

DRAFT 3
SUBSTITUTE FOR
HOUSE BILL NO. 4479

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 12751, 12752, 12757, and 12771 (MCL 333.12751,
333.12752, 333.12757, and 333.12771), section 12751 as amended and
section 12757 as added by 1980 PA 421, and by adding part 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12751. As used in sections 12752 to 12758:

2 (a) "Acceptable alternative greywater system" means a system
3 for the treatment and disposal of ~~waste water which~~ **wastewater that**
4 normally does not receive human body wastes or industrial waste and
5 is approved for use by a local health department.

6 (b) "Acceptable innovative or alternative waste treatment
7 system" means a decentralized or individual waste system ~~which~~ **that**



1 has been approved for use by a local health department and ~~which~~ is
 2 properly operated and maintained so as not to cause a health hazard
 3 or nuisance. An acceptable innovative or alternative waste
 4 treatment system may include, but is not limited to, an organic
 5 waste treatment system or compost toilet ~~which~~ **that** operates on the
 6 principle of decomposition of heterogeneous organic materials by
 7 aerobic and facultatively anaerobic organisms and utilizes an
 8 effectively aerobic composting process ~~which~~ **that** produces a
 9 stabilized humus. Acceptable innovative or alternative waste
 10 treatment system does not include a septic tank/drain field system
 11 or any other system ~~which~~ **that** is determined by the department to
 12 pose a similar threat to the public health, safety and welfare, and
 13 the quality of surface and subsurface waters of this state.

14 (c) "Available public sanitary sewer system" means a public
 15 sanitary sewer system located in a right of way, easement, highway,
 16 street, or public way ~~which~~ **that** crosses, adjoins, or abuts ~~upon~~ **on**
 17 the property and passing not more than 200 feet at the nearest
 18 point from a structure in which sanitary sewage originates.

19 (d) **"Holding tank" means a system that utilizes a holding**
 20 **tank, services of a septage hauler, and offsite treatment to**
 21 **collect sewage.**

22 (e) ~~(d)~~—"Person" means a person as defined in section 1106 or
 23 a governmental entity.

24 (f) ~~(e)~~—"Public sanitary sewer system" means a sanitary sewer
 25 or a combined sanitary and storm sewer used or intended for use by
 26 the public for the collection and transportation of sanitary sewage
 27 for treatment or disposal.

28 (g) ~~(f)~~—"Structure in which sanitary sewage originates" or
 29 "structure" means a building in which toilet, kitchen, laundry,



1 bathing, or other facilities ~~which~~**that** generate water-carried
2 sanitary sewage are used or are available for use for household,
3 commercial, industrial, or other purposes.

4 Sec. 12752. **(1)** Public sanitary sewer systems are essential to
5 the health, safety, and welfare of the people of ~~the~~**this** state.
6 ~~Septic tank disposal~~**Onsite wastewater treatment** systems are
7 ~~subject to failure due to soil conditions or other reasons. Failure~~
8 **recognized as a cost-effective, long-term option for meeting public**
9 **health and water quality goals when the onsite wastewater treatment**
10 **system is properly managed. When an onsite wastewater treatment**
11 **system is not properly managed, failure** or potential failure of
12 ~~septic tank disposal~~**onsite wastewater treatment** systems poses a
13 threat to the public health, safety, and welfare; presents a
14 potential for ill health, transmission of disease, mortality, and
15 economic blight; **constitutes a nuisance**; and constitutes a threat
16 to the quality of surface and subsurface waters of this state. The
17 connection to available public sanitary sewer systems at the
18 earliest, reasonable date is a matter for the protection of the
19 public health, safety, and welfare and necessary in the public
20 interest ~~which~~**that** is declared as a matter of legislative
21 determination.

22 **(2) Onsite wastewater treatment systems and premises or**
23 **structures with wastewater generating fixtures that are not**
24 **connected to a sanitary sewer are subject to regulation under part**
25 **128. Local health departments shall implement and enforce this**
26 **part, unless otherwise delegated, and part 128 under any applicable**
27 **provisions of this act.**

28 **(3) All of the following are subject to, and any owner is**
29 **responsible for, the requirements described under this part and**



1 part 128:

2 (a) A premises or structure defined in this part.

3 (b) An outhouse, as that term is defined in section 12771.

4 (c) An innovative or alternative system described under
5 section 12757.

6 (d) A holding tank that is not connected to an available
7 public sanitary sewer system.

8 (4) As used in this section, "onsite wastewater treatment
9 system" means that term as defined in section 12801.

10 Sec. 12757. (1) Notwithstanding sections 12752 to 12756 **and**
11 **part 128**, a person may install and use in a structure an acceptable
12 innovative or alternative waste treatment system or an acceptable
13 innovative or alternative waste treatment system in combination
14 with an acceptable alternative greywater system. The installation
15 and use of an acceptable innovative or alternative waste treatment
16 system or an acceptable innovative or alternative waste treatment
17 system in combination with an acceptable alternative greywater
18 system in a structure ~~shall be~~**is** subject to regulation by the
19 local health department in accordance with the ordinances and
20 regulations of the local units of government in which the structure
21 ~~lies.~~**is located**. A local health department may inspect each
22 acceptable innovative or alternative waste treatment system within
23 its jurisdiction at least once each year to determine if it is
24 being properly operated and maintained. A local health department
25 may charge the owner of an acceptable innovative or alternative
26 waste treatment system a reasonable fee for ~~such an~~ inspection and
27 for the plan review and installation inspection. A copy of the
28 approved application or permit to install and use an alternative
29 system and a copy of each maintenance inspection report ~~shall~~**must**



1 be forwarded to the department and ~~to~~ the local unit of government
 2 in which the structure ~~lies.~~ **is located.** The department shall
 3 maintain a record of approved alternative systems and their
 4 maintenance and operation.

