

Act No. 67
Public Acts of 1996
Approved by the Governor
February 25, 1996
Filed with the Secretary of State
February 26, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Freeman

ENROLLED HOUSE BILL No. 5318

AN ACT to amend sections 2233, 12544, 12562, 12703, 12902, 13703, 13716, and 13821 of Act No. 368 of the Public Acts of 1978, entitled as amended "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," section 12562 as amended by Act No. 174 of the Public Acts of 1995, section 12902 as amended by Act No. 284 of the Public Acts of 1990, sections 13703 and 13716 as added by Act No. 203 of the Public Acts of 1987, and section 13821 as added by Act No. 18 of the Public Acts of 1990, being sections 333.2233, 333.12544, 333.12562, 333.12703, 333.12902, 333.13703, 333.13716, and 333.13821 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 2233, 12544, 12562, 12703, 12902, 13703, 13716, and 13821 of Act No. 368 of the Public Acts of 1978, section 12562 as amended by Act No. 174 of the Public Acts of 1995, section 12902 as amended by Act No. 284 of the Public Acts of 1990, sections 13703 and 13716 as added by Act No. 203 of the Public Acts of 1987, and section 13821 as added by Act No. 18 of the Public Acts of 1990, being sections 333.2233, 333.12544, 333.12562, 333.12703, 333.12902, 333.13703, 333.13716, and 333.13821 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2233. (1) The department may promulgate rules necessary or appropriate to implement and carry out the duties or functions vested by law in the department.

(2) If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the department shall not promulgate rules under this act.

Sec. 12544. The department, in cooperation with local health departments, shall promulgate rules which shall contain minimum sanitation standards for determining water quality at bathing beaches open to the public. The rules shall be used by a local health department to establish the safety of the water for swimming. Water quality standards adopted

under this section shall be in conformity with the official state water quality standards adopted by the department of environmental quality under the authority of part 31 (water resources protection) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.3101 to 324.3119 of the Michigan Compiled Laws.

Sec. 12562. (1) The application of necessary chemicals in powder, crystal, or solution form to the waters of the state for the control of aquatic nuisances, such as swimmers' itch and aquatic plants, is lawful and not in contravention of the private or public rights to the use and enjoyment of abutting property by the owners or occupants of that property if the application is made in accordance with sections 12561 to 12563 and rules promulgated under section 12561.

(2) The necessary control work authorized pursuant to this section may be conducted by the state or a political subdivision or by an organized lake or improvement association on behalf of its members, or by the owner of property abutting on the waters of the state, or by an aquatic pest control applicator licensed under part 83 (pesticide control) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.8301 to 324.8336 of the Michigan Compiled Laws, after obtaining a permit from the department of natural resources. A permit may be obtained by application to the department of natural resources. Unless revoked, a permit issued under this section expires on December 31 of the calendar year in which it was issued.

(3) The necessary control work authorized pursuant to this section shall be conducted at those times, under those conditions, and with those safeguards, as the department of natural resources requires. The department of natural resources may provide permits, upon application, for the suppression of swimmers' itch and aquatic plants, if applicants provide at their own expense chemicals and other equipment and services called for in the rules promulgated by the department of natural resources.

(4) Except as provided in subsection (5), until October 1, 1999, an application for a permit under this section shall be accompanied by the following fee:

(a) For treatment of areas of 1/2 acre or more and less than 2 acres, \$50.00.

(b) For treatment of areas of 2 acres or more, \$150.00.

(5) A fee is not required under this section for owners of a single property treating waters abutting their property where the treatment area is less than 1/2 acre, or for water bodies in single ownership.

(6) The department of natural resources shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113 of part 301 (inland lakes and streams) of Act No. 451 of the Public Acts of 1994, being section 324.30113 of the Michigan Compiled Laws.

Sec. 12703. (1) Sections 12701 to 12715 shall not apply to:

(a) A well, pump, or other equipment used temporarily for dewatering purposes during construction when the well is not more than 2 inches in diameter and not more than 25 feet in total depth below the natural ground surface or is used in the relief of artesian pressure at hydroelectric projects or is used with the drilling of oil or gas wells.

(b) A brine, test, storage, or disposal well regulated pursuant to part 625 (mineral wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.62501 to 324.62518 of the Michigan Compiled Laws.

