

HOUSE BILL No. 5806

May 6, 1992, Introduced by Rep. DeBeaussiaert and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title of Act No. 641 of the Public Acts
of 1978, entitled as amended

"Solid waste management act,"

as amended, being sections 299.401 to 299.437 of the Michigan
Compiled Laws; and to add sections 32e, 32f, 32g, and 32h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 641 of the Public Acts of
2 1978, as amended, being sections 299.401 to 299.437 of the
3 Michigan Compiled Laws, is amended and sections 32e, 32f, 32g,
4 and 32h are added to read as follows:

TITLE

6 An act to protect the public health and the environment; to
7 provide for the regulation and management of solid wastes,
8 including ash resulting from the combustion of certain solid
9 wastes; TO REGULATE THE INTRODUCTION OF CERTAIN HEAVY METALS IN

1 PACKAGING TO CONTROL THE AMOUNT OF HEAVY METALS IN THE SOLID
2 WASTE STREAM; to prescribe the powers and duties of certain state
3 and local agencies and officials; to impose certain charges on
4 the disposal of solid waste in certain disposal areas; to provide
5 for certain fees; to prescribe penalties; to make an appropria-
6 tion; and to repeal certain acts and parts of acts.

7 SEC. 32E. (1) AS USED IN THIS SECTION:

8 (A) "DISTRIBUTOR" MEANS A PERSON WHO TAKES TITLE TO GOODS
9 PURCHASED FROM A MANUFACTURER OR SUPPLIER FOR SALE OR PROMOTIONAL
10 USE.

11 (B) "PACKAGE" MEANS A CONTAINER THAT PROVIDES A MEANS OF
12 MARKETING, PROTECTING, OR HANDLING A PRODUCT, INCLUDING A UNIT
13 PACKAGE, AN INTERMEDIATE PACKAGE, A SHIPPING CONTAINER, AND
14 UNSEALED RECEPTACLES, AS DEFINED BY ASTM D996 (1987). PACKAGE
15 INCLUDES, BUT IS NOT LIMITED TO, CARRYING CASES, CRATES, CUPS,
16 PAILS, RIGID FOIL AND OTHER TRAYS, WRAPPERS AND WRAPPING FILMS,
17 BAGS, AND TUBS.

18 (C) "PACKAGING COMPONENT" MEANS AN INDIVIDUAL ASSEMBLED PART
19 OF A PACKAGE, INCLUDING, BUT NOT LIMITED TO, INTERIOR OR EXTERIOR
20 BLOCKING, BRACING, CUSHIONING, WEATHERPROOFING, STRAPPING, CLO-
21 SURES, LABELS, AND TINPLATED STEEL THAT MEETS ASTM A623 (1987),
22 OR ANY ADDITIVE TO A PACKAGE, INCLUDING, BUT NOT LIMITED TO,
23 COATINGS, INKS, DYES, PIGMENTS, ADHESIVES, AND STABILIZERS.

24 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), BEGINNING 2 YEARS
25 AFTER THE EFFECTIVE DATE OF THIS SECTION, A PERSON SHALL NOT
26 INTENTIONALLY INTRODUCE LEAD, CADMIUM, MERCURY, OR HEXAVALENT
27 CHROMIUM TO A PACKAGE OR PACKAGING COMPONENT DURING MANUFACTURING

1 OR DISTRIBUTION. IN ADDITION, THE SUM OF THE CONCENTRATION
2 LEVELS OF LEAD, CADMIUM, MERCURY, AND HEXAVALENT CHROMIUM PRESENT
3 IN A PACKAGE OR PACKAGING COMPONENT MANUFACTURED OR DISTRIBUTED
4 IN THIS STATE SHALL NOT EXCEED THE FOLLOWING:

5 (A) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SEC-
6 TION, 600 PARTS PER MILLION.

7 (B) BEGINNING 3 YEARS AFTER THE EFFECTIVE DATE OF THIS SEC-
8 TION, 250 PARTS PER MILLION.

9 (C) BEGINNING 4 YEARS AFTER THE EFFECTIVE DATE OF THIS SEC-
10 TION, 100 PARTS PER MILLION.

11 (3) THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING
12 PACKAGES OR PACKAGING COMPONENTS:

13 (A) PACKAGES AND PACKAGING COMPONENTS WITH A CODE INDICATING
14 THAT THE DATE OF MANUFACTURE WAS PRIOR TO THE EFFECTIVE DATE OF
15 THIS SECTION.

16 (B) PACKAGES AND PACKAGING COMPONENTS EXEMPTED BY PETITION
17 UNDER SUBSECTION (5).

18 (C) PACKAGES OR PACKAGING COMPONENTS CONTAINING LEAD, CADMI-
19 UM, MERCURY, OR HEXAVALENT CHROMIUM IN AMOUNTS THAT WOULD NOT
20 EXCEED THE MAXIMUM CONCENTRATION LEVELS SET FORTH IN
21 SUBSECTION (2), EXCEPT FOR THE ADDITION OF POSTCONSUMER
22 MATERIALS.