5 (2) The department, after consultation with the state plumbing
 6 board, shall adopt guidelines to assist local health departments in
 7 determining what are acceptable alternative greywater systems and
 8 what are acceptable innovative or alternative waste treatment
 9 systems. The department shall advise local health departments
 10 regarding the appropriate installation and use of acceptable
 11 innovative or alternative waste treatment systems and acceptable
 12 innovative or alternative waste treatment systems in combination
 13 with acceptable alternative greywater systems.

14 (3) A person ~~who~~ **that** installs and uses an acceptable
 15 innovative or alternative waste treatment system or an acceptable
 16 innovative or alternative waste treatment system in combination
 17 with an acceptable alternative greywater system ~~shall~~ **is** not ~~be~~
 18 exempt from any special assessments levied by a local unit of
 19 government for the purpose of financing the construction of an
 20 available public sanitary sewer system.

21 (4) Notwithstanding sections 12752 to 12756 **[and part 128]**, an
 22 owner of a structure ~~using~~ **that uses** an acceptable innovative or
 23 alternative waste treatment system in combination with an
 24 acceptable alternative greywater system ~~shall~~ **is** not ~~be~~ required to
 25 connect to an available public sanitary sewer system.

26 (5) An owner ~~who~~ **that** does not connect to an available public
 27 sanitary sewer system ~~pursuant to~~ **under** subsection (4) ~~,~~ ~~shall~~ **is**
 28 not ~~be~~ required to pay connection or user fees to a local unit of
 29 government except those connection or user fees ~~which~~ **that** are



1 allocated for financing ~~of the~~ construction of an available public
 2 sanitary sewer system. ~~In lieu~~ **Instead** of connection or user fees,
 3 an owner may be required by the local unit of government to pay a
 4 sewer availability fee if that fee is ~~to be~~ used for the purpose of
 5 paying a proportionate share of financing the construction of an
 6 existing available public sanitary sewer system. The exemption from
 7 connection or user fees under this subsection ~~shall~~ **does** not apply
 8 to an owner connected to an available public sanitary sewer system
 9 on ~~the effective date of this act.~~ **or before September 30, 1978.**

10 (6) A local unit of government may exempt an owner proposing
 11 to use an acceptable innovative or alternative waste treatment
 12 system in combination with an acceptable alternative greywater
 13 system from connection or user fees related to the financing,
 14 construction, use, or maintenance of an available public sanitary
 15 sewer system.

16 Sec. 12771. (1) A person shall not maintain, or ~~permit~~ **allow**
 17 to be maintained, on premises owned or controlled by the person an
 18 outhouse unless the outhouse is kept in a sanitary condition, and
 19 constructed and maintained in a manner ~~which~~ **that** will not injure
 20 or endanger the public health.

21 (2) ~~The~~ **Except as otherwise provided in this subsection, the**
 22 department shall promulgate rules governing the construction and
 23 maintenance of outhouses to safeguard the public health and ~~to~~
 24 prevent the spread of disease and the existence of sources of
 25 contamination. **The statewide code promulgated under section 12817**
 26 **supersedes administrative rules promulgated under this subsection,**
 27 **as applicable.**

28 (3) A person ~~who~~ **that** violates this section is guilty of a
 29 misdemeanor. An outhouse not constructed or maintained as required



1 by this section or the rules promulgated ~~pursuant to~~ **in accordance**
 2 **with** this section ~~shall be~~ **is considered** a public nuisance. [Do you
 3 want to provide for the penalties associated with the misdemeanor
 4 specified under this subsection, such as a duration of imprisonment
 5 and a fine?]

6 (4) As used in this section, "outhouse" means a building or
 7 other structure not connected with a sewer system or ~~with a~~
 8 properly installed and operated sewage disposal system, and which
 9 is used for the reception, disposition, or storage, either
 10 temporarily or permanently, of feces or other excreta from the
 11 human body.

12 PART 128. ONSITE WASTEWATER TREATMENT SYSTEMS

13 Sec. 12801. (1) As used in this part:

14 (a) "Alternative system" means a category of onsite wastewater
 15 treatment system that is not a conventional system and that
 16 provides for an equivalent or better degree of protection for
 17 public health and the environment than a conventional system.

18 (b) "Approved onsite wastewater treatment system" means an
 19 alternative system or conventional system for which construction
 20 and any required operating permits have been issued by the
 21 department or authorized local health department having
 22 jurisdiction and an evaluation has found the system to be in
 23 compliance with all required permits.

24 (c) "Authorized local health department" means a local health
 25 department authorized by the department to administer this part
 26 pursuant to section 12803 for conventional systems or section 12805
 27 for alternative systems, as applicable.

28 (d) "Baffle" means a precast or preconstructed component of a
 29 septic tank that serves to redirect, divert, or impede the flow of



1 wastewater through the septic tank in a beneficial manner.

