



**House
Legislative
Analysis
Section**

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FRUIT & VEG. BY-PRODUCTS

**House Bill 4852 (Substitute H-1)
First Analysis (6-22-93)**

**Sponsor: Rep. Carl Gnodtke
Committee: Agriculture & Forestry**

THE APPARENT PROBLEM:

Certain wastes are exempted from regulation under the Solid Waste Management Act (Public Act 641 of 1978), including "nondetrimental material appropriate for agricultural or silvicultural use," provided that these wastes are applied under a plan approved by the director of the Department of Natural Resources. Apparently, the neighbor of a vineyard owner complained to the DNR that the neighbor suspected the vineyard owner of spreading illegal waste on the owner's vineyard because the neighbor had observed the owner applying something to the vineyard at night, and suspected an illegal substance. As it turned out, the owner had been spreading grape pulp, but had not done so under a plan approved by the director of the DNR, and so was in violation of the Solid Waste Management Act. Legislation has been introduced that would address this situation.

THE CONTENT OF THE BILL:

Currently, certain solid wastes are exempted from regulation under the Solid Waste Management Act (Public Act 641 of 1978), either because (like, for example, medical waste) they are regulated under some other law, or because, like "nondetrimental materials appropriate for agricultural or silvicultural use," they must be disposed of only under a plan approved by the director of the Department of Natural resources.

The bill would amend the Solid Waste Act by specifically exempting from the act's requirement for an approved plan (or a permit or license under the act) "agricultural uses that involve the land application of by-products from fruit, vegetable, and sugar beet processing" applied "at an agronomic rate consistent with best management practices " as defined by rule by the state Commission of Agriculture) under the Right to Farm Act (Public Act 93 of 1981).

MCL 299.407

FISCAL IMPLICATIONS:

Fiscal information is not available. (6-21-93)

ARGUMENTS:

For:

While farmers need to be sensitive to good environmental practices, a certain amount of common sense also must be applied to the regulation of disposal of nondetrimental materials appropriate for agricultural or forestry uses. Currently, regulation of such disposal is under the purview of the Department of Natural Resources (DNR), and has resulted in such anomalous situations as a vineyard owner being in violation of the Solid Waste Management Act for applying grape pulp to his grape orchards because he hadn't done so under a plan approved by the DNR. The bill would prevent future such cases by exempting from the existing plan (and any licensing or permit) requirements agricultural uses that involved the land application of by-products from fruit, vegetable, or sugar beet processing, providing that the by-products were applied at an agronomic rate (that is, in accordance with the crop's need for nutrients and the soil's ability to absorb the applied material) consistent with the best management practices under the Right to Farm Act.

Against:

Some people have expressed concern that the broad language of the bill could create environmental and public health problems. For example, the piling of wastes on the ground, without properly incorporating them, could result in odor and vermin problems, while decay of organic matter -- including run-off ("leachate") from such materials, which involves high oxygen demands -- could result in significant fish kill problems (through oxygen take-up in the water by the organic materials, leaving fish without enough oxygen to survive). In fact, in a case in Pinconning, run-off from the dumping of cheese wheys did in fact result in over 5,000 fish

suffocating. In addition, the processing of certain vegetables results in by-products that could be harmful in other ways. For example, pickle plant by-products have high chloride content because of the brine used in processing cucumbers for pickles, while sugar beet processing uses a liming process with a resulting high-lime sludge by-product. Application of either of these kinds of by-products could result in environmental problems.

Response:

In the first place, the bill would apply only to fruit, vegetable, and sugar beet by-products, so the cheese whey fish kill wouldn't be exempted (since cheese whey is an animal by-product). Secondly, however, the bill was substituted in committee to specify that these by-products be applied at agronomic rates consistent with "best management practices" as defined under the Right to Farm Act. Since the application of brine would likely not fall under this definition, it would automatically be excluded by the bill. As for the application of sugar beet sludge high in lime, there might well be some cases in which an application would be appropriate, but again it would have to be at agronomic rates consistent with best management practices, so again there should be no problem.

Reply:

So long as the "by-product" in question is raw and unprocessed there should indeed be no problem with the bill. However, by leaving "by-product" undefined, there remains the possibility that, for example, some sludges with high concentrations of environmentally undesirable chemicals and solvents might be allowed under the bill. Since some, if not most, processors use high strength cleaners for their vats and include this in the general resulting sludge "by-product" it would perhaps be desirable to specify that "by-product" referred only to raw, chemically unprocessed by-products (such as grape pulp, sugar beet wash water and tops, cherry pits, and so forth).

POSITIONS:

The Michigan Farm Bureau supports the bill.
(6-21-93)

The Michigan Association of Food Processors supports the bill. (6-21-93)

The Michigan Merchants Council supports the bill.
(6-21-93)

The Department of Natural Resources supports the concept of the bill, but has concerns that "by-product" is not defined in the bill. (6-21-93)