

DRAFT 1
SUBSTITUTE FOR
SENATE BILL NO. 299

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

7 (b) "Acceptable innovative ~~or alternative~~ waste treatment



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

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

22 (d) "Department" means the department of environment, Great
 23 Lakes, and energy.

24 (e) "Holding tank" means a system that utilizes all of the
 25 following to collect sanitary sewage:

26 (i) A septic tank with no outlet and that does not allow
 27 clarified liquid effluent to discharge for additional treatment by
 28 a soil dispersal system.

29 (ii) The services of a person engaged in septage waste



1 servicing.

2 (iii) Offsite disposal treatment at approved locations in
3 accordance with part 117 of the natural resources and environmental
4 protection act, 1994 PA 451, MCL 324.11701 to 324.11721.

5 (f) ~~(d)~~—"Person" means a person as defined in section 1106 or
6 a governmental entity.

7 (g) "Premises" means a physical property or tract of land and
8 any component parts, such as buildings, dwellings or fixtures
9 attached to it, grounds, or easements.

10 (h) ~~(e)~~—"Public sanitary sewer system" means a sanitary sewer
11 or a combined sanitary and storm sewer used or intended for use by
12 the public for the collection and transportation of sanitary sewage
13 for treatment or disposal.

14 (i) ~~(f)~~—"Structure in which sanitary sewage originates" or
15 "structure" means a building in which toilet, kitchen, laundry,
16 bathing, or other facilities ~~which~~ **that** generate water-carried
17 sanitary sewage are used or ~~are~~ available for use for household,
18 commercial, industrial, or other purposes.

19 (j) "Violation notice" means a written notice or formal
20 enforcement action by the department or local health department in
21 response to a violation of part 127 or part 128.

22 Sec. 12752. (1) Public sanitary sewer systems are essential to
23 the health, safety, and welfare of the people of ~~the~~ **this** state.
24 ~~Septic tank disposal~~ **Onsite wastewater treatment** systems are
25 ~~subject to failure due to soil conditions or other reasons. Failure~~
26 **recognized as a cost-effective, long-term option for meeting public**
27 **health and water quality goals when the onsite wastewater treatment**
28 **system is properly managed. When an onsite wastewater treatment**
29 **system is not properly managed, failure or potential failure of**



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

11 (2) **Onsite wastewater treatment systems and premises or**
 12 **structures with wastewater-generating fixtures that are not**
 13 **connected to a public sanitary sewer system are subject to**
 14 **regulation under part 128. Local health departments shall implement**
 15 **and enforce this part and any rules promulgated under this part,**
 16 **except sections 12753, 12754, and 12756, unless otherwise**
 17 **delegated, and part 128 and rules promulgated under that part under**
 18 **any applicable provisions of this act.**

19 (3) The department or a local health department may inspect,
 20 evaluate, investigate, or authorize an inspection, evaluation, or
 21 investigation to be made, to assure compliance with this part and
 22 part 128. The right for a local health department to inspect or
 23 investigate, as provided under section 2446, applies to the
 24 department and a local health department when utilized in this part
 25 and part 128. The rights and responsibilities pertaining to the
 26 department of health and human services obtaining a warrant, as
 27 provided under sections 2241 to 2247, also apply to either the
 28 department or a local health department when utilized in this part
 29 and part 128. At any reasonable time, an authorized representative



1 of the department or local health department may enter on private
2 or public property for the purpose of inspecting and investigating
3 conditions or practices that may be in violation of this part or
4 part 128. An investigation or inspection under this subsection must
5 comply with the United States Constitution and the state
6 constitution of 1963. Failure to comply with requests to inspect or
7 investigate is subject to a violation notice issued by the
8 department and further enforcement action, including, when
9 necessary, referral to the department of attorney general. The
10 department or a local health department may collect reasonable fees
11 as authorized by section 2444 for services associated with
12 administering an onsite wastewater treatment program.

13 (4) The public education and training fund is created as a
14 revolving fund within the department of treasury. The public
15 education and training fund must be administered by the department
16 and funded by adding a \$5.00 public education and training fund fee
17 to the application fees collected under subsection (3). Public
18 education and training fund fees collected under this subsection
19 must be forwarded to the department quarterly. The money in the
20 public education and training fund must be used to provide both of
21 the following:

22 (a) Public education and outreach regarding onsite wastewater
23 treatment systems.

24 (b) Training to local health departments, evaluators, the
25 department, and agents of the department. Money that remains in the
26 public education and training fund at the end of the fiscal year
27 carries forward into the next fiscal year.

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



1 part 128:

2 (a) A premises or structure.

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

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

5 (d) An onsite wastewater treatment system.

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

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



1 **local health department** in which the structure ~~lies.~~ **is located.**
 2 The department shall maintain a record of ~~approved alternative~~
 3 ~~systems~~ **an approved acceptable innovative waste treatment system**
 4 and ~~their~~ **its** maintenance and operation.

5 (2) The department ~~, after consultation with the state~~
 6 ~~plumbing board,~~ shall ~~adopt guidelines~~ **promulgate rules under**
 7 **section 12817** to assist local health departments in determining
 8 what are acceptable alternative greywater systems and what are
 9 acceptable innovative ~~or alternative~~ waste treatment systems. The
 10 department shall advise local health departments regarding the
 11 appropriate installation and use of acceptable innovative ~~or~~
 12 ~~alternative~~ waste treatment systems and acceptable innovative ~~or~~
 13 ~~alternative~~ waste treatment systems in combination with acceptable
 14 alternative greywater systems.