2 (e) "Construction permit" means a permit to install,
3 construct, alter, or repair an onsite wastewater treatment system.

4 (f) "Conventional system" means an onsite wastewater treatment
5 system that contains a watertight septic tank and soil dispersal
6 system that depends solely on subsurface soil for treatment and
7 dispersal and does not include any components of an approved
8 alternative technology.

9 (g) "Department" means the department of environment, Great
10 Lakes, and energy.

11 (h) "Elements of a nonconforming system" means the presence of
12 1 or more of the following that may, as determined by the
13 department or authorized local health department, lead to a failure
14 or improper functioning of the onsite wastewater treatment system:

15 (i) The treatment bed or treatment mound has collapsed or
16 compacted and rain and snow melt cannot percolate through the
17 system.

18 (ii) The final treatment area is hydraulically saturated.

19 (iii) Evidence of missing or damaged components of the onsite
20 wastewater treatment system.

21 (iv) Biomatting is noted in 2 or more core samples performed
22 across the absorption field.

23 (v) Evidence of sustained operating levels within the septic
24 tank above the invert of the septic tank outlet.

25 (vi) Other conditions that may reasonably be expected to alter
26 the intended functionality of the onsite wastewater treatment
27 system.

28 (i) "Experimental onsite wastewater treatment system" means a
29 class of alternative onsite wastewater treatment system that is in



1 experimental use and requires further testing in order to provide
2 sufficient information to determine its acceptability. [This term
3 is not used anywhere and needs to be removed.]

4 (j) "Failure" means a malfunction or failure of an onsite
5 wastewater treatment system consisting of 1 or more of the
6 following, as determined by the department or authorized local
7 health department after an evaluation is conducted under section
8 12821:

9 (i) A discharge of sanitary sewage to the surface of the
10 ground.

11 (ii) A discharge of untreated sanitary sewage or effluent into
12 surface water, storm drains, or directly into groundwater.

13 (iii) The inability of the onsite wastewater treatment system to
14 accept untreated sanitary sewage at the rate being discharged,
15 resulting in the backup of sanitary sewage into a structure.

16 (iv) A structural failure or leaking of the septic tank or
17 other associated components and appurtenances.

18 (v) A discharge of treated wastewater that does not comply
19 with applicable standards.

20 (vi) An illicit connection or illicit discharge.

21 (vii) An absence of all or a part of an onsite wastewater
22 treatment system.

23 (viii) The discharge of sanitary sewage or effluent is
24 endangering a public or private water supply.

25 (ix) The inability to access all or key parts of the onsite
26 wastewater treatment system to conduct an evaluation under section
27 12821.

28 (k) "Fund" means the onsite wastewater treatment system
29 administration fund created in section 12829.



1 (l) "Illicit connection" means a physical, constructed
2 connection that allows the bypassing of required treatment by an
3 onsite wastewater treatment system in violation of law.

4 (m) "Illicit discharge" means any direct or indirect discharge
5 of untreated sewage in violation of law.

6 (n) "Imminent danger" means a condition or practice that could
7 reasonably be expected to cause death, disease, or serious physical
8 harm immediately or before the imminence of the danger can be
9 eliminated through enforcement procedures otherwise provided in
10 this act.

11 (o) "Management" means the siting, design, installation,
12 operation, maintenance, alteration, evaluation, closure, and repair
13 of onsite wastewater treatment systems to ensure that onsite
14 wastewater treatment systems meet required performance standards as
15 prescribed by the technical advisory committee and are protective
16 of public health and the environment.

17 (p) "Nonproprietary technology" means a wastewater treatment
18 or distribution technology, method, or product not subject to a
19 patent or trademark that significantly contributes to the
20 attainment of the treatment or dispersal objectives.

21 (q) "Onsite wastewater treatment system" or "system" means a
22 system of components and appurtenances used to collect and treat
23 sanitary sewage from 1 or more dwellings, buildings, or structures
24 and discharge not more than 10,000 gallons per day of the resulting
25 effluent to a soil dispersal system on property owned by or under
26 the control of the owner of the onsite wastewater treatment system.

27 (r) "Onsite wastewater treatment system evaluation" or
28 "evaluation" means an evaluation of an onsite wastewater treatment
29 system conducted under section 12821.



1 (s) "Operating permit" means a renewable and revocable permit,
2 if required, to operate and maintain an onsite wastewater treatment
3 system in compliance with specific operational or performance
4 requirements.

5 (t) "Outlet device" means any fixture on or around the outlet
6 pipe of a septic tank that serves to slow down, divert, screen, or
7 otherwise control the flow of effluent out of the septic tank.

8 (u) "Point of sale" means the time at which the sale or
9 transfer of a parcel of real estate is complete. Point of sale does
10 not include a transfer described under section 3 of the seller
11 disclosure act, 1993 PA 92, MCL 565.953.

12 (v) "Proprietary product" means a treatment or distribution
13 product held under patent or trademark that significantly
14 contributes to the treatment, performance, and attainment of
15 effluent quality or dispersal objectives.

16 (w) "Registered evaluator" means an individual who is
17 qualified to conduct onsite wastewater treatment system evaluations
18 and registered under section 12823.

19 (x) "Sanitary sewage" means treated or untreated waste that
20 contains only human metabolic waste or waste generated and
21 discharged as a result of the use of an onsite wastewater treatment
22 system.