23 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
24 EXEMPTIONS REFERRED TO IN SUBSECTION (3)(B) AND (C) SHALL NOT BE
25 IN EFFECT ON AND AFTER THE EXPIRATION OF A 6-YEAR PERIOD FOLLOW-
26 ING THE EFFECTIVE DATE OF THIS ACT. HOWEVER, SUCH AN EXEMPTION
27 MAY BE RENEWED FOR A DESIGNATED TIME PERIOD AFTER THE 6-YEAR

1 PERIOD IF THE DIRECTOR MAKES A DETERMINATION UNDER SECTION 32H
2 THAT THE RENEWED EXEMPTION IS WARRANTED BY THE CIRCUMSTANCES.

3 (5) A MANUFACTURER, SUPPLIER, OR DISTRIBUTOR OF A PACKAGE OR
4 PACKAGING COMPONENT MAY PETITION THE DIRECTOR FOR A 2-YEAR EXEMP-
5 TION FROM THIS SECTION FOR A PARTICULAR PACKAGE OR PACKAGING COM-
6 PONENT ON THE BASIS OF SHOWING THAT THE ADDITION OF LEAD, CADMI-
7 UM, MERCURY, OR HEXAVALENT CHROMIUM TO THE PACKAGE OR PACKAGING
8 COMPONENT DURING THE MANUFACTURING, SUPPLY, OR DISTRIBUTION PRO-
9 CESS IS NECESSARY TO COMPLY WITH HEALTH OR SAFETY REQUIREMENTS OF
10 STATE OR FEDERAL LAW, OR IS ESSENTIAL FOR THE PROTECTION, SAFE
11 HANDLING, OR FUNCTION OF THE CONTENTS OF THE PACKAGE. THE DIREC-
12 TOR MAY GRANT THE EXEMPTION IF WARRANTED BY THE CIRCUMSTANCES.

13 SEC. 32F. (1) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF
14 THIS SECTION, A MANUFACTURER OR SUPPLIER OF A PACKAGE OR PACKAG-
15 ING COMPONENT SHALL CERTIFY, WITH RESPECT TO EACH TYPE OF PACKAGE
16 OR PACKAGING COMPONENT MANUFACTURED OR SUPPLIED, THAT THE PACKAGE
17 OR COMPONENT IS IN COMPLIANCE WITH THE REQUIREMENTS OF
18 SECTION 32E AND THIS SECTION OR, IF A PACKAGE OR COMPONENT IS
19 EXEMPT FROM THESE REQUIREMENTS PURSUANT TO SECTION 32E, THE SPE-
20 CIFIC BASIS UPON WHICH THE EXEMPTION IS GRANTED. THE CERTIFICA-
21 TION SHALL BE CONTAINED IN A CERTIFICATE OF COMPLIANCE SIGNED BY
22 AN AUTHORIZED OFFICIAL OF THE MANUFACTURER OR SUPPLIER. A COPY
23 OF THE CERTIFICATE SHALL BE KEPT ON FILE BY THE MANUFACTURER OR
24 SUPPLIER FOR AS LONG AS THE MANUFACTURER OR SUPPLIER CONTINUES TO
25 MANUFACTURE OR SUPPLY SUCH PACKAGE OR PACKAGING COMPONENT. IF
26 THE PACKAGE OR PACKAGING COMPONENT IS REFORMULATED OR REPLACED,
27 THE CERTIFICATE SHALL BE KEPT ON FILE UNTIL AT LEAST 1 YEAR HAS

1 EXPIRED AFTER COMMENCEMENT OF DISTRIBUTION OF THE REFORMULATED OR
2 REPLACEMENT PACKAGE OR PACKAGING COMPONENT. THE MANUFACTURER OR
3 SUPPLIER SHALL PROVIDE TO EACH OF ITS DISTRIBUTORS A COPY OF EACH
4 CERTIFICATE OF COMPLIANCE REQUIRED UNDER THIS SUBSECTION FOR
5 PACKAGES OR PACKAGING COMPONENTS PURCHASED BY THE DISTRIBUTOR.

6 (2) IF THE MANUFACTURER OR SUPPLIER OF A PACKAGE OR PACKAG-
7 ING COMPONENT REFORMULATES OR CREATES A NEW PACKAGE OR PACKAGING
8 COMPONENT, THE MANUFACTURER OR SUPPLIER SHALL PROVIDE AN AMENDED
9 OR NEW CERTIFICATE OF COMPLIANCE FOR THE REFORMULATED OR NEW
10 PACKAGE OR PACKAGING COMPONENT, IN THE SAME MANNER AS THE ORIGI-
11 NAL CERTIFICATE WAS PROVIDED UNDER SUBSECTION (1).

12 (3) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SEC-
13 TION, A DISTRIBUTOR OF PACKAGES OR PACKAGING COMPONENTS SHALL
14 REQUEST FROM THE MANUFACTURER OR SUPPLIER OF THE PACKAGES OR
15 PACKAGING COMPONENTS THE RELEVANT CERTIFICATES OF COMPLIANCE AND
16 SHALL KEEP SUCH CERTIFICATES ON FILE FOR AS LONG AS THE DISTRIBUTOR
17 CONTINUES TO DISTRIBUTE THE PACKAGE OR PACKAGING COMPONENT.