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

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

27 (5) An owner ~~who~~ **of a structure that uses an acceptable**
 28 **innovative wastewater treatment system that** does not connect to an
 29 available public sanitary sewer system ~~pursuant to~~ **under** subsection



1 (4) ~~, shall~~ **is** not ~~be~~ required to pay **a** connection or user ~~fees~~ **fee**
 2 to a local unit of government except ~~these~~ **a** connection or user
 3 ~~fees which are~~ **fee that is** allocated for financing ~~of the~~
 4 construction of an available public sanitary sewer system. ~~In lieu~~
 5 **Instead** of **a** connection or user ~~fees~~ **fee**, an owner may be required
 6 by the local unit of government to pay a sewer availability fee if
 7 that fee is ~~to be~~ used for the purpose of paying a proportionate
 8 share of financing the construction of an existing available public
 9 sanitary sewer system. The exemption from **the payment of a**
 10 connection or user ~~fees~~ **fee** under this subsection ~~shall~~ **does** not
 11 apply to an owner connected to an available public sanitary sewer
 12 system on ~~the effective date of this act.~~ **or before March 31, 1981.**

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

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

24 (2) ~~The~~ **Except as otherwise provided in this subsection, the**
 25 department shall promulgate rules governing the construction and
 26 maintenance of outhouses to safeguard the public health and ~~to~~
 27 prevent the spread of disease and the existence of sources of
 28 contamination. **The statewide sewage code promulgated under section**
 29 **12817 supersedes administrative rules promulgated under this**



1 subsection, as applicable.

2 (3) A person ~~who~~**that** violates this section is guilty of a
3 misdemeanor. An outhouse not constructed or maintained as required
4 by this section or the rules promulgated ~~pursuant to~~**in accordance**
5 **with** this section ~~shall be~~**is considered** a public nuisance.

6 (4) As used in this section, "outhouse" means a building or
7 other structure not connected ~~with~~**to** a sewer system or ~~with~~**a**
8 properly installed and operated ~~sewage disposal~~**soil dispersal**
9 system, and which is used for the reception, disposition, or
10 storage, either temporarily or permanently, of feces or other
11 excreta from the 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 a construction
20 permit and any required operating permits have been issued by the
21 department or a local health department having jurisdiction and an
22 inspection has found the system to be in compliance with all
23 required permits.

24 (c) "Authorized local health department" means a local health
25 department authorized by the department to administer this part and
26 part 127 pursuant to section 12803 for conventional systems and
27 section 12805 for alternative systems.

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) "Change in use or an increase in use" means a new or
3 increased use of the groundwater of this state for disposal of
4 sanitary sewage through an onsite wastewater treatment system,
5 including 1 or more of the following:

6 (i) Connection of a new structure to an existing onsite
7 wastewater treatment system.

8 (ii) Increase in use of the structure resulting in an increased
9 sanitary sewage flow rate that exceeds the system design capacity.

10 (iii) Change in the use type, including residential to
11 nonresidential.

12 (iv) Increase in the wastewater effluent strength.

13 (v) Any other change or increase in use that may affect the
14 ability of the onsite wastewater treatment system to function as
15 intended or perform as designed.

16 (f) "Construction permit" means a permit to install,
17 construct, alter, or repair an onsite wastewater treatment system.

18 (g) "Conventional system" means a category of onsite
19 wastewater treatment system that contains a watertight septic tank
20 and soil dispersal system that depends solely on subsurface soil
21 for treatment and dispersal and does not include any components of
22 an approved alternative technology.

23 (h) "Department" means the department of environment, Great
24 Lakes, and energy.

25 (i) "Effluent" means liquid flowing out of a component or
26 device.

27 (j) "Elements of a nonconforming system" means the presence of
28 1 or more of the following that may, as determined by an authorized
29 local health department, lead to a failure or improper functioning



1 of the onsite wastewater treatment system:

2 (i) Evidence of compaction or settling in the area of the
3 onsite wastewater treatment system that limits drainage in the area
4 of the system on the parcel, and rain and snow melt cannot
5 percolate through the system.

6 (ii) The soil dispersal system is hydraulically saturated.

7 (iii) Evidence of missing or damaged appurtenances of the onsite
8 wastewater treatment system.

9 (iv) Excessive biomatting is noted in 2 or more core samples
10 performed across the soil dispersal system indicating that the soil
11 is no longer accepting effluent at a sufficient rate of
12 infiltration.

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

15 (vi) The system includes a proprietary product or
16 nonproprietary technology that meets the definition of an
17 alternative system but that was not included in the construction
18 permit.

19 (vii) The system is located too close to a drinking water
20 supply well or surface waters.

21 (viii) The system has insufficient soil depth below the soil
22 dispersal system to provide adequate wastewater treatment before
23 dispersal to the groundwater.

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

27 (k) "Evaluator" means an individual registered under section
28 12823.

29 (l) "Experimental onsite wastewater treatment system" means a



1 class of alternative onsite wastewater treatment system that is in
2 experimental use and requires further testing in order to provide
3 sufficient information to determine its acceptability.

4 (m) "Failure" means a malfunction or condition of an onsite
5 wastewater treatment system consisting of 1 or more of the
6 following, as determined by an authorized local health department:

7 (i) A discharge of sanitary sewage to the surface of the
8 ground.

9 (ii) A discharge of sanitary sewage or effluent into surface
10 water, storm drains, or directly into groundwater.

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

14 (iv) A structural failure or leaking of a septic tank or tanks
15 or other associated components and appurtenances.

16 (v) A discharge of treated wastewater that does not comply
17 with applicable standards established in the statewide sewage code.

18 (vi) An illicit connection or illicit discharge.

19 (vii) An absence of all or a key part of an onsite wastewater
20 treatment system, as determined in accordance with the statewide
21 sewage code.

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

24 (ix) The inability to access key parts of the onsite wastewater
25 treatment system.

26 (x) The authorized local health department determines that the
27 elements of a nonconforming system contribute to the overall
28 failure of the onsite wastewater treatment system in accordance
29 with the statewide sewage code.



1 (n) "Fund" means the onsite wastewater treatment system
2 administration fund created in section 12829.

3 (o) "Groundwater" means water in the ground that is in the
4 zone of saturation.

5 (p) "Illicit connection" means a physical, constructed
6 connection that allows the bypassing of required treatment by an
7 onsite wastewater treatment system in violation of law.

8 (q) "Illicit discharge" means any direct or indirect discharge
9 of sanitary sewage in violation of law.