23 (y) "Soil dispersal system" means a method in which septic
24 tank effluent or treated effluent is distributed by a network of
25 piping or other approved material to an approved method of
26 subsurface dispersal.

27 (z) "Statewide code" means the rules promulgated under section
28 12817 providing for the management of onsite wastewater treatment
29 systems.



1 (aa) "Structure in which sanitary sewage originates" or
2 "structure" means a building in which toilet, kitchen, laundry,
3 bathing, or other facilities that generate water-carried sanitary
4 sewage are used or are available for use.

5 (bb) "Technical advisory committee" means the technical
6 advisory committee established by the department under section
7 12815.

8 (2) In addition, article 1 contains general definitions and
9 principles of construction applicable to all articles of this code.

10 Sec. 12803. A local health department shall notify the
11 department of its intent to administer this part. Within 120 days
12 after the local health department notifies the department of its
13 intent, the department shall authorize a local health department to
14 administer this part for conventional systems if the local health
15 department does all of the following:

16 (a) Follows the standards established under this part and
17 adopts regulations consistent with this part for the purpose of
18 carrying out the responsibilities of this part and the statewide
19 code, including authority to do all of the following:

20 (i) Conduct site evaluations, issue construction permits, and
21 perform interim inspections during construction and final
22 inspections on completion of construction, if required.

23 (ii) Issue notices and penalties to persons that violate this
24 part or endanger public health or the environment.

25 (iii) Respond to complaints of failure of an onsite wastewater
26 treatment system or improper discharge of sanitary sewage.

27 (iv) Provide an administrative review for any person affected
28 by an order, decision, or notice issued by the local health
29 department, as it relates to an onsite wastewater treatment system.



1 The results of the administrative review must be provided to the
2 department.

3 (b) Maintains qualified staff to administer a conventional
4 onsite wastewater treatment system program. A staff member shall
5 meet the following minimum educational and training requirements to
6 work independently in an onsite wastewater treatment system
7 program:

8 (i) Possess a minimum of a 4-year bachelor of science or arts
9 degree with a major in environmental health, chemistry, biology,
10 geology, engineering, or an equivalent degree.

11 (ii) Obtain a minimum of 8 hours of training that includes a
12 minimum of 4 hours of field training on the United States
13 Department of Agriculture soil classification system from the
14 department or another entity approved by the department.

15 (iii) Demonstrate competency and understanding of local sanitary
16 regulations, criteria for subsurface sewage disposal provided in
17 state law and rules, or any successor state law and rules, the land
18 division act, 1967 PA 288, MCL 560.101 to 560.293, and the
19 condominium act, 1978 PA 59, MCL 559.101 to 559.276.

20 (iv) Conduct a minimum of 10 supervised field or site
21 evaluations of conventional onsite wastewater system designs and 10
22 supervised final evaluations with senior staff or a supervisor.

23 (v) Conduct a minimum of 5 solo field evaluations of onsite
24 wastewater system designs and 5 solo final evaluations
25 demonstrating understanding of the conventional onsite wastewater
26 treatment program as determined by senior staff or a supervisor.

27 (vi) Attend and observe a minimum of 2 complete onsite
28 wastewater system installations from beginning to end.

29 (c) Has a plan approved in accordance with section 12833.



1 Sec. 12805. (1) A local health department shall notify the
2 department of its intent to administer this part. Within 120 days
3 after the local health department notifies the department of its
4 intent, the department shall authorize a local health department to
5 administer this part for alternative systems if the local health
6 department does all of the following:

7 (a) Meets the requirements of section 12803.

8 (b) Follows the standards established under this part and
9 adopts regulations consistent with this part for the purpose of
10 carrying out the responsibilities of this part, including authority
11 to do all of the following:

12 (i) Review, evaluate, approve, or reject applications, plans,
13 and specifications to alter, install, repair, or replace
14 alternative systems.

15 (ii) Issue construction permits authorizing the installation of
16 alternative systems in accordance with section 12809.

17 (iii) Ensure long-term maintenance of alternative systems
18 through the issuance of operating permits.

19 (c) Has a plan approved in accordance with section 12833.

20 (2) Existing local health department regulations or guidance
21 for a particular type of alternative system remains in effect until
22 recommended standards and guidance for that type of system are
23 developed by the department in accordance with section 12813.

24 Sec. 12807. (1) A person shall not install, construct, alter,
25 or repair an onsite wastewater treatment system unless the person
26 has received a construction permit from the department or
27 authorized local health department, subject to any permit required
28 under part 31 or 41 of the natural resources and environmental
29 protection act, 1994 PA 451, MCL 324.3101 to 324.3134 and 324.4101



1 to 324.4113. A person does not need a construction permit under
2 this section for a repair to an onsite wastewater treatment system
3 if 1 or more of the following apply:

4 (a) The repair is a replacement of the original parts of the
5 onsite wastewater treatment system.

6 (b) The repair is an adjustment of existing fixtures of the
7 onsite wastewater treatment system.

8 (c) The repair is an addition of new or upgraded materials or
9 fixtures that do not significantly alter the original design of the
10 onsite wastewater treatment system.

11 (2) A person shall obtain a construction permit for an onsite
12 wastewater treatment system from an authorized local health
13 department in compliance with this part. If the local health
14 department with jurisdiction over the property is not authorized to
15 administer this part, the department is responsible for issuing the
16 construction permit.