18 (4) THE MANUFACTURER, SUPPLIER, OR DISTRIBUTOR OF A PACKAGE
19 OR PACKAGING COMPONENT SHALL PROVIDE A COPY OF HIS OR HER CERTIF-
20 ICATE OF COMPLIANCE TO THE DIRECTOR UPON HIS OR HER REQUEST AND
21 TO MEMBERS OF THE PUBLIC WITHIN 60 DAYS AFTER REQUESTED IN
22 ACCORDANCE WITH THIS SUBSECTION. A REQUEST FROM A MEMBER OF THE
23 PUBLIC FOR A COPY OF A CERTIFICATE OF COMPLIANCE FROM THE MANU-
24 FACTURER, SUPPLIER, OR DISTRIBUTOR OF A PACKAGE OR PACKAGING COM-
25 PONENT SHALL COMPLY WITH BOTH OF THE FOLLOWING:

26 (A) THE REQUEST SHALL BE MADE IN WRITING, WITH A COPY
27 PROVIDED TO THE DIRECTOR.

1 (B) THE REQUEST SHALL SPECIFY THE PACKAGE OR PACKAGING
2 COMPONENT WITH RESPECT TO WHICH COMPLIANCE IS CERTIFIED IN THE
3 REQUESTED CERTIFICATE.

4 SEC. 32G. (1) IF ON THE BASIS OF ANY INFORMATION THE DIREC-
5 TOR DETERMINES THAT A PERSON HAS VIOLATED OR IS IN VIOLATION OF
6 SECTION 32E OR 32F, THE DIRECTOR MAY ISSUE AN ORDER ASSESSING A
7 CIVIL PENALTY FOR ANY PAST OR CURRENT VIOLATION, REQUIRING COM-
8 PLIANCE IMMEDIATELY OR WITHIN A SPECIFIED TIME PERIOD, OR BOTH,
9 OR FOR OTHER APPROPRIATE RELIEF, INCLUDING A TEMPORARY OR PER-
10 MANENT INJUNCTION.

11 (2) IN ADDITION, A PERSON WHO VIOLATES A REQUIREMENT OF
12 SECTION 32E OR 32F IS LIABLE FOR A CIVIL FINE IN AN AMOUNT NOT TO
13 EXCEED \$25,000.00 FOR EACH SUCH VIOLATION. EACH DAY A VIOLATION
14 CONTINUES CONSTITUTES A SEPARATE VIOLATION.

15 (3) A PERSON WHO WILLFULLY VIOLATES, OR FAILS OR REFUSES TO
16 COMPLY WITH, ANY ORDER OF THE DIRECTOR UNDER SUBSECTION (1) MAY,
17 IN AN ACTION BROUGHT IN THE APPROPRIATE COURT THAT ENFORCES THE
18 ORDER, BE FINED NOT MORE THAN \$25,000.00 FOR EACH DAY IN WHICH
19 SUCH VIOLATION OCCURS OR SUCH FAILURE TO COMPLY CONTINUES.

20 SEC. 32H. (1) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE
21 DATE OF THIS SECTION, THE DIRECTOR SHALL SUBMIT RULES TO THE
22 JOINT COMMITTEE ON ADMINISTRATIVE RULES TO IMPLEMENT SECTIONS 32E
23 THROUGH 32H.

24 (2) NOT LATER THAN 42 MONTHS AFTER THE EFFECTIVE DATE OF
25 THIS SECTION, THE DIRECTOR SHALL REVIEW THE EFFECTIVENESS OF SEC-
26 TIONS 32E, 32F, AND 32G AND SHALL REPORT TO THE LEGISLATURE THE
27 RESULTS OF THE REVIEW. THE REPORT SHALL CONTAIN A RECOMMENDATION

1 ON WHETHER TO RENEW FOR A DESIGNATED TIME PERIOD FOR ANY OF THE
2 EXEMPTIONS REFERRED TO IN SECTION 32E(3)(A) AND (B) AND (4), AND
3 A DESCRIPTION OF THE NATURE OF THE SUBSTITUTES USED IN LIEU OF
4 LEAD, MERCURY, CADMIUM, AND HEXAVALENT CHROMIUM IN PACKAGING AND
5 PACKAGING COMPONENTS. IN CARRYING OUT THE REVIEW, THE DIRECTOR
6 MAY REQUEST FROM A PERSON SUBJECT TO SECTIONS 32E, 32F, AND 32G,
7 AND THE PERSON SHALL PROVIDE, INFORMATION AS MAY BE NECESSARY TO
8 COMPLETE THE REVIEW. THE REPORT MAY CONTAIN RECOMMENDATIONS TO
9 PROHIBIT THE USE OF OTHER SUBSTANCES THAT THE DIRECTOR DETERMINES
10 ARE TOXIC IN PACKAGING AND PACKAGING COMPONENTS TO FURTHER REDUCE
11 THE TOXICITY OF PACKAGING WASTE.