

SENATE BILL NO. 299

April 27, 2023, Introduced by Senators SINGH, POLEHANKI, KLINEFELT, WOJNO and CHANG and referred to the Committee on Energy and Environment.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 12752 (MCL 333.12752) and by adding part 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12752. **(1)** Public sanitary sewer systems are essential to
2 the health, safety, and welfare of the people of ~~the~~**this** state.
3 ~~Septic tank disposal~~**Onsite wastewater treatment** systems are
4 subject to failure due to soil conditions or other reasons. Failure
5 or potential failure of ~~septic tank disposal~~**onsite wastewater**

1 **treatment** systems poses a threat to the public health, safety, and
2 welfare; presents a potential for ill health, transmission of
3 disease, mortality, and economic blight; and constitutes a threat
4 to the quality of surface and subsurface waters of this state. The
5 connection to available public sanitary sewer systems at the
6 earliest, reasonable date is a matter for the protection of the
7 public health, safety, and welfare and necessary in the public
8 interest ~~which~~**that** is declared as a matter of legislative
9 determination.

10 (2) Onsite wastewater treatment systems are subject to
11 regulation under part 128. Local health departments may implement
12 and enforce this part and part 128 under any applicable provisions
13 of this act.

14 (3) As used in this section, "onsite wastewater treatment
15 system" means that term as defined in section 12801.

16 **PART 128. ONSITE WASTEWATER TREATMENT SYSTEMS**

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

18 (a) "Alternative system" means an onsite wastewater treatment
19 system that is not a conventional system and that provides for an
20 equivalent or better degree of protection for public health and the
21 environment than a conventional system.

22 (b) "Approved onsite wastewater treatment system" means an
23 alternative system or conventional system for which construction
24 and any required operating permits have been issued by the
25 department or the local health department having jurisdiction and
26 an inspection has found the system to be in compliance with all
27 required permits.

28 (c) "Authorized local health department" means a local health
29 department authorized by the department to administer this part

1 pursuant to section 12803 for conventional systems or section 12805
2 for alternative systems, as applicable.

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

5 (e) "Conventional system" means an onsite wastewater treatment
6 system that contains a watertight septic tank with nonuniform
7 distribution of effluent to a soil dispersal system that does not
8 include any components of an approved alternative technology.

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

11 (g) "Domestic equivalent wastewater" means wastewater that is
12 not sanitary sewage but is demonstrated to have similar wastewater
13 characteristics and flow and is amenable to onsite wastewater
14 treatment and soil dispersal through a conventional or alternative
15 system.

16 (h) "Experimental onsite wastewater treatment system" means an
17 onsite wastewater treatment system that is in experimental use and
18 requires further testing in order to provide sufficient information
19 to determine its acceptability.

20 (i) "Failure" means a malfunction or failure of an onsite
21 wastewater treatment system consisting of any of the following:

22 (i) A discharge of sanitary sewage to the surface of the
23 ground.

24 (ii) A discharge of sanitary sewage or effluent into surface
25 water or directly into groundwater.

26 (iii) The inability of the onsite wastewater treatment system to
27 accept sanitary sewage at the rate being discharged, resulting in
28 the backup of sanitary sewage into the structure.

29 (iv) A structural failure or leaking of the septic tank or

1 other associated components and appurtenances.

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

4 (vi) An illicit connection or illicit discharge.

5 (vii) Evidence of effluent within the septic tank above or
6 below the invert of the septic tank outlet.

7 (viii) The location of all or a portion of a conventional or
8 alternative system outside of the established boundaries of the
9 property of the structure that the system serves.

10 (ix) The treatment bed or treatment mound has collapsed or
11 compacted and rain and snow melt cannot percolate through the
12 system.

13 (j) "Fund" means the onsite wastewater treatment system
14 administration fund created in section 12829.

15 (k) "Illicit connection" means a physical connection to an
16 onsite wastewater treatment system or other separate drainage
17 system in violation of law.