17 (3) A local unit of government shall not issue a building
18 permit for a residence or facility that will be served by an onsite
19 wastewater treatment system unless a construction permit for the
20 onsite wastewater treatment system has been obtained under this
21 part.

22 Sec. 12809. (1) The department or an authorized local health
23 department that administers an alternative system construction and
24 operating permitting program within its jurisdiction shall issue a
25 construction permit for the installation of an alternative system
26 if both of the following conditions are met:

27 (a) The alternative system does either of the following:

28 (i) Utilizes a proprietary product that has been registered for
29 use by the department.



1 (ii) Utilizes nonproprietary technology in accordance with the
2 recommended standards and guidance provided by the department in
3 accordance with the statewide code.

4 (b) The soils, site conditions, and operating conditions at
5 the location are appropriate for the use of the alternative system
6 in compliance with the statewide code.

7 (2) Beginning 45 days after the department promulgates rules
8 under section 12817, the owner of an alternative system shall
9 arrange for an evaluation as required by the statewide code.

10 Sec. 12811. (1) Subject to subsection (4), beginning 45 days
11 after the department promulgates rules under section 12817, a
12 person shall not install, construct, alter, or repair a proprietary
13 product unless that product has been registered for use in this
14 state by the department and a construction permit is obtained under
15 section 12807.

16 (2) Beginning 45 days after the department promulgates rules
17 under section 12817, a person may apply for registration of a
18 proprietary product under subsection (1) by submitting an
19 application on a form and in a manner prescribed by the department.
20 The department may charge a fee of \$3,000.00 to cover its costs in
21 reviewing applications for registration under this section. Money
22 received by the department must be forwarded to the state treasurer
23 for deposit into the fund. Within 30 days after receipt of an
24 application and fee, the department shall review the application
25 and determine whether it is administratively complete. Within 60
26 days after receipt of an administratively complete application, the
27 department shall approve or deny the registration and notify the
28 applicant in writing. In approving and registering for use a
29 proprietary product in this state, the department shall consider



1 the recommended standards and guidance provided to the department
2 by the technical advisory committee. A registration under this
3 section is valid for 5 years. A registration may be renewed.
4 However, there is no fee for a renewal. Beginning _____, the
5 department shall adjust the fee specified under this subsection by
6 an amount determined by the state treasurer at the end of the
7 preceding fiscal year to reflect the cumulative percentage change
8 in the Detroit Consumer Price Index, and rounded to the nearest
9 \$100.00.

10 (3) The department may deny, suspend, or revoke a registration
11 under this section following a contested case hearing conducted in
12 accordance with the administrative procedures act of 1969, 1969 PA
13 306, MCL 24.201 to 24.328, if the department finds any of the
14 following:

15 (a) The registration was obtained or attempted to be obtained
16 through misrepresentation or fraud.

17 (b) The registrant transacted business under its registration
18 using fraudulent, coercive, or dishonest practices.

19 (c) The applicant or registrant failed to pay the required
20 registration application review fees.

21 (d) Field reviews, as a result of a large number of
22 evaluations of the proprietary product, determine that the
23 proprietary product does not function or perform as designed.

24 (e) The proprietary product fails to meet the requirements of
25 the statewide code.

26 (4) A person does not need to register a proprietary product
27 under this section if both of the following conditions are met:

28 (a) The proprietary product was installed before the effective
29 date of this part.



1 (b) The owner of the property where the proprietary product is
2 installed informs the department or authorized local health
3 department and the department or authorized local health department
4 determines there is good cause to allow the proprietary product to
5 operate without registering.

6 Sec. 12813. The department shall develop recommended standards
7 and guidance to assist local health departments in permitting
8 different types of onsite wastewater treatment systems, including,
9 but not limited to, the following 3 categories:

10 (a) Nonproprietary technologies such as sand filters.

11 (b) Proprietary products such as aerobic treatment systems and
12 packed bed filters.

13 (c) Proprietary products such as subsurface dripline products
14 or gravelless distribution products.

15 Sec. 12818. A person that does either of the following is
16 guilty of a misdemeanor punishable by a fine of not more than
17 \$10,000.00 for each violation and imprisonment for not more than 1
18 year, or both:

19 (a) Submits or provides to the department or authorized local
20 health department information related to an onsite wastewater
21 treatment system that is false, misleading, or fabricated.

22 (b) Completes an onsite wastewater treatment system evaluation
23 but is not a registered evaluator.

24 Sec. 12821. (1) Beginning 45 days after the department
25 promulgates rules under section 12817 and subject to subsection
26 (12) and section 12833(3), the owner of a premises or structure
27 that is not connected to a public sanitary sewer operated by a
28 local unit of government, and contains wastewater generating
29 fixtures, may begin arranging for an onsite wastewater treatment



1 system evaluation to be conducted in accordance with the schedule
 2 established under this subsection and subsection (3). An owner of
 3 an onsite wastewater treatment system constructed after the
 4 effective date of this part must have an onsite wastewater
 5 treatment system evaluation conducted 10 years after the date the
 6 new system is installed and at least once every 5 years thereafter
 7 or if any of the events under subsection (2) occur. An owner that
 8 does not arrange for an evaluation within 10 years after a new
 9 onsite wastewater treatment system is constructed is not excluded
 10 from the requirement to arrange for an evaluation every 5 years as
 11 otherwise specified under this subsection. An owner of a premises
 12 or structure not connected to a public sewer system and that
 13 contains wastewater generating fixtures must have an onsite
 14 wastewater treatment system evaluation conducted at least once
 15 every 5 years or if any of the events under subsection (2) occur.
 16 An owner of an existing onsite wastewater treatment system that was
 17 evaluated under a local ordinance must have an onsite wastewater
 18 treatment system evaluation conducted 5 years after the date of the
 19 last evaluation and at least once every 5 years thereafter or if
 20 any of the events under subsection (2) occur.

