

HOUSE BILL No. 5965

June 25, 1992, Introduced by Reps. Nye and Fitzgerald and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 6 and 7 of Act No. 641 of the Public Acts of 1978, entitled as amended "Solid waste management act," section 6 as amended by Act No. 9 of the Public Acts of 1990 and section 7 as amended by Act No. 28 of the Public Acts of 1992, being sections 299.406 and 299.407 of the Michigan Compiled Laws; and to add section 19c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6 and 7 of Act No. 641 of the Public
2 Acts of 1978, section 6 as amended by Act No. 9 of the Public
3 Acts of 1990 and section 7 as amended by Act No. 28 of the Public
4 Acts of 1992, being sections 299.406 and 299.407 of the Michigan
5 Compiled Laws, are amended and section 19c is added to read as
6 follows:

1 Sec. 6. (1) "Recyclable materials" means source separated
2 materials, site separated materials, high grade paper, glass,
3 metal, plastic, aluminum, newspaper, corrugated paper, yard clip-
4 pings, and other materials that may be recycled or composted.

5 (2) "Regional solid waste management planning agency" means
6 the regional solid waste planning agency designated by the gover-
7 nor pursuant to section 4006 of subtitle D of the solid waste
8 disposal act, title II of Public Law 89-272, 42 U.S.C. 6946.

9 (3) "Resource recovery facility" means machinery, equipment,
10 structures, or any parts or accessories of machinery, equipment,
11 or structures, installed or acquired for the primary purpose of
12 recovering materials or energy from the waste stream.

13 (4) "Response activity" means an activity that is necessary
14 to protect the public health, safety, welfare, or the environ-
15 ment, and includes, but is not limited to, evaluation, cleanup,
16 removal, containment, isolation, treatment, monitoring, mainte-
17 nance, replacement of water supplies, and temporary relocation of
18 people.

19 (5) "Rubbish" means DISPOSABLE DIAPERS OR nonputrescible
20 solid waste, excluding ashes, consisting of both combustible and
21 noncombustible waste, including paper, cardboard, metal contain-
22 ers, yard clippings, wood, glass, bedding, crockery, demolished
23 building materials, or litter of any kind that may be a detriment
24 to the public health and safety.

25 (6) "Rule" means a rule promulgated pursuant to the adminis-
26 trative procedures act of 1969, Act No. 306 of the Public Acts of

1 1969, as amended, being sections 24.201 to 24.328 of the Michigan
2 Compiled Laws.

3 (7) "Salvaging" means the lawful and controlled removal of
4 reusable materials from solid waste.

5 (8) "Site separated material" means glass, metal, wood,
6 paper products, plastics, rubber, textiles, garbage, yard clip-
7 pings, or any other material approved by the director that is
8 separated from solid waste for the purpose of conversion into raw
9 materials or new products. Site separated material does not
10 include the residue remaining after glass, metal, wood, paper
11 products, plastics, rubber, textiles, or any other material
12 approved by the director is separated from solid waste.

13 (9) "Slag" means the nonmetallic product resulting from
14 melting or smelting operations for iron or steel.

15 Sec. 7. (1) "Solid waste" means garbage, rubbish, ashes,
16 incinerator ash, incinerator residue, street cleanings, municipal
17 and industrial sludges, solid commercial and solid industrial
18 waste, and animal waste other than organic waste generated in the
19 production of livestock and poultry. Solid waste does not
20 include the following:

21 (a) Human body waste EXCEPT HUMAN BODY WASTE THAT MAY BE
22 DISCARDED WITH DISPOSABLE DIAPERS.

23 (b) Medical waste as it is defined in part 138 of the public
24 health code, Act No. 368 of the Public Acts of 1978, being sec-
25 tions 333.13801 to 333.13831 of the Michigan Compiled Laws, and
26 regulated under part 138 of Act No. 368 of the Public Acts of
27 1978 and section 5a of the air pollution act, Act No. 348 of the

1 Public Acts of 1965, being section 336.15a of the Michigan
2 Compiled Laws.

3 (c) Organic waste generated in the production of livestock
4 and poultry.

5 (d) Liquid waste.

6 (e) Ferrous or nonferrous scrap directed to a scrap metal
7 processor or to a reuser of ferrous or nonferrous products.

8 (f) Slag or slag products directed to a slag processor or to
9 a reuser of slag or slag products.

10 (g) Sludges and ashes managed as recycled or nondetrimental
11 materials appropriate for agricultural or silvicultural use pur-
12 suant to a plan approved by the director.

13 (h) Materials approved for emergency disposal by the
14 director.

15 (i) Source separated materials.

16 (j) Site separated material.

17 (k) Fly ash or any other ash produced from the combustion of
18 coal, when used in the following instances:

19 (i) With a maximum of 6% of unburned carbon as a component
20 of concrete, grout, mortar, or casting molds.

21 (ii) With a maximum of 12% unburned carbon passing
22 M.D.O.T. test method MTM 101 when used as a raw material in
23 asphalt for road construction.

24 (iii) As aggregate, road, or building material which in
25 ultimate use will be stabilized or bonded by cement, limes, or
26 asphalt.

1 (iv) As a road base or construction fill which is covered
2 with asphalt, concrete, or other material approved by the
3 director and which is placed at least 4 feet above the seasonal
4 groundwater table.