10 (r) "Imminent danger" means a condition or practice that could
11 reasonably be expected to cause death, disease, or serious physical
12 harm immediately or before the imminence of the danger can be
13 eliminated through enforcement procedures.

14 (s) "Maintenance" means routine or periodic action taken to
15 ensure proper system performance, extend system longevity, and
16 ensure a system meets performance requirements as designed,
17 including servicing the system through cleaning, septic tank
18 pumping, effluent filter cleaning or replacements, flushing
19 laterals, vegetation removal, effluent sampling if applicable,
20 adjustments to subcomponents, and other actions as recommended by a
21 product manufacturer and in accordance with the statewide sewage
22 code.

23 (t) "Management" means the siting, design, construction,
24 installation, inspection, operation, maintenance, alteration,
25 evaluation, rejuvenation, closure, and repair of onsite wastewater
26 treatment systems to ensure that onsite wastewater treatment
27 systems meet required performance standards established in the
28 statewide sewage code and are protective of public health and the
29 environment.



1 (u) "Minor repair" means the act of fixing or replacing
2 substandard or damaged subcomponents, such as septic tank access
3 lids, safety devices, risers, septic tank outlet baffle or outlet
4 devices, switches, solid piping located outside the soil dispersal
5 system, pumps, valves, and other subcomponents as determined in
6 accordance with the statewide sewage code.

7 (v) "Nonproprietary technology" means a wastewater treatment
8 or distribution technology, method, or product not subject to a
9 patent or trademark.

10 (w) "Onsite wastewater treatment system" or "system" means a
11 system of components and appurtenances used, or intended to be
12 used, to collect, hold, and treat less than 10,000 gallons per day
13 of sanitary sewage through 1 of the following methods:

14 (i) Subsurface discharge to a soil dispersal system.

15 (ii) Subsurface discharge to another system meeting the
16 requirements of the statewide sewage code.

17 (iii) A holding tank, outhouse, innovative system, or other
18 component that collects and stores sanitary sewage until being
19 transported to an approved location for the necessary final
20 dispersal or final treatment.

21 (x) "Onsite wastewater treatment system evaluation" or
22 "evaluation" means an assessment of the sanitary sewage handling
23 methods where a premises or structure is not connected to a public
24 sanitary sewer system or an evaluation of an onsite wastewater
25 treatment system conducted under section 12821.

26 (y) "Operating level" means the elevation of effluent in a
27 tank. For a septic tank, operating level is determined by the
28 invert of the outlet piping.

29 (z) "Operating permit" means a renewable and revocable permit,



1 if required, to operate and maintain an onsite wastewater treatment
2 system in compliance with specific operational or performance
3 requirements.

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

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

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

15 (dd) "Public sanitary sewer system" means that term as defined
16 in section 12751 that is operated by a local unit of government.

17 (ee) "Sanitary sewage" means treated or untreated waste that
18 contains 1 or more of the following:

19 (i) Feces or other excreta from the human body.

20 (ii) Waste generated as a result of food service establishment
21 activities.

22 (iii) Waste generated from sanitary conveniences, including, but
23 not limited to, toilets, urinals, sinks, showers, bathtubs,
24 dishwashers, garbage grinders, and household laundry fixtures
25 available for use associated with office, industrial, commercial,
26 recreational, institutional, or other purposes.

27 (iv) Additional domestic flow generated as part of a household
28 activity.

29 (ff) Sanitary sewage does not include roof runoff, building



1 footing drain, wastes from industrial or commercial processes, and
2 stormwater.

3 (gg) "Septic tank" means a watertight, covered receptacle for
4 collection and treatment of sanitary sewage that does all of the
5 following:

6 (i) Receives the discharge of sanitary sewage.

7 (ii) Separates settleable and floating solids from the liquid.

8 (iii) Digests organic matter by anaerobic bacterial action.

9 (iv) Stores digested solids through a period of detention.

10 (v) Allows clarified liquid effluent to discharge for
11 additional treatment by components and appurtenances, such as a
12 soil dispersal system.

13 (vi) Attenuates flows.

14 (hh) "Soil dispersal system" means a method in which septic
15 tank effluent or treated effluent is distributed by a network of
16 piping or other approved material to an approved method of
17 subsurface dispersal.

18 (ii) "Statewide sewage code" means the rules promulgated under
19 section 12817 providing for the management of onsite wastewater
20 treatment systems.

21 (jj) "Structure in which sanitary sewage originates" or
22 "structure" means a building in which toilet, kitchen, laundry,
23 bathing, or other facilities that generate water-carried sanitary
24 sewage are used or are available for use for household, commercial,
25 industrial, or other purposes.

26 (kk) "Surface water" means that term as defined in section
27 3112a of the natural resources and environmental protection act,
28 1994 PA 451, MCL 324.3112a.

29 (ll) "Technical advisory committee" means the technical



1 advisory committee established by the department under section
2 12815.

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

5 Sec. 12803. (1) Within 180 days after the department
6 promulgates rules under section 12817, a local health department
7 shall create a plan to implement and administer this part for the
8 management of conventional systems and submit the plan to the
9 department for authorization. Within 120 days after the local
10 health department submits the plan to the department, the
11 department shall review the plan to ensure it conforms to the
12 requirements in the statewide sewage code and provide corrective
13 guidance as necessary, and authorize the local health department to
14 administer this part for conventional systems. Within 1 year after
15 the department promulgates rules under section 12817, the local
16 health department shall implement the approved plan to administer
17 this part for conventional systems. The local health department
18 shall do all of the following:

19 (a) Follow the standards established under this part, in
20 accordance with section 2441, for the purpose of carrying out the
21 responsibilities of this part and the statewide sewage code,
22 including authority to do all of the following:

23 (i) Conduct preconstruction site evaluations, issue
24 construction permits, ensure installations are performed by
25 qualified individuals as specified in rules promulgated under
26 section 12817, and perform interim inspections during construction
27 and final inspections on completion of construction, if required.