21 (2) The owner of an onsite wastewater treatment system must
 22 have an onsite wastewater treatment system evaluation conducted if
 23 any of the following events occur:

24 (a) A complaint is filed with the department or authorized
 25 local health department based on a suspected failure of the system
 26 and the department or authorized local health department determines
 27 that there is reasonable cause to require an evaluation to be
 28 conducted.

29 (b) A change in use is proposed that increases use of an



1 existing onsite wastewater treatment system and the department or
2 authorized local health department determines that an evaluation is
3 necessary to review the new or increased use.

4 (c) The owner of property that is not serviced by a public
5 sanitary sewer system or on which a system is located applies for a
6 permit for construction of a structure or an addition or
7 improvements to an existing structure and the department or
8 authorized local health department determines that there is a
9 reasonable basis to require an evaluation in accordance with the
10 statewide code in order to assess the operation, accessibility,
11 maintenance, repair, or replacement of the existing system. The
12 scope of an evaluation conducted under this subdivision may be
13 altered by the department or authorized local health department in
14 accordance with the statewide code.

15 (3) An onsite wastewater treatment system evaluation required
16 under subsection (1) must be conducted by the department,
17 authorized local health department, or registered evaluator within
18 60 days after the owner arranges for the evaluation. The owner of
19 the system shall not have the septic tank pumped out within 45 days
20 before an onsite wastewater treatment system is conducted under
21 this section. The individual that conducts the onsite wastewater
22 treatment system evaluation shall do all of the following:

23 (a) Identify the size, age, and condition of the septic tank
24 or tanks.

25 (b) Before conducting any pumping, document the level of
26 effluent, in relation to the invert of each tank or compartment,
27 out, exit baffle, or effluence filter, in the septic tank or tanks.

28 (c) Pump out the septic tank or tanks, or recommend that the
29 department or authorized local health department order the septic



1 tank or tanks to be pumped out, if 1 of the following applies:

2 (i) The individual that conducts the onsite wastewater
3 treatment system evaluation determines that it is necessary to
4 complete the evaluation.

5 (ii) The sludge and scum accumulations exceed 30% of the tank
6 volume or are encroaching on the inlet and outlet baffle entrances.

7 (d) Verify that all sanitary sewage-related plumbing fixtures
8 are connected to the septic tank or tanks and are operational.

9 (e) Locate, expose, open, and assess the septic tank or tanks
10 and pumping chambers associated with the system.

11 (f) If the system includes an alternative system or unit,
12 identify that the required operation and maintenance reporting is
13 on file with _____. If the operation and maintenance reporting are
14 not up to date, notify the owner of the need to arrange for the
15 required maintenance by a qualified service provider and report the
16 findings to the department or authorized local health department.
17 The evaluator shall assess and report any unresolved issues
18 identified in the required operation and maintenance report. [Where
19 is this operation and maintenance reporting requirement provided
20 for?]

21 (g) Locate, determine the size of, and observe the subsurface
22 dispersal system to determine its condition.

23 (h) Observe the general area that includes the treatment and
24 dispersal system for evidence of system failure or elements of a
25 nonconforming system.

26 (i) Examine the premises for an illicit discharge to the
27 surface of the ground, surface water, or drain.

28 (j) Document conditions observed, evidence of failure, and
29 elements of a nonconforming system.



1 (k) Assess and report the ponding level found in inspection or
2 observation ports located in the soil dispersal system. If
3 inspection or observation ports are not found, or do not penetrate
4 to the bottom of the soil dispersal system, collect at least 2 core
5 samples across the soil dispersal field, unless the collection of
6 the core samples would be detrimental to the operation of the
7 system.

8 (l) If the evaluation is being conducted under subsection
9 (2) (b), identify the current daily sanitary sewage flow, identify
10 structure use type, and collect information on the proposed new
11 use.

12 (m) Complete any other evaluation criteria set by the
13 department under section 12817.

14 (n) Prepare an evaluation report of the information gathered
15 under this subsection, including appropriate photographic
16 documentation.

17 (4) Within 14 days after the onsite wastewater treatment
18 system evaluation is completed, the individual that conducts the
19 evaluation shall do both of the following:

20 (a) Prepare an evaluation report that details the findings of
21 the onsite wastewater treatment system evaluation. An evaluation
22 report may contain recommendations to extend the life of the onsite
23 wastewater treatment system and prevent premature failures of the
24 system.

25 (b) Provide a written or electronic copy of the evaluation
26 report to the owner of the onsite wastewater treatment system and
27 the department or authorized local health department, or both, as
28 applicable. An evaluation report must be provided under this
29 subdivision even if the evaluation report is incomplete or the



1 individual that conducted the onsite wastewater treatment system
2 evaluation was not paid for the evaluation.