(2) Sections 12701 to 12715 shall not prevent a person from constructing a well or installing a pump on property owned or leased by the person which is intended for use only in a single family house which is that person's permanent residence, or intended for use only for farming purposes on that person's farm, and where the waters to be produced are not intended for use by the public or in any residence other than his or her own. The person shall submit the drilling record required by section 12707 and comply with the rules and construction code promulgated under section 12714.

(3) Sections 12701 to 12715 shall not restrict a master plumber licensed under Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, from engaging in the licensee's legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in sections 12701 to 12715 or rules and construction code promulgated under section 12714 without a certificate of registration as a pump installer.

Sec. 12902. (1) A charitable, religious, fraternal, or other nonprofit organization that prepares or serves wild game in connection with its meetings or as part of a fund-raising event or that prepares or serves wild game to indigent persons free of charge is not required to obtain the wild game from a department-approved source.

(2) If a charitable, religious, fraternal, or other nonprofit organization prepares or serves wild game that is not from a department-approved source in connection with its meetings or as part of a fund-raising event or prepares or serves wild game that is not from a department-approved source to indigent persons free of charge, the organization shall post at the entrance to the dining area a sign bearing the following message: Consumer beware. The wild game served at this facility has not been subject to state or federal inspection.

(3) The words of the message set forth in subsection (2) shall be written or printed in letters not less than 3/4 of an inch high and 3/4 of an inch wide, and shall be readable.

(4) As used in this section, wild game includes, but is not limited to, bear, deer, elk, hares, moose, rabbits, fox squirrels, black and gray squirrels, muskrat, and game birds as defined in section 43504 of part 435 (hunting and fishing licensing) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 333.43504 of the Michigan Compiled Laws.

Sec. 13703. (1) "Generator" means any person licensed as a generator by the nuclear regulatory commission and authorized pursuant to this part whose act or process results in the production of waste or whose act first causes waste to become subject to regulation under this part or federal law.

(2) "Groundwater" means water below the land surface in a zone of saturation.

(3) "Hazardous waste" has the meaning attributed to it in part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws.

(4) "Host site" means the candidate site that is designated by the authority as the location for the disposal site in this state.

(5) "Host site community" means the municipality that is designated by the authority as the host site.

(6) "Institutional control" means the continued surveillance, monitoring, and care of the disposal site after site closure and stabilization to insure the protection of the public health, safety, and welfare, and the environment until the contents of the disposal site no longer have a radioactive content that is greater than the natural background radiation of the host site as determined during its site characterization.

(7) "Local monitoring committee" means a committee established pursuant to the low-level radioactive waste authority act to provide for the participation of the residents of a candidate site community.

(8) "Low-level radioactive waste" or "waste" means radioactive material that consists of or contains class A, B, or C radioactive waste as defined by 10 C.F.R. 61.55, as in effect on January 26, 1983 but does not include waste or material that is any of the following:

(a) Owned or generated by the department of energy.

(b) Generated by or resulting from the operation or closure of a superconducting super collider.

(c) Owned or generated by the United States navy as a result of the decommissioning of vessels of the United States navy.

(d) Owned or generated as a result of any research, development, testing, or production of an atomic weapon.

(e) Identified under the formerly utilized sites remedial action program.

(f) High-level radioactive waste, spent nuclear fuel, or byproduct material as defined in section 11(e)(2) of the atomic energy act of 1954, chapter 1073, 68 Stat. 922, 42 U.S.C. 2014.

(g) Contains greater than or equal to 100 nanocuries per gram of transuranic elements.

(h) Contains concentrations of radionuclides that exceed the limits established by the nuclear regulatory commission for class C radioactive waste as defined by 10 C.F.R. 61.55, as in effect on January 26, 1983.

(i) Classified as naturally occurring or accelerator-produced radioactive materials known as N.A.R.M. waste.

(j) Waste that after the effective date of this part is determined by the nuclear regulatory commission to be waste that is beneath regulatory concern, or B.R.C. waste as defined by the nuclear regulatory commission, unless the department and the authority concur with this designation.

(9) "Low-level radioactive waste management fund" or "fund" means the fund created in section 20 of the low-level radioactive waste authority act, Act No. 204 of the Public Acts of 1987, being section 333.26220 of the Michigan Compiled Laws.

(10) "Management" means the collection, storage, packaging, processing, transportation, or disposal, where applicable, of low-level radioactive waste.

(11) "Manifest" means a form provided or approved by the department that is used for identifying the quantity; composition, including the class, curie count, and radioactive nuclides; origin; routing; and destination of waste from the point of generation to the point of processing, collection, or disposal.