5 (v) As the sole material in a depository designed to
6 reclaim, develop, or otherwise enhance land, subject to the
7 approval of the director. In evaluating the site, the director
8 shall consider the physical and chemical properties of the ash
9 including leachability, and the engineering of the depository,
10 including, but not limited to, the compaction, control of surface
11 water and groundwater that may threaten to infiltrate the site,
12 and evidence that the depository is designed to prevent water
13 percolation through the material.

14 (4) Other wastes regulated by statute.

15 (2) "Solid waste hauler" means a person who owns or operates
16 a solid waste transporting unit.

17 (3) "Solid waste processing plant" means a tract of land,
18 building, unit, or appurtenance of a building or unit or a combi-
19 nation of land, buildings, and units that is used or intended for
20 use for the processing of solid waste or the separation of mate-
21 rial for salvage or disposal, or both, but does not include a
22 plant engaged primarily in the acquisition, processing, and ship-
23 ment of ferrous or nonferrous metal scrap, or a plant engaged
24 primarily in the acquisition, processing, and shipment of slag or
25 slag products.

1 (4) "Solid waste transporting unit" means a container which
2 may be an integral part of a truck or other piece of equipment
3 used for the transportation of solid waste.

4 (5) "Solid waste transfer facility" means a tract of land, a
5 building and any appurtenances, or a container, or any combina-
6 tion of land, buildings, or containers that is used or intended
7 for use in the rehandling or storage of solid waste incidental to
8 the transportation of the solid waste, but is not located at the
9 site of generation or the site of disposal of the solid waste.

10 (6) "Source separated material" means glass, metal, wood,
11 paper products, plastics, rubber, textiles, garbage, yard clip-
12 pings, or any other material approved by the director that is
13 separated at the source of generation for the purpose of conver-
14 sion into raw materials or new products.

15 (7) "Yard clippings" means leaves, grass clippings, vegeta-
16 ble or other garden debris, shrubbery, or brush or tree trimmings
17 less than 4 feet in length and 2 inches in diameter, that can be
18 converted to compost humus. This term does not include stumps,
19 agricultural wastes, animal waste, roots, sewage sludge, or
20 garbage.

21 SEC. 19C. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
22 (2), BEGINNING ON JANUARY 1, 1993, A RETAILER WHO SELLS DISPOS-
23 ABLE DIAPERS SHALL NOT DIRECTLY OR INDIRECTLY SELL OR OFFER FOR
24 SALE IN THIS STATE DISPOSABLE DIAPERS, UNLESS EACH QUARTER THE
25 RETAILER PAYS A 2-CENT SURCHARGE TO THE DEPARTMENT FOR EACH DIS-
26 POSABLE DIAPER SOLD OR OFFERED FOR SALE IN THIS STATE.

1 (2) IF THE DIRECTOR DETERMINES THAT ON AN INDUSTRY-WIDE
2 BASIS THROUGHOUT THE STATE THAT AT LEAST 90% OF ALL DISPOSABLE
3 DIAPERS SOLD IN THIS STATE ARE BEING RECYCLED, UPON CERTIFICATION
4 BASED ON CREDIBLE EVIDENCE OF 1 OR MORE RETAILERS OR MANUFACTUR-
5 ERS OF DISPOSABLE DIAPERS SOLD OR OFFERED FOR SALE IN THIS STATE
6 AND 1 OR MORE LANDFILL OPERATORS, THE SURCHARGE IMPOSED UNDER
7 SUBSECTION (1) SHALL NOT BE IMPOSED. THE DEPARTMENT SHALL NOTIFY
8 EACH RETAILER WHO WAS SUBJECT TO THE SURCHARGE OF DISPOSABLE DIA-
9 PERS THAT THE SURCHARGE HAS BEEN SUSPENDED AND RETURN SURCHARGES
10 THAT ARE SUBMITTED FOR A PERIOD OF TIME AFTER THE SURCHARGE IS
11 SUSPENDED. IF THE DEPARTMENT MAKES THE DETERMINATION PROVIDED
12 FOR IN THIS SUBSECTION, THE DEPARTMENT SHALL FILE A CERTIFICATE
13 WITH THE SECRETARY OF STATE ASSERTING THAT AT LEAST 90% OF ALL
14 DISPOSAL DIAPERS SOLD IN THIS STATE ARE BEING RECYCLED.

15 (3) IF THE SURCHARGE IMPOSED UNDER SUBSECTION (1) IS SUS-
16 PENDED PURSUANT TO SUBSECTION (2), THE SURCHARGE SHALL NOT BE
17 REINSTATED UNLESS THE DEPARTMENT DETERMINES THAT 80% OF DISPOS-
18 ABLE DIAPERS SOLD IN THIS STATE ARE NOT BEING RECYCLED.

19 (4) FUNDS GENERATED FROM THE SURCHARGE IMPOSED UNDER THIS
20 SECTION SHALL BE FORWARDED TO THE STATE TREASURY TO BE CREDITED
21 TO THE ENVIRONMENTAL PROTECTION AND DEVELOPMENT FUND CREATED IN
22 THE MICHIGAN EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. _____ or House Bill No. _____ (request
25 no. 02042'91) of the 86th Legislature is enacted into law.