18 (l) "Illicit discharge" means any discharge from an onsite
19 wastewater treatment system or other separate drainage system in
20 violation of law.

21 (m) "Imminent danger" means a condition or practice that could
22 reasonably be expected to cause death, disease, or serious physical
23 harm immediately or before the imminence of the danger can be
24 eliminated through enforcement procedures otherwise provided in
25 this act.

26 (n) "Management" means the siting, design, installation,
27 operation, inspection, and maintenance of onsite wastewater
28 treatment systems to ensure that onsite wastewater treatment
29 systems meet required performance standards as prescribed by the

1 technical advisory committee and are protective of public health
2 and the environment.

3 (o) "Nonproprietary technology" means a wastewater treatment
4 or distribution technology, method, or product not subject to a
5 patent or trademark that significantly contributes to the
6 attainment of the treatment or dispersal objectives.

7 (p) "Onsite wastewater treatment system" or "system" means a
8 system of components and appurtenances used to collect and treat
9 sanitary sewage or domestic equivalent wastewater from 1 or more
10 dwellings, buildings, or structures and discharge not more than
11 10,000 gallons per day of the resulting effluent to a soil
12 dispersal system on property owned by or under the control of the
13 owner of the onsite wastewater treatment system.

14 (q) "Onsite wastewater treatment system inspection" or
15 "inspection" means an inspection of an onsite wastewater treatment
16 system conducted under section 12821.

17 (r) "Operating permit" means a renewable and revocable permit,
18 if required, to operate and maintain an alternative system in
19 compliance with specific operational or performance requirements.

20 (s) "Point of sale" means the time at which the sale or
21 transfer of a parcel of real estate is complete. Point of sale does
22 not include a transfer described under section 3 of the seller
23 disclosure act, 1993 PA 92, MCL 565.953.

24 (t) "Proprietary product" means a treatment or distribution
25 product held under patent or trademark that significantly
26 contributes to the treatment, performance, and attainment of
27 effluent quality or dispersal objectives.

28 (u) "Registered inspector" means an individual who is
29 qualified to conduct onsite wastewater treatment system inspections

1 and registered under section 12823.

2 (v) "Sanitary sewage" means water and contaminants discharged
3 from sanitary conveniences, including bathroom, kitchen, and
4 household laundry fixtures of dwellings, office buildings,
5 industrial plants, commercial buildings, and institutions.

6 (w) "Statewide code" means the rules promulgated under section
7 12817 providing for the management of onsite wastewater treatment
8 systems.

9 (x) "Technical advisory committee" means the technical
10 advisory committee established by the department under section
11 12815.

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

14 Sec. 12803. The department shall authorize a local health
15 department to administer this part for conventional systems if the
16 local health department does all of the following:

17 (a) Adopts regulations consistent with this part for the
18 purpose of carrying out the responsibilities of this part and the
19 statewide 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.

27 (iv) Provide an administrative review for any person affected
28 by an order, decision, or notice issued by the local health
29 department. The results of the administrative review must be

1 provided to the department, if requested.

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

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

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

14 (iii) Demonstrate competency and understanding of local sanitary
15 regulations, criteria for subsurface sewage disposal provided in
16 state law and rules, and the land division act, 1967 PA 288, MCL
17 560.101 to 560.293.

18 (iv) Demonstrate competency and understanding of the Michigan
19 local public health accreditation program, accreditation
20 indicators, and all minimum program requirements pertaining to
21 onsite wastewater treatment systems.

22 (v) Conduct a minimum of 10 supervised field evaluations of
23 onsite wastewater system designs and 10 supervised final
24 inspections with senior staff or a supervisor.

25 (vi) Conduct a minimum of 5 solo field evaluations of onsite
26 wastewater system designs and 5 solo final inspections
27 demonstrating understanding of the onsite wastewater treatment
28 program as determined by senior staff or a supervisor.

