

SENATE BILL No. 274

April 17, 1991, Introduced by Senators CHERRY, HONIGMAN, DINGELL, CONROY and FAUST and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to promote recycling; to regulate the sale and use of certain recyclable materials; to provide for certain fees; to prescribe the powers and duties of certain state agencies and officials; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan recycling act".

3 Sec. 2. The words and phrases defined in sections 3 and 4
4 have the meanings ascribed to them in those sections.

5 Sec. 3. (1) "Board" means the Michigan recycling board cre-
6 ated in section 5.

7 (2) "Fund" means the recycling trust fund created in
8 section 12.

1 (3) "Major appliance" means an air conditioner, clothes
2 dryer, clothes washer, dishwasher, freezer, microwave oven, oven,
3 refrigerator, or stove.

4 (4) "Person" means an individual, partnership, corporation,
5 association, governmental entity, or other legal entity.

6 (5) "Postconsumer waste" means solid waste other than solid
7 waste generated in the production of goods; hazardous waste, as
8 defined in the hazardous waste management act, Act No. 64 of the
9 Public Acts of 1979, being sections 299.501 to 299.551 of the
10 Michigan Compiled Laws.

11 Sec. 4. (1) "Recovered materials" means those recyclable
12 materials that have been diverted or removed from the solid waste
13 stream by separation, collection, and processing.

14 (2) "Recyclable material" means those materials or products
15 in postconsumer waste for which there is a commercially available
16 processing or manufacturing technology that uses the material or
17 product as a raw material.

18 (3) "Recycled material" means recovered material that is
19 sold, used, or reused as a material feedstock in the manufacture
20 of a product or commodity.

21 (4) "Recycled material content" means the proportion of an
22 item, by weight or other measure, that is a recycled material.

23 (5) "Recycling" means a process by which solid waste, or
24 materials that would otherwise become solid waste, are collected,
25 separated, or processed and reused or returned to use in the form
26 of raw materials, products, or commodities.

1 (6) "Rule" means a rule promulgated pursuant to the
2 administrative procedures act of 1969, Act No. 306 of the Public
3 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
4 Compiled Laws.

5 (7) "Solid waste" means that term as defined in the solid
6 waste management act, Act No. 641 of the Public Acts of 1978,
7 being sections 299.401 to 299.437 of the Michigan Compiled Laws.

8 (8) "Wholesaler" means a person who sells for resale a prod-
9 uct, container, or packaging composed of a material listed in
10 section 6(2).

11 (9) "Yard waste" means leaves, grass clippings, yard and
12 garden debris and brush, including woody vegetative material no
13 greater than 6 inches in diameter and Christmas trees. Yard
14 waste does not include stumps, roots, or shrubs with intact root
15 balls.

16 Sec. 5. (1) The Michigan recycling board is created within
17 the office of solid waste disposal oversight in the department of
18 commerce. The board shall consist of 7 members appointed by the
19 governor with the advice and consent of the senate. Two members
20 shall be appointed from a list of candidates submitted by the
21 senate majority leader and 2 members shall be appointed from a
22 list of candidates submitted by the speaker of the house of
23 representatives. At least 1 member shall be a representative of
24 a local unit of government and 1 member shall be a representative
25 of a statewide environmental organization.

26 (2) A member of the board shall serve for a term of 3
27 years. However, of those first appointed, 2 shall be appointed

1 for a 1-year term and 2 shall be appointed for a 2-year term.

2 The governor shall not appoint a person to serve for more than 2
3 terms. The governor shall not appoint a person to the board who
4 has a direct financial interest in activities related to the
5 functions of the board.

6 (3) A vacancy occurring on the board shall be filled in the
7 same manner as the original appointment for the balance of the
8 unexpired term.

9 (4) The board shall elect a chairperson and other officers
10 as the board considers appropriate. The board shall meet at
11 least quarterly at the call of the chairperson.

12 (5) A meeting of the board shall be held in compliance with
13 the open meetings act, Act No. 267 of the Public Acts of 1976,
14 being sections 15.261 to 15.275 of the Michigan Compiled Laws.