3 (5) All evaluations completed by a registered evaluator are
4 subject to review by the department or authorized local health
5 department. The department or authorized local health department
6 has final decision-making authority regarding the need for pumping,
7 determination of failure or imminent danger, or resolution. Within
8 21 days after a registered evaluator submits a report under
9 subsection (4), the department or authorized local health
10 department must do all of the following:

11 (a) Determine whether the onsite wastewater treatment system
12 is in failure.

13 (b) Determine whether any elements of a nonconforming system
14 are contributing to an overall failure of the onsite wastewater
15 treatment system.

16 (c) Determine whether the onsite wastewater treatment system
17 is functioning as intended.

18 (d) Inform the owner of the onsite wastewater treatment system
19 of any determination made under subdivisions (a) to (c).

20 (6) If the department or authorized local health department
21 determines that an evaluation report under subsection (4)
22 identifies the need for the tank or tanks to be pumped, the owner
23 of the onsite wastewater treatment system shall have the system
24 pumped by a septage waste hauler licensed under part 117 of the
25 natural resources and environmental protection act, 1994 PA 451,
26 MCL 324.11701 to 324.11721, within 30 days after the evaluation
27 report is received under subsection (4).

28 (7) If the owner of an onsite wastewater treatment system
29 fails to arrange for an onsite wastewater treatment system



1 evaluation or have the system evaluated within the applicable time
2 periods required under subsection (1), the owner is subject to the
3 following:

4 (a) Beginning 60 days after the end of the applicable time
5 period and in the absence of good cause shown, a civil fine of not
6 more than \$250.00 per month the system remains unevaluated.

7 (b) Beginning 1 year after the end of the applicable time
8 period and in the absence of good cause shown, a civil fine of not
9 more than \$500.00 per month the system remains unevaluated up to
10 \$15,000.00 in total civil fines under this subdivision.

11 (8) If the department or authorized local health department
12 determines that an evaluation report under subsection (4)
13 identifies evidence of failure causing an imminent danger, the
14 owner of the onsite wastewater treatment system shall remedy the
15 failure within 6 months after the evaluation report is received
16 under subsection (4) or within a time period determined by the
17 department or authorized local health department. An owner that
18 violates this subsection is subject to a civil fine of not more
19 than \$1,000.00 for each 30-day period that the onsite wastewater
20 treatment system remains in failure. The prosecutor of the county
21 in which the violation occurred or the attorney general may bring
22 an action to collect the fine.

23 (9) Beginning 6 months after the first civil fine is imposed
24 under subsection (7)(a), the civil fine constitutes a lien on any
25 property owned by the owner of the onsite wastewater treatment
26 system. A lien under this subsection is effective and has priority
27 over all other liens and encumbrances except those filed or
28 recorded before the date of the judgment only if notice of the lien
29 is filed or recorded as required by state or federal law. A lien



1 filed or recorded under this subsection is terminated in accordance
2 with the procedures required by state or federal law within 14 days
3 after the owner has the system evaluated and pays the civil fine.

4 (10) The department or authorized local health department may
5 waive any fine authorized under subsections (7) and (8) if the
6 owner of the onsite wastewater treatment system demonstrates all of
7 the following occur:

8 (a) Income at or below 200% of the federal poverty level.

9 (b) Good cause shown that payment of any fines under
10 subsection (7) or (8), or both, would pose significant financial
11 stress on the owner of the system.

12 (c) Evidence that the owner of the system remedied any failure
13 identified in the onsite wastewater treatment evaluation.

14 (11) Except as otherwise provided under subsection (1), an
15 onsite wastewater system evaluation that is conducted under this
16 section is valid for a 5-year period unless there is a change to
17 the use of the onsite wastewater treatment system, there is an
18 unapproved alteration of the system, an evaluation is necessary in
19 accordance with subsection (2), or there is a failure of the system
20 during that period.

21 (12) In accordance with the statewide code, if determined
22 necessary by the department and on request of an owner, the
23 department may grant a variance from the onsite wastewater
24 treatment evaluation requirements under this section.

25 (13) The department or authorized local health department
26 shall charge a reasonable fee not to exceed the costs of
27 conducting, administering, and reviewing onsite wastewater
28 treatment system evaluations.

29 (14) In addition to the fee charged for conducting an onsite



1 treatment system evaluation under subsection (13), the department,
2 authorized local health department, or registered evaluator, as
3 applicable, shall charge an additional \$50.00 state administrative
4 fee. Registered evaluators shall submit the administrative fee to
5 the department or authorized local health department at the same
6 time an evaluation report is submitted under subsection (4). State
7 administrative fees must be forwarded to the department by October
8 1 of every year.

9 (15) All fees authorized and collected under this section must
10 be forwarded to the state treasurer for deposit into the fund.

11 Sec. 12823. (1) Beginning 45 days after the department
12 promulgates rules under section 12817 and subject to section 12833,
13 an onsite wastewater treatment system evaluation under this part
14 must be conducted only by the department, an authorized local
15 health department, or a registered evaluator. To qualify as a
16 registered evaluator or to conduct an onsite wastewater treatment
17 system evaluation, an individual shall meet the educational and
18 training requirements established in the statewide code.