29 (vii) Attend and observe a minimum of 2 complete onsite

1 wastewater system installations from beginning to end.

2 (c) Adopts local health department regulations that, at a
3 minimum, provide protection for public health and the environment
4 equivalent to this part and submit its regulations to the
5 department for review and approval.

6 Sec. 12805. (1) The department shall authorize a local health
7 department to administer this part for alternative systems if the
8 local health department does both of the following:

9 (a) Meets the requirements of section 12803.

10 (b) Adopts regulations consistent with this part for the
11 purpose of carrying out the responsibilities of this part,
12 including authority to do all of the following:

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

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

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

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 an authorized local health
27 department or the department, subject to any permit required under
28 part 31 or 41 of the natural resources and environmental protection
29 act, 1994 PA 451, MCL 324.3101 to 324.3134 and 324.4101 to

1 324.4113.

2 (2) A person shall obtain a construction permit for an onsite
3 wastewater treatment system from an authorized local health
4 department in compliance with this part. If the local health
5 department with jurisdiction over the property is not authorized to
6 administer this part, the department is responsible for issuing the
7 construction permit.

8 (3) A local unit of government shall not issue a building
9 permit for a residence or facility that will be served by an onsite
10 wastewater treatment system unless a construction permit for the
11 onsite wastewater treatment system has been obtained under this
12 part.

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

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

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

21 (ii) Utilizes a nonproprietary technology in accordance with
22 the recommended standards and guidance provided by the department
23 in accordance with the statewide code.

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

27 (2) Beginning on the effective date of the amendatory act that
28 added this part, an alternative system must be inspected by the
29 department, authorized local health department, or registered

1 inspector at least once every 5 years unless otherwise provided in
2 the statewide code.

3 Sec. 12811. (1) Beginning January 1, 2026, a person shall not
4 install, construct, alter, or repair a proprietary product unless
5 that product has been registered for use in this state by the
6 department and a construction permit is obtained under section
7 12807.

8 (2) A person may apply for registration of a proprietary
9 product under subsection (1) by submitting an application on a form
10 and in a manner prescribed by the department. The department may
11 charge a fee of \$3,000.00 to cover its costs in reviewing
12 applications for registration under this section. Money received by
13 the department must be forwarded to the state treasurer for deposit
14 into the fund. Within 30 days after receipt of an application and
15 fee, the department shall review the application and determine
16 whether it is administratively complete. Within 60 days after
17 receipt of an administratively complete application, the department
18 shall approve or deny the registration and notify the applicant in
19 writing. In approving and registering for use a proprietary product
20 in this state, the department shall consider the recommended
21 standards and guidance provided to the department by the technical
22 advisory committee. A registration under this section is valid for
23 5 years. A registration may be renewed. However, there is no fee
24 for a renewal.

25 (3) The department may deny, suspend, or revoke a registration
26 under this section following a contested case hearing pursuant to
27 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
28 to 24.328, if the department finds any of the following:

29 (a) The registration was obtained or attempted to be obtained

1 through misrepresentation or fraud.

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

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

6 (d) Field reviews determine that the proprietary product does
7 not function or perform as designed.

8 Sec. 12813. The department shall develop recommended standards
9 and guidance to assist local health departments in permitting
10 different types of onsite wastewater treatment systems, including
11 the following 3 categories:

12 (a) Nonproprietary technologies such as sand filters.

13 (b) Proprietary products such as aerobic treatment systems and
14 packed bed filters.

15 (c) Proprietary products such as subsurface dripline products
16 or gravelless distribution products.

17 Sec. 12818. A person that knowingly submits to the department
18 or local health department information related to an onsite
19 wastewater treatment system that is false, incorrect, misleading,
20 or fabricated is guilty of a misdemeanor punishable by a fine of
21 not more than \$10,000.00 for each violation and imprisonment for
22 not more than 1 year, or both.