15 (6) Four members of the board constitute a quorum and the
16 board may act upon the affirmative vote of not less than 4
17 members.

18 (7) Members of the board shall not receive compensation for
19 the performance of their duties but shall be reimbursed for rea-
20 sonable expenses incurred in carrying out their duties.

21 (8) The board shall employ an executive director to carry
22 out responsibilities as directed by the board in implementing
23 this act.

24 Sec. 6. (1) The following state recycling standards are
25 established:

1 (a) By July 1, 1995, 30% of the solid waste generated in
 2 this state, not including materials that can be composted, shall
 3 be recycled.

4 (b) By July 1, 2000, 60% of the solid waste generated in
 5 this state, not including materials that can be composted, shall
 6 be recycled.

7 (2) The following state standards are established:

8 (a) For recycled material content:

9 10 11 12 13 Material	Standard for Minimum Percentage by Weight of Recycled Material Content	Standard for Minimum Percentage by Weight of Postconsumer Material Content
14 (i) Paper and paper products:		
15 (A) High-grade printing 16 and writing papers	50%	20%
17 (B) Low-grade paper	50%	40%
18 (C) Paperboard	90%	35%
19 (D) Corrugated	90%	35%
20 (E) Magazines	50%	20%
21 (ii) Steel:		
22 (A) Packaging or 23 container	30%	15%
24 (B) Products	75%	15%
25 (iii) Aluminum:		
26 (A) Packaging or 27 container	75%	70%
28 (B) Products	85%	15%
29 (iv) Copper	50%	50%
30 (v) Glass:		
31 (A) Packaging or 32 container	75%	70%
33 (B) Products	50%	35%
34 (vi) Foam polystyrene	30%	50%
35 (vii) Plastics:		
36 (A) Polyethylene tere- 37 phthalate (PETE)	75%	70%
38 (I) Packaging or 39 container	%	%
40 (II) Products	50%	15%
41 (B) High-density polyeth- 42 ylene (HDPE)		

1	(I) Packaging or		
2	container	75%	70%
3	(II) Products	50%	15%
4	(C) Vinyl (V)		
5	(I) Packaging or		
6	container	30%	15%
7	(II) Products	50%	15%
8	(D) Low-density polyeth-		
9	ylene (LDPE)		
10	(I) Packaging or		
11	container	30%	15%
12	(II) Products	50%	15%
13	(E) Polypropylene (PP)		
14	(I) Packaging or		
15	container	30%	15%
16	(II) Products	50%	15%
17	(F) Polystyrene (PS)		
18	(I) Packaging or		
19	container	30%	15%
20	(II) Products	50%	15%
21	(G) Multilayer or other		
22	plastics		
23	(I) Packaging or		
24	container	30%	15%
25	(II) Products	50%	15%

26 (b) For statewide recycling rate:

27		Statewide
28		Recycling
29	Material	Rate
30		
31	(i) Paper and paper products:	
32	(A) Newspaper	75%
33	(B) High-grade printing	
34	and writing papers	75%
35	(C) Low-grade paper	50%
36	(D) Paperboard	50%
37	(E) Corrugated	75%
38	(F) Magazines	50%
39	(ii) Steel packaging or container	70%
40	(iii) Aluminum packaging or	
41	container	70%
42	(iv) Copper	50%
43	(v) Glass packaging or container	70%
44	(vi) Foam polystyrene	50%
45	(vii) Plastics:	
46	(A) Polyethylene tere-	
47	phthalate (PETE)	
48	packaging or	
49	container	70%

1	(B) High-density	
2	polyethylene (HDPE)	
3	or container	70%
4	(C) Vinyl (V) packaging	
5	or container	50%
6	(D) Low-density polyeth-	
7	ylene (LDPE) packag-	
8	ing or container	50%
9	(E) Polypropylene (PP)	
10	packaging or	
11	container	50%
12	(F) Polystyrene (PS)	
13	packaging or	
14	container	50%
15	(G) Multilayer or other	
16	plastics packaging or	
17	container	50%

18
19 (3) The board may, by rule, amend the state standards estab-
20 lished in subsections (1) and (2).

