subsections (4),
12 (5), and (6), the defendant is responsible only for actual
13 awareness or actual belief possessed, and knowledge possessed by a
14 person other than the defendant, but not by the defendant, may not
15 be attributed to the defendant. However, in proving a defendant's
16 possession of actual knowledge, circumstantial evidence may be
17 used, including evidence that the defendant took affirmative steps
18 to be shielded from relevant information.

19 (8) Fines imposed under this section shall be assessed for
20 each instance of violation and, if the violation is continuous,
21 ~~shall be~~ **are** assessable up to the maximum amount for each day of
22 violation.

23 (9) A defendant may establish an affirmative defense to a
24 prosecution under this section by showing by a preponderance of the
25 evidence that the conduct charged was freely consented to by the
26 person endangered and that the danger and conduct charged were
27 reasonably foreseeable hazards of any of the following:

28 (a) An occupation, a business, or a profession.

29 (b) Medical treatment or medical or scientific experimentation

1 conducted by professionally approved methods if the person ~~had been~~
2 **was** made aware of the risks involved prior to giving consent.

3 (10) All general defenses, affirmative defenses, and bars to
4 prosecution that may otherwise apply with respect to state criminal
5 offenses may apply under this section and shall be determined by
6 the courts of this state having jurisdiction according to the
7 principles of common law as they may be interpreted in the light of
8 reason and experience. Concepts of justification and excuse
9 applicable under this section may be developed by the courts in the
10 light of reason and experience.

11 (11) ~~Fines~~ **A fine** shall not be imposed pursuant to this
12 section for a violation that was caused by an act of God, war,
13 strike, riot, catastrophe, or other condition to which negligence
14 or willful misconduct on the part of the person was not the
15 proximate cause.

16 (12) As used in this section:

17 (a) "Serious bodily injury" means bodily injury that involves
18 a substantial risk of death, unconsciousness, extreme physical
19 pain, protracted and obvious disfigurement or protracted loss or
20 impairment of the function of a bodily member, organ, or mental
21 faculty.

22 (b) "Specific chemical" means a hazardous air pollutant listed
23 in section 112(b)(1) ~~of Part A of title I of the clean air act, 84~~
24 ~~Stat. 1685, 42 U.S.C. 42 USC~~ 7412, except for the following
25 compounds:

26 (i) Antimony compounds.

27 (ii) Arsenic compounds (inorganic including arsine).

28 (iii) Beryllium compounds.

29 (iv) Cadmium compounds.

- (v) Chromium compounds.
- (vi) Cobalt compounds.
- (vii) Coke oven emissions.
- (viii) Cyanide compounds.
- (ix) Glycol ethers.
- (x) Lead compounds.
- (xi) Manganese compounds.
- (xii) Mercury compounds.
- (xiii) Fine mineral fibers.
- (xiv) Nickel compounds.
- (xv) Polycyclic organic matter.
- (xvi) Radionuclides (including radon).
- (xvii) Selenium compounds.

Sec. 11546. (1) The department or a local health officer may request that the attorney general bring an action in the name of the people of this state, or a municipality or county may bring an action based on facts arising within its boundaries, for any appropriate relief, including injunctive relief, for a violation of part 115.

(2) In addition to any other relief provided by this section, the court may impose on any person who violates part 115 a civil fine as follows:

(a) Except as provided in subdivision (b), not more than \$10,000.00, **or, if the person is the owner or operator of a landfill, not more than \$100,000.00**, for each day of violation.

(b) For a second or subsequent violation, not more than \$25,000.00, **or, if the person is the owner or operator of a landfill, not more than \$250,000.00**, for each day of violation.