28 (ii) Issue notices and penalties to persons that violate this
29 part, part 127, or the rules promulgated under this part or part



1 127, or endanger public health or the environment.

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

4 (iv) Ensure long-term maintenance of onsite wastewater
5 treatment systems through construction permit requirements or the
6 issuance of operating permits, if applicable, for the management of
7 an onsite wastewater treatment system as described in rules
8 promulgated under section 12817.

9 (v) Conduct evaluations under section 12821, as applicable.

10 (b) Maintain qualified staff to administer a conventional
11 onsite wastewater treatment system program. Except as otherwise
12 provided under subsection (2), a staff member shall meet the
13 following minimum educational and training requirements to work
14 independently in an onsite wastewater treatment system program:

15 (i) One of the following:

16 (A) Possess a minimum of a 4-year bachelor of science or arts
17 degree with a major in environmental health, chemistry, biology,
18 geology, engineering, or an equivalent degree.

19 (B) Meets the educational eligibility requirements for the
20 registered environmental health specialist or registered sanitarian
21 credential exam.

22 (ii) Obtain a minimum of 8 hours of training that includes a
23 minimum of 4 hours of field training on the United States
24 Department of Agriculture soil classification system from the
25 department or another entity approved by the department.

26 (iii) Demonstrate competency and understanding of the statewide
27 sewage code, criteria for onsite wastewater treatment systems
28 provided in state law and rules, or any successor state law and
29 rules, the land division act, 1967 PA 288, MCL 560.101 to 560.293,



1 and the condominium act, 1978 PA 59, MCL 559.101 to 559.276.

2 (iv) Conduct a minimum of 10 supervised preconstruction field
3 or site evaluations of conventional onsite wastewater system
4 designs and 10 supervised final inspections with senior staff or a
5 supervisor.

6 (v) Conduct a minimum of 5 solo preconstruction field
7 evaluations of onsite wastewater system designs and 5 solo final
8 inspections demonstrating understanding of the conventional onsite
9 wastewater treatment program as determined by senior staff or a
10 supervisor.

11 (vi) Attend and observe a minimum of 2 complete onsite
12 wastewater system installations.

13 (2) The following individuals are exempt from the requirements
14 of subsection (1) (b):

15 (a) A staff member of an authorized local health department
16 that has worked independently in an onsite wastewater treatment
17 system program for at least 3 years before the effective date of
18 the rules promulgated by the department under section 12817 and has
19 demonstrated competency and knowledge of onsite wastewater
20 treatment systems.

21 (b) A staff member that has limited duties within the onsite
22 wastewater treatment system program, has demonstrated competency
23 and knowledge, and is overseen by a sanitarian in accordance with
24 the rules promulgated under section 12817. As used in this
25 subdivision, "sanitarian" means that term as defined in section
26 18401.

27 Sec. 12805. (1) Within 180 days after the department
28 promulgates rules under section 12817, a local health department
29 shall create a plan to implement and administer this part for the



1 management of alternative systems and submit the plan to the
2 department for authorization. Within 120 days after the local
3 health department submits the plan to the department, the
4 department shall review the plan to ensure it conforms to the
5 requirements in the statewide sewage code and provide corrective
6 guidance as necessary, and authorize the local health department to
7 administer this part for alternative systems. Within 2 years after
8 the department promulgates rules under section 12817, the local
9 health department shall implement the approved plan to administer
10 this part for alternative systems. The local health department
11 shall do all of the following:

12 (a) Meet the requirements of section 12803.

13 (b) Follow the standards established under this part, in
14 accordance with section 2441, for the purpose of carrying out the
15 responsibilities of this part, including authority to do all of the
16 following:

17 (i) Review, evaluate, approve, or reject applications, plans,
18 and specifications to alter, install, repair, or replace
19 alternative systems.

20 (ii) Issue construction permits authorizing the installation of
21 alternative systems in accordance with section 12807.

22 (iii) Ensure long-term maintenance of alternative systems
23 through the issuance of operating permits after an operation and
24 maintenance evaluation determines compliance.

25 (2) Existing local health department regulations or guidance
26 for a particular type of alternative system remains in effect until
27 minimum standards and guidance for that type of system are
28 developed by the department in accordance with section 12813.

29 (3) An authorized local health department that administers an



1 alternative system construction and operating permitting program
2 within its jurisdiction shall issue a construction permit for the
3 installation of an alternative system if all of the following
4 conditions are met:

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

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

8 (ii) Utilizes nonproprietary technology in accordance with the
9 standards and guidance provided by the department in accordance
10 with the statewide sewage code.

11 (b) The soils, site conditions, and operating conditions at
12 the location are appropriate for the use of the alternative system
13 in compliance with the statewide sewage code.

14 (c) An acceptable management plan is developed and includes
15 operation and maintenance evaluations, in accordance with the
16 statewide sewage code.

17 Sec. 12807. (1) A person shall not install, construct, alter,
18 extend, repair, or replace an onsite wastewater treatment system
19 unless the person has received a construction permit from the
20 authorized local health department, and the department when
21 applicable, subject to any permit required under part 31 or 41 of
22 the natural resources and environmental protection act, 1994 PA
23 451, MCL 324.3101 to 324.3134 and 324.4101 to 324.4113. A person
24 does not need a construction permit under this section for a minor
25 repair to or to conduct maintenance on an onsite wastewater
26 treatment system that can be managed as described in the rules
27 promulgated under section 12817.

28 (2) A person shall obtain a construction permit for an onsite
29 wastewater treatment system from an authorized local health



1 department in compliance with this part and construct the system in
2 accordance with the statewide sewage code.

3 (3) A person that fails to obtain a construction permit or
4 comply with this part is subject to enforcement action by the local
5 health department under section 12827.

6 (4) A local unit of government shall not issue a building
7 permit for a structure, residence, or facility served by an onsite
8 wastewater treatment system unless 1 of the following is obtained
9 from the authorized local health department:

10 (a) A construction permit for the onsite wastewater treatment
11 system.

12 (b) An authorization for the continued use of the onsite
13 wastewater treatment system.