21 Sec. 7. (1) By April 1 of each year, in accordance with the
22 best available information, the board shall annually determine
23 the percentage of solid waste generated in the state, other than
24 materials that can be composted, that was recycled during the
25 previous year. The board shall hold a public hearing prior to
26 making the determination under this subsection.

27 (2) The board shall annually report to the legislature the
28 determination in subsection (1).

29 (3) The board shall develop a computer data base of informa-
30 tion related to the information necessary to make the determina-
31 tion required by subsection (1). The board shall periodically
32 update and evaluate this data base.

33 (4) The board shall promulgate rules to do both of the
34 following:

35 (a) Establish reporting requirements necessary to make the
36 determination under subsection (1).

1 (b) Establish criteria for making the determination under
2 subsection (1).

3 Sec. 8. (1) To make the determination under section 7(1),
4 the board may request a person involved in activities pertaining
5 to solid waste management, or the manufacture, distribution, col-
6 lection, disposal, or recycling of a product, container, or pack-
7 aging composed of a material listed in section 6(2) to provide
8 information, other than trade secrets, to the board.

9 (2) If, following the request of the board, a person does
10 not supply information required under subsection (1), the attor-
11 ney general, on behalf of the state, may do either of the
12 following:

13 (a) Petition the court of appropriate jurisdiction for a
14 warrant authorizing access to the information.

15 (b) Commence a civil action to compel compliance with a
16 request for information.

17 Sec. 9. (1) The board shall cause to be conducted a series
18 of recyclable materials waste stream assessments in representa-
19 tive areas of the state. The assessments shall determine the
20 characteristics of the recyclable materials waste stream and doc-
21 ument seasonal fluctuations in the volume of recyclable
22 materials.

23 (2) The board shall consider the following in determining
24 appropriate sites for inclusion in the recyclable materials waste
25 stream assessment:

26 (a) The extent to which the owners of the disposal areas in
27 the proposed study site will do the following:

1 (i) Provide an area on the site for scales and for
2 composition studies.

3 (ii) Provide temporary shelter for work during inclement
4 weather.

5 (iii) Enlist the cooperation of solid waste haulers.

6 (b) The likelihood that a resource recovery project or
7 projects will be undertaken at the proposed site.

8 (c) The likelihood that the data resulting from the assess-
9 ment of the proposed site will be usable or useful in evaluating
10 the recyclable materials waste stream in other similar areas of
11 the state.

12 (d) The extent to which selection of the site contributes to
13 the achievement of a balanced distribution of assessments
14 throughout the state.

15 (e) The availability of a scale at the proposed site.

16 Sec. 10. (1) Except as otherwise provided in this section,
17 beginning October 1, 1992, a wholesaler shall not sell in this
18 state a product, container, or packaging composed of a material
19 listed in section 6(2) unless the product, container, or packag-
20 ing is labeled pursuant to this section, or an advance disposal
21 fee stamp provided for in this section is affixed to the product,
22 container, or packaging. However, a commercial unit is only
23 required to have 1 advance disposal fee stamp or label.

24 (2) The board shall provide advance disposal fee stamps to
25 wholesalers free of charge for products, containers, and packag-
26 ing that meet the recycling rate or both recycled material

1 content standards provided in section 6(2) for that product,
2 container, or packaging.

3 (3) The board shall provide advance disposal fee stamps to
4 wholesalers at a cost of 1 cent per stamp for those products,
5 containers, and packaging that have not met the recycling rate or
6 both recycled material content standards for that product, con-
7 tainer, or packaging. In the alternative, a wholesaler may label
8 a product, container, or packaging in a manner approved by the
9 board and pay an advance disposal fee of 1 cent for each product,
10 container, or packaging labeled. Beginning October 1, 1996, the
11 cost of an advance disposal fee stamp and the cost of an advance
12 disposal fee are 2 cents per product, container, or packaging.

13 (4) The board shall forward advance disposal fees to the
14 department of treasury at least quarterly accompanied by any
15 information required by the department of treasury. A wholesaler
16 may deduct 3/4 of 1% or \$150.00 as an administrative expense.
17 The board shall forward all money it receives under this section
18 to the state treasurer for deposit into the fund.