23 Sec. 12821. (1) Beginning on the effective date of the
24 amendatory act that added this part, the owner of an onsite
25 wastewater treatment system shall arrange for an onsite wastewater
26 treatment system inspection to be conducted in accordance with
27 subsection (2) at least once every 5 years or if any of the
28 following occur:

29 (a) A complaint is filed with the local health department or

1 the department based on a suspected failure of the system and the
2 local health department or the department determines that there is
3 reasonable cause to require an inspection to be conducted.

4 (b) A change in use is proposed that increases use of an
5 existing onsite wastewater treatment system.

6 (c) The owner of the property on which a system is located
7 applies for a building permit for construction of a structure or an
8 addition to a structure.

9 (2) An onsite wastewater treatment system inspection required
10 under subsection (1) must be conducted by the department,
11 authorized local health department, or registered inspector. The
12 owner of the system may have the septic tank pumped out not more
13 than 30 days before an onsite wastewater treatment system
14 inspection is conducted under this section. The individual
15 conducting the onsite wastewater treatment system inspection shall
16 do all of the following:

17 (a) Identify the size and condition of the septic tank or
18 tanks.

19 (b) Before conducting any pumping, document the level of
20 effluent in the septic tank or tanks.

21 (c) Pump out the septic tank or tanks, unless the owner of the
22 system had the septic tank or tanks pumped out before the onsite
23 wastewater treatment system inspection in accordance with this
24 subsection.

25 (d) Verify that all sanitary sewage-related plumbing fixtures
26 are connected to the septic tank or tanks.

27 (e) Locate, expose, open, and inspect the septic tank or tanks
28 and pumping chambers associated with the system.

29 (f) Inspect the enhanced treatment unit that exists as part of

1 an alternative system, if applicable.

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

4 (h) Observe the general area that includes the treatment and
5 dispersal system for evidence of system failure or other factors
6 that may influence proper operation.

7 (i) Inspect for an illicit discharge to the surface of the
8 ground, surface water, or drain.

9 (j) Document evidence of a failure of the onsite wastewater
10 treatment system and whether the failure is causing an imminent
11 danger.

12 (k) Prepare an inspection report of the information gathered
13 under this subsection.

14 (3) Within 21 days after the onsite wastewater treatment
15 system inspection is completed, the individual conducting the
16 inspection shall do both of the following:

17 (a) Prepare an inspection report that details the findings of
18 the onsite wastewater treatment system inspection.

19 (b) Provide a written or electronic copy of the inspection
20 report to the owner of the onsite wastewater treatment system and
21 to the authorized local health department or the department.

22 (4) If an inspection report under subsection (3) identifies
23 the need for the tank or tanks to be pumped, the owner of the
24 onsite wastewater treatment system shall have the system pumped by
25 a septage waste hauler licensed under part 117 of the natural
26 resources and environmental protection act, 1994 PA 451, MCL
27 324.11701 to 324.11721, within 30 days after the inspection report
28 is received under subsection (3).

29 (5) If an inspection report under subsection (3) identifies

1 evidence of failure causing an imminent public health hazard, the
2 owner of the onsite wastewater treatment system shall remedy the
3 failure within 6 months after the inspection report is received
4 under subsection (3) and as directed by the authorized local health
5 department or the department. An owner that violates this
6 subsection is subject to a civil fine of not more than \$1,000.00
7 for each 30-day period that the onsite wastewater treatment system
8 remains in failure. The prosecutor of the county in which the
9 violation occurred or the attorney general may bring an action to
10 collect the fine.

11 (6) An onsite wastewater system inspection that is conducted
12 under this section is valid for a 5-year period as long as there is
13 no change to the use of the onsite wastewater treatment system or a
14 failure of the system during that period.

15 (7) The department or an authorized local health department
16 shall charge a reasonable fee not to exceed the costs of conducting
17 an onsite wastewater treatment system inspection.

