

MICHIGAN

REPRINT

SUBSTITUTE FOR

HOUSE BILL No. 5619

(As Passed the House January 27, 1976)

A bill to prohibit the manufacture, sale, and use in this state of polychlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof and certain items, products, and materials containing certain concentrations of those compounds; to provide for labeling and reporting requirements concerning polychlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof and for their disposal; to prescribe the powers and duties of the director of the department of natural resources and certain other state officers; to provide exemptions; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Director" means the director of the department of natural resources.
- 3 (b) "PCB" means the class of chlorinated biphenyl, terphenyl, higher
- 4 polyphenyl, or mixtures of these compounds produced by replacing 2 or more
- 5 hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule

4203 '75 - Sub. (H-3) - R-1

MCNS 061934

1 with chlorine atoms. PCB shall not include chlorinated biphenyls, terphenyls,
2 higher polyphenyls, or mixtures of these compounds that have functional groups
3 attached other than chlorine unless that functional group or the chlorinated
4 biphenyls, terphenyls, higher polyphenyls, or mixtures thereof is determined
5 to be dangerous to the public health, safety, and welfare under section 5.

6 (c) "Person" means an individual, firm, partnership, association, or
7 corporation.

8 (d) "Ppm" means parts per million.

9 Sec. 2. The director shall be responsible for the administration and
10 implementation of this act to protect the public health, safety, and welfare
11 from the toxic effects and environmental dangers of PCB. The director shall
12 promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended,
13 being sections 24.201 to 24.315 of the Michigan Compiled Laws, to implement
14 and administer this act.

15 Sec. 3. (1) A person shall not sell or manufacture for sale in this
16 state PCB as defined in section 1(b).

17 (2) Beginning July 1, 1976, a person shall not sell, manufacture for
18 sale, or use an item, product, or material containing a concentration of
19 greater than 250,000 ppm of PCB in his business in this state.
(25%)

20 (3) Beginning January 1, 1977, a person shall not sell, manufacture for
21 sale, or use an item, product, or material in his business in this state if the
22 item, product, or material contains a concentration of PCB equal to or greater
23 than 1,000 ppm. (0.1%)

24 (4) Beginning January 1, 1978, a person shall not sell, manufacture for
25 sale, or use an item, product, or material in his business in this state if
26 the item, product, or material contains a concentration of PCB equal to or
27 greater than 100 ppm, except that:

MCNS 061935

(a) The director may by rule prescribe a lower maximum concentration of PCB for specific items, products, or materials if the director finds the 100 ppm concentration provided in this subsection to be inadequate to protect the public health, safety, and welfare from the toxic dangers of the PCB contained in that item, product, or material. Not less than 10 days before the public hearing on a proposed rule authorized by this subsection, the director shall mail notice of the proposed rule and public hearing to all manufacturers, sellers, and users of the specific item, product, or material known to the director or that could be ascertained by reasonable inquiry.

(b) An item, product, or material for which a lower maximum concentration of PCB is prescribed by federal law, rule, or regulation shall not contain a concentration of PCB higher than that federal maximum.

(5) Notwithstanding subsection (1), (2), (3), or (4) PCB or an item, product, or material containing PCB may be sold for use or used in this state if it is used in a closed system as a dielectric fluid for an electric transformer or capacitor pursuant to rules promulgated by the director to insure the public health, safety, and welfare. Upon adequate documentation of the availability of substitutes which meet performance standards and environmental acceptability, as determined by rule of the director, these exclusions shall not apply ^{to sales of} ~~to sales of PCB or an item product where material containing PCB is a dielectric fluid for an electric transformer or capacitor.~~

(6) Notwithstanding subsection (1), (2), (3), or (4) an item, product, or material containing PCB may be manufactured for sale, sold for use, or used in a business in this state pursuant to an exemption certificate issued by the director under section 4.

Sec. 4. (1) A person may make written application to the director for an exemption certificate on forms provided by the director. The director may require additional information or materials to accompany the application as he deems necessary for an accurate evaluation of the application.

1 (2) The director may grant an exemption for an item, product, or material
2 manufactured for sale, sold for use, or used by the person in his business if
3 the item, product, or material contains incidental concentrations of PCB.

4 (3) As used in this section, "incidental concentrations of PCB" means
5 concentrations of PCB which are beyond the control of the person and which are
6 not the result of the person:

7 (a) Exposing the item, product, or material to concentrations of PCB.

8 (b) Failing to take reasonable measures to rid the item, product, or
9 material of concentrations of PCB.

10 (c) Failing to use a reasonable substitute for the item, product, or
11 material for which the exemption is sought.

12 (4) In granting a certificate of exemption, the director shall impose
13 conditions on the exemption in order that the exemption covers only incidental
14 concentrations of PCB.

15 Sec. 5. After receiving a recommendation by affirmative majority vote of
16 a special committee consisting of the director, the director of the department
17 of commerce, and the director of the department of public health, the director
18 may by rule determine, within the concentrations prescribed by this act, that
19 chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof
20 having certain functional groups in addition to chlorine attached to the
21 molecule constitute a sufficient danger to the public health, safety, and
22 welfare as to be regulated as a PCB by this act.

23

24

25

26

27

MDNS 061937

1 Sec. 6. Beginning July 1, 1976, a person shall not use an item,
2 product, or material containing a concentration of PCB equal to or greater than
3 100 ppm in his business in this state unless:

4 (a) The person files with the director a written notice of intent to use
5 the PCB or the item, product, or material containing PCB in his business.

6 (b) The person annually files with the director a report detailing the
7 total amount of PCB used by the person, and other information required by rule
8 of the director to protect the public health, safety, and welfare from the
9 toxic effects and environmental dangers of PCB.

10 Sec. 7. Beginning July 1, 1976 a person shall not manufacture for
11 sale or sell in this state an item, product, or material containing a
12 concentration of PCB equal to or greater than 100 ppm unless:

13 (a) The PCB or the item, product, or material containing PCB is conspicu-
14 ously labeled to disclose the presence of PCB, the concentration of PCB, and
15 other information required by rule of the director to protect the public health,
16 safety, and welfare from the toxic effects and environmental dangers of PCB.

17 (b) The person files with the director a written notice of intent to man-
18 ufacture or sell the PCB or the item, product, or material containing PCB.

19 (c) The person annually files with the director a report detailing the
20 total amount of PCB manufactured or sold by the person, and other information
21 required by rule of the director to protect the public health, safety, and
22 welfare from the toxic effects and environmental dangers of PCB.

23 Sec. 8. Beginning July 1, 1976, a person shall not dispose of solid
24 or liquid waste resulting from the use in his business of PCB or an item,

25

26

27

MONS 061938

1 product, or material containing or which has contained a concentration equal
2 to or greater than 100 ppm of PCB except in conformity with rules promulgated
3 by the director.

4 Sec. 9. (1) A person who violates this act or a rule promulgated under
5 this act is guilty of a misdemeanor, punishable by a fine of not less than
6 \$2,500.00, nor more than \$25,000.00.

7 (2) Each day that a violation of this act or a rule promulgated under
8 this act continues shall be considered a separate violation.

9 4203 '75 - Sub. (H-3) - R-1

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27