19 (5) If the board determines under section 7(1) that the
20 state recycling standards provided in section 6(1) were met for
21 the previous year, the board may, by rule, suspend the require-
22 ments of subsections (1) to (4).

23 (6) If the requirements of subsections (1) to (4) are sus-
24 pended pursuant to subsection (5), the requirements shall not be
25 reinstated unless the board determines in a subsequent annual
26 determination pursuant to section 7(1) that the state recycling
27 standards are not being met. If the board determines, following

1 a suspension, that the recycling standards are not being met, it
2 shall, by rule, reinstitute the requirements of subsections (1)
3 to (4).

4 (7) If, upon petition by a person, the board determines that
5 the state standard for the recycling rate or both recycled mate-
6 rial content standards provided in section 6(2) are being met for
7 a particular product, container, or packaging on an industry-wide
8 basis throughout the state, the board, by rule, may suspend the
9 requirements of subsections (1) to (4) for that product, contain-
10 er, or packaging. If the board determines at a later date that
11 the state standards are no longer being met, the board, by rule,
12 shall reinstate the requirements of subsections (1) to (4).

13 (8) The board shall design, for each of the following, dif-
14 ferent advance disposal fee stamps and labels that provide appro-
15 priate notice to consumers:

16 (a) Products, containers, and packaging, composed of materi-
17 als that meet the recycling rate or recycled content standards
18 provided in section 6(2).

19 (b) Products, containers, and packaging, composed of materi-
20 als that do not meet the recycling rate or recycled content stan-
21 dards provided in section 6(2).

22 (9) As used in this section, "commercial unit" means more
23 than 1 product, container, or packaging packaged together and
24 designed for sale at retail as a unit for 1 price.

25 Sec. 11. (1) An owner or operator of a newspaper shall not
26 sell or offer for sale a newspaper printed in this state unless

1 the newspaper is printed on newsprint that has a recycled fiber
2 content in accordance with the following:

3 (a) By January 1, 1992, 11% recycled fiber content.

4 (b) By January 1, 1993, 16% recycled fiber content.

5 (c) By January 1, 1994, 20% recycled fiber content.

6 (d) By January 1, 1995, 23% recycled fiber content.

7 (e) By January 1, 1996, 31% recycled fiber content.

8 (f) By January 1, 1997, 40% recycled fiber content.

9 (g) By January 1, 1998, 45% recycled fiber content.

10 (h) By January 1, 1999, 50% recycled fiber content.

11 (2) The owner or operator of a newspaper who violates this
12 section is subject to a civil fine of \$5.00 per ton of postcon-
13 sumer recycled fiber that represents the shortfall in meeting the
14 requirements of subsection (1). Money collected under this sub-
15 section shall be deposited into the fund.

16 (3) As used in this section:

17 (a) "Newspaper" means a daily publication printed on
18 newsprint.

19 (b) "Newsprint" means that class or kind of paper primarily
20 used for printing newspapers and weighing more than 24-1/2 pounds
21 but less than 35 pounds for 500 sheets of paper 2 feet by 3 feet
22 in size, on rolls that are not less than 13 inches wide and 28
23 inches in diameter and having a brightness of less than 60.

24 (c) "Recycled fiber content" means the percentage of fiber
25 contained in newsprint that is derived from postconsumer
26 wastepaper.

1 Sec. 12. (1) The recycling trust fund is created within the
2 state treasury. The state treasury may receive money or other
3 assets from any source for deposit into the fund.

4 (2) The state treasurer shall direct the investment of the
5 fund. Interest and earnings of fund investments shall be cred-
6 ited to the fund.

7 (3) Money or other assets of the fund at the close of the
8 fiscal year shall remain in the fund and shall not revert to the
9 general fund.

10 (4) Money in the fund shall be used by the board, upon
11 appropriation, only for the following purposes:

12 (a) The programs established under this act.

13 (b) The staffing and administrative costs of the board in
14 implementing this act. However, not more than 5% of the money in
15 the fund shall be expended pursuant to this subdivision.