14 (c) An authorization for a change in use or an increase in use
15 of the existing onsite wastewater treatment system.

16 (5) A local unit of government shall not issue a certificate
17 of occupancy for a structure, residence, or facility served by an
18 onsite wastewater treatment system unless an approved final
19 inspection report has been issued by the authorized local health
20 department or an authorization was obtained under subsection (4) (b)
21 or (c).

22 (6) A local unit of government that issues a building permit
23 or certificate of occupancy without obtaining a permit or
24 authorization required under subsection (4) or an approved final
25 inspection report under subsection (5), as applicable, is subject
26 to an enforcement action by the department of licensing and
27 regulatory affairs.

28 Sec. 12811. (1) Subject to subsection (4), beginning 45 days
29 after the department promulgates rules under section 12817, a



1 person shall not install, construct, alter, or repair a proprietary
2 product unless that product is registered for use in this state by
3 the department and a construction permit is obtained under section
4 12807.

5 (2) Beginning 45 days after the department promulgates rules
6 under section 12817, a person may apply for registration of a
7 proprietary product under subsection (1) by submitting an
8 application on a form and in a manner prescribed by the department.
9 The department may charge a fee of \$3,000.00 to cover its costs in
10 reviewing applications for registration under this section. Money
11 received by the department must be forwarded to the state treasurer
12 for deposit into the fund. Within 30 days after receipt of an
13 application and fee, the department shall review the application
14 and determine whether it is administratively complete. Within 60
15 days after receipt of an administratively complete application, the
16 department shall approve or deny the registration and notify the
17 applicant in writing. In approving and registering for use a
18 proprietary product in this state, the department shall consider
19 the recommended standards and guidance provided by the technical
20 advisory committee. A registration under this section is specific
21 to a product model within a brand or manufacturer's line and is
22 valid for 5 years. A registration must be renewed in the same
23 manner as an initial registration under this subsection. Beginning
24 3 years after the effective date of the amendatory act that added
25 this section, and once every 3 years thereafter, the department
26 shall adjust the fee specified under this subsection by an amount
27 determined by the state treasurer at the end of the preceding
28 fiscal year to reflect the cumulative percentage change in the
29 Detroit Consumer Price Index, and rounded to the nearest \$100.00.



1 As used in this subsection, "Detroit Consumer Price Index" means
2 the most comprehensive index of consumer prices available for the
3 Detroit area from the Bureau of Labor Statistics of the United
4 States Department of Labor.

5 (3) The department may deny, suspend, or revoke a registration
6 under this section following a contested case hearing conducted in
7 accordance with the administrative procedures act of 1969, 1969 PA
8 306, MCL 24.201 to 24.328, if the department finds any of the
9 following:

10 (a) The registration was obtained or attempted to be obtained
11 through misrepresentation or fraud.

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

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

16 (d) Field reviews, conducted in accordance with the statewide
17 sewage code, determine that the proprietary product does not
18 function or perform as designed.

19 (e) The proprietary product fails to meet the requirements of
20 the statewide code.

21 (4) An owner of an onsite wastewater treatment system does not
22 need to register a proprietary product under this section if both
23 of the following conditions are met:

24 (a) The proprietary product was installed as part of the
25 construction of an approved onsite wastewater treatment system
26 before the effective date of this part.

27 (b) The authorized local health department determines the
28 continued use of the proprietary product can be managed in
29 accordance with the rules promulgated under section 12817.



1 (5) The requirements of this section apply to a person that
2 represents a proprietary product manufacturer that is applying for
3 registration of a proprietary product under subsection (1) before
4 an installation that occurs after the effective date of this part.

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

9 (a) Nonproprietary technologies such as sand filters.

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

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

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

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

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

23 Sec. 12821. (1) Beginning 45 days after the department
24 promulgates rules under section 12817 and subject to subsection
25 (12), the following individuals may begin arranging for an onsite
26 wastewater treatment system evaluation to be conducted in
27 accordance with the schedule established under subsection (2).

28 (a) An owner of a premises or structure that contains
29 wastewater-generating fixtures and that is not connected to a



1 public sanitary sewer system operated by a local unit of
2 government.

3 (b) An owner of a premises or structure in which sanitary
4 sewage originates, that does not contain wastewater-generating
5 fixtures, and that is not connected to a public sanitary sewer
6 system operated by a local unit of government.

7 (2) An onsite wastewater treatment system evaluation arranged
8 under subsection (1) must be conducted by an authorized local
9 health department or evaluator in accordance with the following
10 timeline:

11 (a) Not later than 5 years after the department promulgates
12 rules under section 12817, if the onsite wastewater treatment
13 system is 20 years old or older on or before the effective date of
14 the amendatory act that added this section, and 1 or both of the
15 following conditions exist:

16 (i) The onsite wastewater treatment system is installed within
17 500 feet of any surface water or within a high risk erosion area,
18 critical dune, or 100-year floodplain, as these terms are
19 determined by the department.

20 (ii) The department or local health department does not have a
21 record of a construction permit being issued for the installation
22 of an onsite wastewater treatment system.

23 (b) Before a change in use or an increase in use of the
24 existing onsite wastewater treatment system.

25 (c) Subject to requirements under section 12831 and the
26 statewide sewage code, at the point of sale.

27 (d) Any time, if the evaluation is arranged or allowed by the
28 real property owner of a premises or structure that is not
29 connected to a public sanitary sewer system.



1 (e) Any time in accordance with the statewide sewage code.

2 (f) Not later than 10 years after the department promulgates
3 rules under section 12817, if the onsite wastewater treatment
4 system is 40 years old or older, and an initial evaluation is not
5 conducted under subdivisions (a) to (e).

6 (g) Not later than 15 years after the department promulgates
7 rules under section 12817, if the onsite wastewater treatment
8 system is 30 years old, and an initial evaluation is not conducted
9 under subdivisions (a) through (f).

10 (h) Not later than 20 years after the department promulgates
11 rules under section 12817, if the onsite wastewater treatment
12 system is 20 years old, and an initial evaluation is not conducted
13 under subdivisions (a) to (g).