Sec. 13716. (1) Upon receipt of an application for a construction and operating license, the department shall do all of the following:

(a) Within 45 days, determine whether the application is complete. If the application is not complete, the department shall notify the authority of all deficiencies and request that the additional information that the department considers necessary to make the application complete be supplied by the authority within 15 days. If the authority is unable to supply the requested information within 15 days, the authority shall notify the department in writing of the reason for any delay and when the requested information will be forwarded.

(b) Immediately notify the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and impacted state departments and agencies as determined by the department of the receipt of an application for a construction and operating license and the procedure by which the license may be approved or denied.

(c) Publish a notice in a newspaper that has statewide circulation, and a newspaper that has major circulation in the municipality in the immediate vicinity of the host site, and a newspaper that is circulated in the county in which the host site is located. The published notice shall contain a map indicating the location of the host site and shall contain a description of the host site and the location where the complete application package may be reviewed and where copies may be obtained. The notice shall describe the procedure by which the construction and operating license may be granted or denied. The director shall provide an opportunity for public comment at least 60 days before making a final decision to grant or deny an application for a construction and operating license.

(d) Along with other impacted state departments and agencies as determined by the department, review the entire application for a construction and operating license. The review shall include, but not be limited to, considerations pertaining to air quality, water quality, waste management, hydrogeology, and proposed waste transportation routes, and the protection of the public health, safety, and welfare, and the environment. The review shall be completed within 140 days after a complete application is received. Following the completion of the 140-day review, the department shall prepare a draft version of a construction and operating license that the department is considering issuing. Before the department prepares a draft construction and operating license, the department shall assure that all concerns expressed by the review board created in section 13 of the low-level radioactive waste authority act, the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and impacted state departments and agencies during the review process are considered. A written and signed review by each person representing a department who reviews the application and plans shall be reviewed and recorded by the department before a draft license is prepared by the department. In addition, before a draft license is prepared, but following the completion of the 140-day review, the department shall prepare a responsive summary that describes any public comments received by the department and describes how those comments have been evaluated and addressed by the department.

(e) Insure that the draft construction and operating license, written and signed reviews, and the responsive summary provided for in subdivision (d) are submitted to impacted state agencies as determined by the director and to the department of environmental quality.

(2) The director shall make a decision to issue a construction and operating license or deny the application for a construction and operating license as soon as practicable but not later than 12 months after the receipt of a complete application that is in compliance with this part. If the director denies the authority's application for a construction and operating license, the director shall state his or her reason or reasons in writing. If the construction and operating license application meets the requirements of this part and the rules promulgated under this part, the department shall, after preparing a draft version, prepare and issue to the authority a construction and operating license.

(3) The departments of agriculture, natural resources, environmental quality, state police, the state transportation department, and other state departments and agencies shall consult and cooperate with the department in a timely manner in the review of an application for a construction and operating license. The department may also seek the assistance of any other person in evaluating the application for a construction and operating license and in the development of a draft or final construction and operating license, or both.

(4) Except as provided in this subsection, the issuance of a construction and operating license by the director pursuant to this part shall exempt the authority from obtaining other permits, licenses, or registrations which may be required under other applicable state laws, but shall not exempt the authority from meeting other standards and requirements of applicable state laws or federal laws or from obtaining an operating license pursuant to part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws, before construction commences.

(5) A local ordinance or permit requirement or other local requirement shall not prohibit, restrict, or regulate the construction or operation of the disposal site.

Sec. 13821. A producing facility that transports medical waste off the premises of the producing facility shall package the medical waste in the following manner:

(a) Sharps that are not ground or incinerated as described in section 13811(d) shall be contained for disposal in individual leakproof, rigid, puncture-resistant containers that are secured to preclude loss of the contents. In addition, a container used to store or transport a number of individual sharps containers shall be leakproof. These containers shall be conspicuously labeled with the word "sharps". Sharps that are contained pursuant to this subdivision may be disposed of as solid waste pursuant to part 115 (solid waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11501 to 324.11549 of the Michigan Compiled Laws. However, sharps shall not be compacted or handled during transport in a manner that will result in breakage of a sharps container.

(b) Medical waste other than sharps shall be contained in bags other than body pouches or other containers that are impervious to moisture and have a strength sufficient to resist ripping, tearing, breaking, or bursting under normal conditions of usage or handling. The bags or containers shall be secured so as to prevent leakage during storage, handling, or transport.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.