16 Sec. 13. The board shall promulgate rules to establish
17 state priorities for the development of markets for materials
18 derived from postconsumer waste. These state priorities shall be
19 used to guide market development assistance programs as provided
20 in this act. State priorities shall give preference to market
21 development efforts that do both of the following:

22 (a) Strengthen or expand an existing market for a material
23 for which the demand is insufficient to consume the projected
24 supply, or for which the price is low relative to the cost of
25 separating the material from solid waste, processing the materi-
26 al, or transporting the material to market.

1 (b) Create a new market for a material that provides a
2 higher price for the material or a lower separation, processing,
3 or transportation cost than existing markets.

4 Sec. 14. The board shall administer a loan program and
5 shall provide loans, not to exceed \$1,000,000.00, to a new or
6 expanding business to fund the production of a product made from
7 1 or more materials recovered from postconsumer waste or the pro-
8 duction or acquisition of equipment necessary to make the prod-
9 uct, if the board determines the production is consistent with
10 state priorities for market development established in rules
11 promulgated under section 13. The recipient of a loan granted
12 under this section may use the loan for capital expenses.

13 Sec. 15. (1) The board shall guarantee eligible loans made
14 by private participating lenders. A lender may be a bank, credit
15 union, savings and loan association, or other institution that
16 makes loans to finance equipment and that has entered into a
17 guarantee agreement with the board to participate in this
18 program. A loan is eligible for guarantee under the program if
19 it meets all of the following criteria:

20 (a) Its purpose is to finance any physical plant, machinery,
21 or equipment necessary to or used to produce in this state a
22 product made from materials recovered from postconsumer waste.

23 (b) The total principal amount of all loans to the borrower
24 that are guaranteed under the program does not exceed
25 \$1,000,000.00.

26 (c) The lender obtains a security interest in the physical
27 plant, equipment, machinery, or other assets.

1 (d) The term of the loan does not extend beyond 5 years
2 after the date that the lender disburses the loan.

3 (e) The proceeds of the loan are not applied to the out-
4 standing balance of any other loan.

5 (f) The borrower does not meet the lender's minimum stan-
6 dards of credit worthiness to receive a loan for 1 of the pur-
7 poses described in subdivision (a) in the normal course of the
8 participating lender's business.

9 (g) The lender considers the borrower's assets, cash flow,
10 and managerial ability sufficient to preclude voluntary or invol-
11 untary liquidation for the term of the loan.

12 (h) The lender agrees to the percentage of guarantee estab-
13 lished for the loan by the board.

14 (2) The total amount of principal for all loans that may be
15 guaranteed under this section is \$10,000,000.00.

16 Sec. 16. (1) The board shall establish a recycling rebate
17 program to increase the recycling of waste that is generated in
18 this state by doing either or both of the following:

19 (a) Offsetting the increased costs of making products that
20 use waste as a raw material or components made from waste in
21 order to make such products competitive with products made with
22 new materials.

23 (b) Establishing and expanding enterprises that develop or
24 manufacture recycled products in the state with emphasis on sup-
25 porting these enterprises during start-up and expansion periods.

1 (2) To be eligible for a rebate under this section, a sole
2 proprietorship, association, partnership, or corporation must do
3 all of the following:

4 (a) Be located in this state.

5 (b) Make products using either waste as a raw material or
6 components made from solid waste.

7 (c) Establish and maintain policies and procedures giving
8 preference for using solid waste generated in this state.

9 (d) For each year in which it receives a rebate, ensure that
10 at least 80% of the solid waste used is generated in this state.

11 (e) Demonstrate sufficient management expertise and market
12 opportunities to remain self-sustaining after receiving recycling
13 rebates.

14 (3) The board shall identify types of recycling activities
15 to be eligible for rebates under this section based upon the
16 potential of these activities to meet the goals of the recycling
17 rebate program and the state market development priorities estab-
18 lished under section 13. The board shall establish a rate of
19 payment for rebates and the total amount of rebates to be paid
20 for that activity. The board shall base these rates and amounts
21 on the amount the board determines is necessary to accomplish the
22 purposes of both the rebate program and the state market develop-
23 ment priorities.