14 (3) Beginning on the effective date of rules promulgated by
15 the department under section 12817, an onsite wastewater treatment
16 system must be evaluated 20 years after the date of installation.
17 After the first evaluation is completed under subsection (2), an
18 onsite wastewater treatment system must be evaluated by an
19 authorized local health department or evaluator once every 10
20 years. An owner of a premises or structure not connected to a
21 public sanitary sewer that does not arrange for an evaluation under
22 subsection (2) is not excluded from the requirement to arrange for
23 an evaluation every 10 years as otherwise specified under this
24 subsection.

25 (4) An authorized local health department or evaluator shall
26 conduct an onsite wastewater treatment system evaluation not later
27 than 90 days after the owner of the system arranges for the
28 evaluation. An authorized local health department or evaluator may
29 work with individuals who are involved in the management of onsite



1 wastewater treatment systems, in accordance with rules promulgated
2 under section 12817, to complete an evaluation under this
3 subsection. The owner of the system shall not have the septic tank
4 or tanks pumped out within 45 days before an onsite wastewater
5 treatment system evaluation is arranged under this section. At the
6 onsite wastewater treatment system evaluation, the authorized local
7 health department or evaluator shall do all of the following:

8 (a) Identify the size, age, and visible condition of the
9 septic tank or tanks.

10 (b) Before conducting any pumping, document the level of
11 effluent, in relation to the operating level in the septic tank or
12 tanks.

13 (c) Document the level of scum and sludge by measuring the
14 vertical column depth of each layer of stratified septic tank
15 contents for each tank or compartment and arrange for the services
16 of a septage waste servicing business licensed under part 117 of
17 the natural resources and environmental protection act, 1994 PA
18 451, MCL 324.11701 to 324.11721, to pump out the septic tank or
19 tanks, or recommend to the authorized local health department that
20 the septic tank or tanks be pumped out, if 1 of the following
21 applies:

22 (i) The authorized local health department or evaluator that
23 conducts the onsite wastewater treatment system evaluation
24 determines that it is necessary to complete the evaluation.

25 (ii) The sludge and scum accumulations within the septic tank
26 or tanks exceed 30% of each individual tank's volume or are
27 encroaching on the inlet or outlet.

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



1 identify any sources of nonsanitary sewage-related connections to
2 the septic tank or tanks or the soil dispersal system that require
3 disconnection.

4 (e) Locate, expose, open, and assess the septic tank or tanks
5 and pumping chambers associated with the system. If the lid of any
6 septic tank or pumping chamber is greater than 12 inches below the
7 ground surface, the authorized local health department or evaluator
8 may require that the property owner uncover the lid or lids for
9 ease of access.

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

21 (g) To the extent reasonable, locate, determine the size of,
22 and observe the subsurface dispersal system to determine its
23 condition.

24 (h) Document the location in relation to the site of any
25 attributes including, but not limited to, drinking water wells,
26 surface water, and other setbacks as required by the statewide
27 sewage code.

28 (i) Observe or find information regarding the location of a
29 well, as that term is defined in section 12701, and assess the



1 approximate distance between the nearest well and the onsite
2 wastewater treatment system, if applicable.

3 (j) Observe the general area that includes the treatment and
4 dispersal system for evidence of system failure or elements of a
5 nonconforming system.

6 (k) Examine the premises for an illicit discharge to,
7 including, but not limited to, the surface of the ground, surface
8 water, groundwater, or drain.

9 (l) Document conditions observed, evidence of failure, and
10 elements of a nonconforming system.

11 (m) Assess and report the ponding level found in inspection or
12 observation ports located in the soil dispersal system. If
13 inspection or observation ports are not found, or do not penetrate
14 to the bottom of the soil dispersal system, collect at least 2 core
15 samples across the soil dispersal system.

16 (n) Estimate the current daily sanitary sewage flow, identify
17 structure use type, and identity and collect information on the
18 proposed new or increase in use.

19 (o) Complete any other evaluation criteria set by the
20 department in rules promulgated under section 12817.

21 (p) Prepare an evaluation report of the information gathered
22 under this subsection, including appropriate photographic
23 documentation taken at the evaluated premises.

24 (5) Not later than 14 days after the onsite wastewater
25 treatment system evaluation is completed, the authorized local
26 health department or evaluator that conducts the evaluation shall
27 do both of the following:

28 (a) Prepare an evaluation report that details the findings of
29 the onsite wastewater treatment system evaluation. An evaluation



1 report must be an objective and fact-based summary of conditions
2 observed on site at the time of the evaluation; must contain
3 information that follows standard report forms prescribed by the
4 department; and may contain recommendations to extend the life of
5 the onsite wastewater treatment system and prevent premature
6 failures of the system.

7 (b) Provide a printed or electronic copy of the evaluation
8 report to the owner of the onsite wastewater treatment system and
9 an electronic copy of the evaluation report to the authorized local
10 health department. An evaluation report must be provided under this
11 subsection even if the evaluation report is incomplete or the fee
12 provided for in subsection (12) or (13) was not paid.

13 (c) Provide a printed or electronic copy of the minimum
14 standards and criteria for conducting evaluations developed by the
15 department under section 12825(1).

16 (6) An evaluation completed by an evaluator is subject to
17 review by the authorized local health department. The authorized
18 local health department shall determine the need for pumping,
19 elements of a nonconforming system, determination of failure or
20 imminent danger, or resolution. Within 21 days after an evaluator
21 submits a report under subsection (5), the authorized local health
22 department must do all of the following:

23 (a) Based on the evaluation, determine the status of all of
24 the following:

25 (i) Whether the onsite wastewater treatment system is in
26 failure.

27 (ii) Whether elements of a nonconforming system are
28 contributing to an overall failure of the onsite wastewater
29 treatment system.



1 (iii) Whether elements of a nonconforming system are not
2 contributing to an overall failure and the onsite wastewater
3 treatment system meets a sufficient level of compliance and can be
4 managed in a manner to provide for the minimum level of protection
5 of public health and the environment to allow for continued use.