19 (2) Subject to subsection (3), to apply to become a registered
20 evaluator, an individual shall submit an application on a form and
21 in a manner prescribed by the department. The department may charge
22 a \$180.00 application fee to cover the department's costs under
23 this section. An application fee collected under this section must
24 be forwarded to the state treasurer for deposit into the fund.

25 (3) If an organization or authorized local health department
26 has a program to qualify evaluators of onsite wastewater treatment
27 systems, the department may, upon review of the program, approve
28 the program and accept those evaluators as meeting the registration
29 requirements under this section. An individual registered under



1 this subsection shall thereafter meet department requirements as
2 specified in the statewide code and pay the application fee.

3 (4) All evaluation reports received under section 12821(4)(b)
4 are subject to an audit by the department. The department may
5 promulgate rules under section 12817 to implement an audit
6 authorized under this subsection. The department may suspend or
7 revoke a registration under subsection (6) following an audit
8 authorized under this subsection.

9 (5) The department shall review individuals registered under
10 this section once every 3 years and renew a registration for any
11 individual who continues to meet the requirements under this
12 section. The department may establish renewal fees, late fees, or
13 fees for a lapsed registration. Any registration described under
14 this section is nontransferable. [There is a difference between a
15 registration and a license. This seems like a license and should be
16 updated.]

17 (6) A registration under this section may be denied,
18 suspended, or revoked following a contested case hearing conducted
19 in accordance with the administrative procedures act of 1969, 1969
20 PA 306, MCL 24.201 to 24.328, for any of the following reasons:

21 (a) The use of fraud or deceit in obtaining or renewing
22 registration.

23 (b) Any act of gross negligence, incompetence, or misconduct
24 in conducting or reporting on an onsite wastewater treatment system
25 evaluation.

26 (c) Failure to satisfactorily complete continuing education
27 requirements.

28 (d) Submission of an evaluation report that knowingly is based
29 upon false, incorrect, misleading, or fabricated information.



1 (e) Failure to pay required fees.

2 (f) Failure to meet the ethical standards established in the
3 statewide code.

4 (7) The department shall maintain a list of individuals
5 registered under this section and make the list available on the
6 department's website.

7 Sec. 12825. (1) The department shall develop and make
8 available onsite wastewater treatment system evaluation report
9 forms for use in documenting the results of onsite wastewater
10 treatment system evaluations conducted under section 12821.

11 (2) The department shall make available and maintain an onsite
12 wastewater treatment system electronic database for recording and
13 tracking the findings of onsite wastewater treatment system
14 evaluations. When the onsite wastewater treatment system electronic
15 database is available, the department may require an individual
16 that conducts an onsite wastewater treatment system evaluation to
17 electronically enter the report information into the database
18 instead of the written report. The database must not include
19 personal information related to the owner of an onsite wastewater
20 treatment system.

21 Sec. 12827. The department may enter into agreements,
22 contracts, or cooperative arrangements with appropriate authorized
23 local health departments or other persons for the purpose of
24 administering this part. To the extent a local health department is
25 not authorized to administer this part, the department shall
26 implement this part. To implement this part, the department may
27 contract with another authorized local health department or other
28 qualified person.

29 Sec. 12831. (1) A local unit of government, county, or local



1 health department shall not adopt a point of sale ordinance related
2 to onsite wastewater treatment.

3 (2) If a local unit of government, county, or local health
4 department has already adopted a point of sale ordinance to require
5 evaluations of onsite wastewater treatment systems, the point of
6 sale ordinance must be phased out or repealed within 1 year after
7 the department promulgates rules under section 12817.

8 (3) As used in this section, "local unit of government" means
9 a township, city, or village in this state.

10 Sec. 12833. (1) Within 1 year after the department promulgates
11 rules under section 12817, each authorized local health department
12 shall submit a plan to the department for the prioritization of
13 initial evaluation of onsite wastewater treatment systems using
14 guidelines determined by the department in the statewide code. A
15 plan submitted under this section must include all of the
16 following:

17 (a) The estimated number of systems that will be included in
18 the initial evaluation.

19 (b) The estimated time it will take for all of the initial
20 evaluation to be completed.

21 (c) Details on how the authorized local health department will
22 collaborate with the department, registered evaluators, and other
23 persons to ensure efficient implementation of the initial
24 evaluation of onsite wastewater treatment systems.

25 (2) Within 120 days after an authorized local health
26 department submits a plan under subsection (1), the department
27 shall approve or deny the plan. If the department approves the
28 plan, the authorized local health department shall immediately
29 implement the plan and begin the initial evaluation of onsite



1 wastewater treatment systems. If the department denies the plan,
2 _____. [What happens if the plan is denied? Under what
3 circumstances can the department deny a plan?]

4 (3) After 75% of the onsite wastewater treatment systems
5 identified under this section are evaluated, evaluations of systems
6 under section 12821 may begin.

7 (4) After a system is evaluated under this section, the system
8 must receive an onsite wastewater treatment system evaluation every
9 5 years or as otherwise required under this part.

10 Sec. 12835. The department, under part 41 of the natural
11 resources and environmental protection act, 1994 PA 451, MCL
12 324.4101 to 324.4113, and this act, and local health departments
13 under this act, have exclusive jurisdiction over the regulation,
14 permitting, and evaluation of onsite wastewater treatment systems.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. ____ (request no.
19 01866'23 a) of the 102nd Legislature is enacted into law.

