

HOUSE BILL No. 4673

April 16, 1991, Introduced by Reps. Bartnik, Alley, DeMars, Nye, Hoekman, Harder, Martin, Middaugh, Jaye, Bodem, Dalman, Hoffman, Dobb and Middleton and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 4, 16, and 17 of Act No. 641 of the Public Acts of 1978, entitled as amended

"Solid waste management act,"

section 4 as amended by Act No. 9 of the Public Acts of 1990 and sections 16 and 17 as amended by Act No. 209 of the Public Acts of 1987, being sections 299.404, 299.416, and 299.417 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 16, and 17 of Act No. 641 of the
2 Public Acts of 1978, section 4 as amended by Act No. 9 of the
3 Public Acts of 1990 and sections 16 and 17 as amended by Act
4 No. 209 of the Public Acts of 1987, being sections 299.404,
5 299.416, and 299.417 of the Michigan Compiled Laws, are amended
6 to read as follows:

1 Sec. 4. (1) "Department" means the department of ~~natural~~
2 ~~resources~~ ENVIRONMENT AND HUMAN HEALTH.

3 (2) "Director" means the director of the department of
4 ~~natural resources~~ ENVIRONMENT AND HUMAN HEALTH.

5 (3) "Discharge" includes, but is not limited to, any spill-
6 ing, leaking, pumping, pouring, emitting, emptying, discharging,
7 injecting, escaping, leaching, dumping, or disposing of a sub-
8 stance into the environment which is or may become injurious to
9 the public health, safety, or welfare, or to the environment.

10 (4) "Disposal area" means a solid waste transfer facility,
11 incinerator, sanitary landfill, processing plant, or other solid
12 waste handling or disposal facility utilized in the disposal of
13 solid waste.

14 (5) "Enforceable mechanism" means a legal method whereby the
15 state, a county, a municipality, or a person is authorized to
16 take action to guarantee compliance with an approved county solid
17 waste management plan. Enforceable mechanisms include contracts,
18 intergovernmental agreements, laws, ordinances, rules, and
19 regulations.

20 (6) "Garbage" means rejected food wastes including waste
21 accumulation of animal, fruit, or vegetable matter used or
22 intended for food or that attends the preparation, use, cooking,
23 dealing in, or storing of meat, fish, fowl, fruit, or vegetable.

24 Sec. 16. (1) At the time of licensing of a disposal area
25 ~~which~~ THAT is a sanitary landfill, an instrument ~~which~~ THAT
26 imposes a restrictive covenant upon the land involved shall be
27 executed by all of the owners of the tract of land upon which the

1 landfill is to be located and the director. If the land involved
2 is state owned, the state administrative board shall execute the
3 covenant on behalf of the state. The instrument imposing the
4 restrictive covenant shall be filed for record by the director or
5 a health officer in the office of the register of deeds of the
6 county, or counties, in which the facility is located. The cove-
7 nant shall state that the land described in the covenant has been
8 or will be used as a landfill and that neither the property
9 owners, their servants, agents, or employees, nor any of their
10 heirs, successors, lessees, or assigns shall engage in filling,
11 grading, excavating, drilling, or mining on the property during
12 the first 50 years following completion of the landfill without
13 authorization of the director. In giving authorization, the
14 director shall consider the original design, type of operation,
15 material deposited, and the stage of decomposition of the fill.
16 Special exemption from this section may be granted by the direc-
17 tor if the lands involved are federal lands or if contracts
18 existing between the landowner and the licensee on
19 January 11, 1979 are not renegotiable.

20 (2) This act shall not be construed to prohibit the ~~natural~~
21 ~~resources commission~~ STATE OR AN AGENT OF THE STATE from convey-
22 ing, leasing, or permitting the use of state land for a solid
23 waste disposal area or a resource recovery facility as provided
24 by applicable state law.

25 Sec. 17. (1) The director shall specify, in writing, the
26 reasons for denial of a construction permit or an operating
27 license, specifying those particular sections of this act or

1 rules promulgated under this act which may be violated by
2 granting the application, and in what manner the violation may
3 occur.

4 (2) The health officer or director may issue a cease and
5 desist order specifying a schedule of closure or remedial action
6 in accordance with this act and rules promulgated pursuant to
7 this act or may establish a consent agreement specifying a sched-
8 ule of closure or remedial action in accordance with this act and
9 rules promulgated pursuant to this act to a person who estab-
10 lishes, constructs, conducts, manages, maintains, or operates a
11 disposal area without a permit or license, or to a person who
12 holds a permit or license but establishes, constructs, conducts,
13 manages, maintains, or operates a disposal area contrary to an
14 approved solid waste management plan or contrary to the permit or
15 license issued under this act.

16 (3) The director may issue a final order revoking, suspend-
17 ing, or restricting a permit or license after a contested case
18 hearing as provided in the administrative procedures act of 1969,
19 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
20 24.328 of the Michigan Compiled Laws, if the director finds that
21 the disposal area is not being constructed or operated in accord-
22 ance with the approved plans, the conditions of a permit or
23 license, this act, or the rules promulgated under this act. A
24 final order issued pursuant to this section is subject to judi-
25 cial review as provided in Act No. 306 of the Public Acts of
26 1969. The director or a health officer shall inspect and file a
27 written report not less than 4 times per year for each licensed

1 disposal area. The director or the health officer shall provide
2 the municipality in which the licensed disposal area is located
3 with a copy of each written inspection report if the municipality
4 arranges with the director or the health officer to bear the
5 expense of duplicating and mailing the reports.

6 (4) The director, after consultation with the director of
7 ~~public health~~ THE DEPARTMENT OF NATURAL RESOURCES or a desig-
8 nated representative of the director of ~~public health~~ THE
9 DEPARTMENT OF NATURAL RESOURCES, may issue an order summarily
10 suspending a permit or license if the director determines that a
11 violation of this act or rules promulgated under this act has
12 occurred which, in the director's opinion, constitutes an emer-
13 gency or poses an imminent risk of injury to the public health or
14 the environment. ~~A determination that a violation poses an~~
15 ~~imminent risk of injury to the public health shall be made by the~~
16 ~~director of public health.~~ Summary suspension may be ordered
17 effective on the date specified in the order or upon service of a
18 certified copy of the order on the licensee, whichever is later,
19 and shall remain effective during the proceedings. The proceed-
20 ings shall be commenced within 7 days of the issuance of the
21 order and shall be promptly determined.

22 Section 2. This amendatory act shall not take effect unless
23 all of the following bills of the 86th Legislature are enacted
24 into law:

25 (a) Senate Bill No. _____ or House Bill No. 4674 (request
26 no. 02482'91).

1 (b) Senate Bill No. _____ or House Bill No. 4669 (request
2 no. 02483'91).