18 (8) In addition to the fee charged for conducting an onsite
19 treatment system inspection under subsection (7), the department,
20 authorized local health department, or registered inspector, as
21 applicable, shall charge an additional \$25.00 state administrative
22 fee. State administrative fees must be forwarded to the department
23 on an annual basis by October 1 of every year. The department shall
24 forward all fees it receives under this section to the state
25 treasurer for deposit into the fund.

26 Sec. 12823. (1) Beginning January 1, 2026, an onsite
27 wastewater treatment system inspection under this part shall be
28 conducted only by the department, registered inspector, or
29 qualified local health department staff. To qualify as a registered

1 inspector or to conduct an onsite wastewater treatment system
2 inspection, an individual shall meet the educational and training
3 requirements established in the statewide code.

4 (2) Subject to subsection (3), to apply to become a registered
5 inspector, an individual shall submit an application on a form and
6 in a manner prescribed by the department. The department may charge
7 a \$180.00 application fee to cover the department's costs under
8 this section. An application fee collected under this section must
9 be forwarded to the state treasurer for deposit into the fund.

10 (3) If an organization or authorized local health department
11 has a program to qualify inspectors of onsite wastewater treatment
12 systems, the department may, upon review of the program, approve
13 the program and accept those inspectors as meeting the registration
14 requirements under this section. An individual registered under
15 this subsection shall thereafter meet department requirements as
16 specified in the statewide code and pay the application fee.

17 (4) The department shall review the registrations under this
18 section once every 3 years and renew a registration for any
19 individual who continues to meet the requirements under this
20 section.

21 (5) A registration under this section may be denied,
22 suspended, or revoked following a contested case hearing as
23 provided in the administrative procedures act of 1969, 1969 PA 306,
24 MCL 24.201 to 24.328, for any of the following reasons:

25 (a) The use of fraud or deceit in obtaining or renewing
26 registration.

27 (b) Any act of gross negligence, incompetence, or misconduct
28 in conducting or reporting on an onsite wastewater treatment system
29 inspection.

1 (c) Failure to satisfactorily complete continuing education
2 requirements.

3 (d) Submission of an inspection report that knowingly is based
4 upon false, incorrect, misleading, or fabricated information.

5 (e) Failure to pay required fees.

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

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

13 (2) The department shall make available and maintain an onsite
14 wastewater treatment system electronic database for recording and
15 tracking the results of onsite wastewater treatment system
16 inspections. When the onsite wastewater treatment system electronic
17 database is available, the department may require the person
18 conducting the onsite wastewater treatment system inspection to
19 electronically enter the report information into the database in
20 lieu of the written report. The database must not include personal
21 information related to the owner of an onsite wastewater treatment
22 system.

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

1 qualified person.

2 Sec. 12831. (1) A local unit of government, county, or local
3 health department shall not adopt a point of sale ordinance related
4 to onsite wastewater treatment.

5 (2) If a local unit of government or local health department
6 has already adopted a point of sale ordinance to require
7 inspections of onsite wastewater treatment systems, the point of
8 sale ordinance must be phased out or repealed within 1 year after
9 the effective date of the amendatory act that added this part.

10 (3) If a county has already adopted a point of sale ordinance
11 to require inspections of onsite wastewater treatment systems, the
12 point of sale ordinance must be phased out or repealed within 7
13 years after the effective date of the amendatory act that added
14 this part.

15 (4) As used in this section, "local unit of government" means
16 a township, city, or village in this state.

17 Sec. 12833. The department, under part 41 of the natural
18 resources and environmental protection act, 1994 PA 451, MCL
19 324.4101 to 324.4113, and this act, and local health departments
20 under this act, have exclusive jurisdiction over the regulation,
21 permitting, and inspection of onsite wastewater treatment systems.

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

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. 300 of the 102nd Legislature is enacted into
26 law.