6 (iv) Whether the onsite wastewater treatment system meets a
7 sufficient level of compliance and can be managed to provide for
8 the minimum level of protection of public health and the
9 environment to allow for continued use.

10 (v) Whether the onsite wastewater treatment system is in
11 compliance with this part and the statewide sewage code.

12 (vi) Whether the evaluation report was unable to be completed
13 and the owner of premises or a structure not connected to public
14 sanitary sewer needs to take corrective actions to allow an
15 evaluator to complete an evaluation.

16 (b) Determine whether any corrective actions or management
17 steps must be taken by the owner of the onsite wastewater treatment
18 system to satisfy the requirements of the statewide sewage code and
19 this section.

20 (c) Determine whether the septic tank or tanks need to be
21 pumped and review the provided report for any pumping, to determine
22 if the relevant requirements of the statewide sewage code are
23 satisfied.

24 (d) Inform the owner of the onsite wastewater treatment system
25 of any determination made under subdivisions (a) to (c) and specify
26 an applicable time period for corrective actions to be completed.

27 (7) If the authorized local health department determines that
28 an evaluation report under subsection (5) identifies the need for
29 the septic tank or tanks to be pumped, the owner of the onsite



1 wastewater treatment system shall have the tank or tanks pumped by
2 a septage waste servicing business licensed under part 117 of the
3 natural resources and environmental protection act, 1994 PA 451,
4 MCL 324.11701 to 324.11721, not later than 60 days after the
5 evaluation report is received under subsection (5).

6 (8) Subject to subsection (10), if the owner of an onsite
7 wastewater treatment system or the owner of premises or structure
8 not connected to a public sanitary sewer fails to arrange for an
9 onsite wastewater treatment system evaluation, have the system
10 evaluated in accordance with the requirements of this section, or
11 fails to complete corrective actions identified under subsection
12 (6)(d), the owner is subject to the following:

13 (a) Beginning 60 days after the end of the applicable time
14 period under subsection (2), (3), or (6) and in the absence of good
15 cause shown by the owner under subsection (10), a civil fine of not
16 more than \$250.00 per month that the system remains unevaluated or
17 corrective actions remain incomplete.

18 (b) Beginning 1 year after the end of the applicable time
19 period and in the absence of good cause shown, a civil fine of not
20 more than \$500.00 per month that the system remains unevaluated or
21 corrective action remains incomplete, up to \$15,000.00 in total
22 civil fines under this subsection.

23 (9) Subject to subsection (10), if the authorized local health
24 department determines that an evaluation report under subsection
25 (5) identifies evidence of failure, the owner of the onsite
26 wastewater treatment system or the owner of the premises or
27 structure shall remedy the failure within 6 months after the
28 evaluation report is received under subsection (5) or within a time
29 period determined by the authorized local health department. An



1 owner that violates this subsection is subject to a civil fine of
2 not more than \$1,000.00 for each 30-day period that the failure
3 continues. The prosecutor of the county in which the violation
4 occurred or the attorney general may bring an action to collect the
5 fine and require remedy of the failure.

6 (10) The department may waive any fine authorized under
7 subsections (8) and (9) if the owner of the onsite wastewater
8 treatment system or the owner of the premises or structure not
9 connected to a public sanitary sewer demonstrates either of the
10 following occur:

11 (a) Income at or below 400% of the federal poverty level and
12 evidence that within 1 year the owner completed an evaluation under
13 this section or remedied any failure identified in the onsite
14 wastewater treatment evaluation under subsection (6).

15 (b) Good cause shown by the owner of the onsite wastewater
16 treatment system that payment of any fines under subsection (8) or
17 (9), or both, would pose significant financial stress on the owner
18 of the system and evidence that within 1 year the owner of the
19 system completed an evaluation under this section or remedied any
20 failure identified in the onsite wastewater treatment system
21 evaluation under subsection (6).

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

27 (12) An authorized local health department or evaluator may
28 charge a fee for conducting an onsite wastewater treatment system
29 evaluation. An authorized local health department may charge a



1 reasonable fee not to exceed the costs of conducting,
2 administering, and reviewing onsite wastewater treatment system
3 evaluations.

4 (13) In addition to the fee charged for conducting an onsite
5 treatment system evaluation under subsection (12), an authorized
6 local health department or evaluator, as applicable, shall charge
7 an additional \$50.00 state administrative fee. An evaluator shall
8 submit the administrative fee to the department at the same time an
9 evaluation report is submitted to the local health department under
10 subsection (5). State administrative fees collected by a local
11 health department must be forwarded to the department on a
12 quarterly basis.

13 (14) All state administrative fees and civil fines authorized
14 and collected under this section must be forwarded to the state
15 treasurer for deposit into the fund.

16 (15) Beginning 2 years after the first civil fine is imposed
17 under subsection (8)(a), the civil fine constitutes a lien on any
18 property owned by the owner of the onsite wastewater treatment
19 system. A lien under this subsection is effective and has priority
20 over all other liens and encumbrances except those filed or
21 recorded before the date of the judgment only if notice of the lien
22 is filed or recorded as required by state or federal law. A lien
23 filed or recorded under this subsection is terminated in accordance
24 with the procedures required by state or federal law not later than
25 14 days after the owner has the system evaluated and pays the civil
26 fine.

27 Sec. 12823. (1) To apply for a registration as an evaluator,
28 an individual shall meet the training requirements established in
29 the statewide sewage code and submit an application on a form and



1 in a manner prescribed by the department. The department may charge
2 a \$180.00 application fee to cover the department's costs under
3 this section. An application fee collected under this section must
4 be forwarded to the state treasurer for deposit into the fund.

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

11 (3) A registration granted under this section is valid for 3
12 years. The department shall review individuals registered under
13 this section once every 3 years and renew a registration for any
14 individual who submits a renewal application and fee and who
15 continues to meet continuing education requirements. The department
16 may establish renewal fees or late fees. A registration described
17 under this section is nontransferable.