24 (4) The amount of the rebate provided under this section
25 shall be based on the increased use by the recipient of waste as
26 a raw material in a manufacturing process. The board may enter
27 into agreements to pay an annual recycling rebate to an eligible

1 recipient for a period of up to 5 years, subject to the
2 availability of funds. Payments shall be made to each recipient
3 after the end of each year in an amount equal to the rate estab-
4 lished by the board for that type of activity times the actual
5 amount of increased use of waste by the recipient during the year
6 as demonstrated to the board.

7 Sec. 17. (1) The board shall establish a market development
8 grant program. The program shall encourage expansion of the use
9 of recycled materials and the development of innovative technolo-
10 gies to use recycled materials. The board shall make a grant
11 under the program described in this section.

12 (2) The board shall select market development projects,
13 subject to all of the following prerequisites:

14 (a) The project is beyond the research stage and a demon-
15 stration has indicated that it is technically feasible.

16 (b) The recipient of the grant is a municipality, nonprofit
17 private entity, or a private entity in this state.

18 (c) The project will be performed in this state.

19 (3) The board shall consider all of the following factors in
20 selecting recipients of market development grants:

21 (a) The contribution that would be made by the project
22 toward the goal of increasing the use of recycled materials.

23 (b) The market's need for the development of the technology
24 or equipment.

25 (c) The potential impact of the technology or equipment on
26 the cost effectiveness of using recycled materials.

1 (d) The potential for development of new resource recovery
2 markets and for the generation of positive economic impacts.

3 (e) The potential of the project for commercial
4 application.

5 (f) The stage of the development of the technology or equip-
6 ment proposed to be used in the project.

7 (g) The environmental, economic, and social benefits to the
8 state of the development of the technology or equipment.

9 (h) The future sources of capital funding for the project.

10 (i) The extent to which the applicant has committed land,
11 buildings, personnel, support services, or funds to the project.

12 (j) The potential of the project for developing multiple
13 markets.

14 (4) The board shall not dispense a market development grant
15 unless all the permits that are required by state or federal law
16 and that are specifically applicable to the nature of the pro-
17 posed project have been obtained.

18 Sec. 18. The board shall develop all of the following:

19 (a) Information on new markets for materials recovered from
20 solid waste that have been developed by other states, the federal
21 government, or private businesses.

22 (b) A directory and other appropriate informational materi-
23 als that describe direct and indirect state financial assistance
24 available to new and existing businesses involved in the recycl-
25 ing of solid waste.

26 (c) Information on opportunities to develop or expand
27 businesses in this state that manufacture recycled products.

1 (d) A clearinghouse of information on who is generating,
2 collecting, and processing recycled materials and who is using
3 recycled materials in a manufacturing process or for an end use.

4 Sec. 19. The board shall contract with an individual, part-
5 nership, corporation, association, or nonprofit entity to operate
6 a statewide cooperative marketing service that does all of the
7 following:

8 (a) Warehouses recycled materials.

9 (b) Serves as a broker of recycled materials between collec-
10 tors and processors of recycled materials and consumers of recy-
11 cled materials.

12 (c) Facilitates the flow of recycled materials from collec-
13 tors and processors of recycled materials to consumers of recy-
14 cled materials.

15 (d) Establishes facilities for the storage, processing, or
16 reprocessing of recyclable materials.

17 Sec. 20. The board shall establish an educational program
18 with respect to recycling to accomplish all of the following:

19 (a) The promotion on a statewide basis of the purchase of
20 recycled products and materials.

21 (b) The development of promotional materials for distribu-
22 tion by municipalities in support of their efforts to promote the
23 purchase of recycled products.

24 Sec. 21. The board shall cause to be conducted as it con-
25 siders necessary statewide market development research studies to
26 assess the current markets and the potential for and the means
27 for expansion of markets for recycled materials in this state.

1 In addition, the board shall establish a market development plan
2 based on the market development research study. The plan shall
3 identify the barriers in attracting or expanding industries that
4 use recycled materials and determine the appropriate methods for
5 eliminating those barriers. The office of solid waste disposal
6 oversight shall serve as project coordinator for the market
7 development study funded and administered by the board pursuant
8 to this section.

9 Sec. 22. The board shall promulgate rules necessary to
10 implement this act.