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

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

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

27 (c) The failure to satisfactorily complete continuing
28 education requirements specified under the statewide sewage code.

29 (d) The submission of an evaluation report knowingly based on



1 false, incorrect, misleading, or fabricated information.

2 (e) The failure to submit an evaluation report.

3 (f) The failure to pay a required fee.

4 (g) The failure to meet the ethical standards established in
5 the statewide sewage code.

6 (h) Conviction in a civil or criminal proceeding or failure to
7 comply with a judgment or order that is issued by a court in
8 connection with a matter related to the conduct necessary to
9 provide the services of an evaluator.

10 (i) Any other violation of this part, part 127, or the rules
11 promulgated under this part or part 127.

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

15 Sec. 12825. (1) The department shall develop and make
16 available minimum standards and criteria for conducting evaluations
17 and forms for use in documenting the management of onsite
18 wastewater treatment system, including evaluation report forms for
19 use in documenting the results of onsite wastewater treatment
20 system evaluations conducted under section 12821.

21 (2) Thirty-five years after the effective date of the
22 amendatory act that added this section, the department shall
23 prepare and submit a report to the legislature and governor that
24 outlines areas of improvement and considers adjusting the
25 evaluation timelines specified under section 12821.

26 (3) The department shall make available and maintain an onsite
27 wastewater treatment system electronic database for recording and
28 tracking the locations of onsite wastewater treatment systems in
29 this state and the findings of onsite wastewater treatment system



1 evaluations. The department may require an authorized local health
2 department to input the data described under this subsection into
3 the onsite wastewater treatment system electronic database. The
4 onsite wastewater treatment system electronic database must contain
5 all of the following information:

6 (a) An evaluation report completed under section 12821. The
7 department may require an authorized local health department or
8 evaluator to electronically enter the report information into the
9 onsite wastewater treatment system electronic database instead of
10 the written report.

11 (b) Documentation and records from authorized local health
12 departments regarding the locations and previous evaluation or
13 inspection records of onsite wastewater treatment systems.

14 (c) Any other data, information, or record determined relevant
15 by the department.

16 (4) The onsite wastewater treatment system electronic database
17 created under subsection (3) must provide authenticated access to
18 users to maintain the protected status of the information contained
19 within the database and the database must not be accessible by
20 members of the general public who do not have authenticated access.

21 Sec. 12827. (1) Except as provided under section 12821(8) and
22 (9), an owner of an onsite wastewater treatment system or owner of
23 a premises or structure that is not connected to a public sanitary
24 sewer system that fails to comply with this part, part 127, or a
25 rule promulgated under this part or part 127 is subject to the
26 following:

27 (a) For a first violation, the person is guilty of a
28 misdemeanor punishable by imprisonment for not more than 90 days, a
29 fine of not less than \$500.00 or more than \$2,000.00, or both.



1 (b) For a second or subsequent violation, the person is guilty
2 of a misdemeanor punishable by imprisonment for not more 180 days,
3 a fine of not less than \$1,000.00 or more than \$10,000.00, or both.

4 (2) Each day that a violation continues constitutes a separate
5 violation under subsection (1).

6 (3) When the department or an authorized local health
7 department determines that there are reasonable grounds to believe
8 there has been a violation of this part, part 127, or the rules
9 promulgated under this part or part 127, the authorized local
10 health department shall investigate the violation. If the
11 authorized local health department determines there has been a
12 violation, the authorized local health department shall issue a
13 notice and penalty, as applicable, under section 12803(1)(a)(ii) and
14 order the responsible party to make corrections to be in compliance
15 with this part, part 127, and the rules promulgated under this part
16 and part 127.

17 (4) The prosecutor of the county in which the violation
18 occurred or the attorney general may bring an action to collect a
19 fine authorized under this section and require compliance with this
20 part, part 127, and the rules promulgated under this part and part
21 127.

22 (5) A civil fine authorized and collected under this section
23 must be forwarded to the state treasurer for deposit into the fund.

24 (6) The department or an authorized local health department
25 may request that the attorney general commence a civil action for
26 appropriate relief, including a permanent or temporary injunction,
27 for a violation of this part, part 127, or a provision of a permit
28 or order issued under this part or part 127. An action under this
29 subsection may be brought in the circuit court for Ingham County or



1 for the county in which the defendant is located, resides, or is
2 doing business. If requested by the defendant, within 21 days after
3 service of process, the court shall grant a change of venue to the
4 circuit court for Ingham County or for the county in which the
5 alleged violation occurred, is occurring, or, in the event of a
6 threat of violation, will occur. The court has jurisdiction to
7 restrain the violation and require compliance. In addition to any
8 other relief granted under this subsection, the court, except as
9 otherwise provided in this section, shall impose a civil fine of
10 not less than \$2,500.00, and the court may award reasonable
11 attorney fees and costs to the prevailing party.

12 (7) Final decision-making authority with respect to this part,
13 part 127, and the rules promulgated under this part and part 127
14 remains with the department. An authorized local health department
15 may perform delegated functions authorized by and with direction
16 from the department in accordance with the rules promulgated under
17 section 12817, but the department maintains ultimate enforcement
18 authority.

19 Sec. 12831. If a local unit of government, county, or local
20 health department has already adopted a point of sale ordinance to
21 require evaluations of onsite wastewater treatment systems, the
22 point of sale ordinance must be phased out or repealed within 10
23 years after the department promulgates rules under section 12817.
24 As used in this section, "local unit of government" means a
25 township, city, or village in this state.

26 Sec. 12833. The department, under part 41 of the natural
27 resources and environmental protection act, 1994 PA 451, MCL
28 324.4101 to 324.4113, and this act, and local health departments
29 under this act, have exclusive jurisdiction over the regulation,



1 **permitting, and evaluation of onsite wastewater treatment systems.**

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

4 Enacting section 2. This amendatory act does not take effect
5 unless Senate Bill No.____ or House Bill No.____ (request no.
6 01866'23 a) of the 102nd Legislature is enacted into law.

