

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**



**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1093 (as enrolled)  
Sponsor: Senator George A. McManus, Jr.  
Senate Committee: Farming, Agribusiness and Food Systems  
House Committee: Agriculture

**PUBLIC ACT 299 of 1998**

Date Completed: 8-17-98

### **RATIONALE**

Dead livestock generated on Michigan farms generally are disposed of through incineration, burial, or rendering. Each of these methods, however, has its shortcomings due to economic, environmental, and accessibility concerns. Consequently, the livestock industry is looking to composting as an alternative to current disposal practices. Since 1993, Michigan farmers who raise poultry have been permitted to dispose of the dead fowl by composting the carcasses. Some people believe that composting also should be available to the livestock industry.

- **Permit the Director to bring a civil action through the Attorney General for a violation of the Act or a rule promulgated under it, and establish a fine of up to \$5,000 for each violation.**

### **Composting**

The Act requires the Department of Agriculture to promulgate rules regarding the construction and operation of a facility (an animal food manufacturing plant, a rendering plant, or a transfer station) licensed under the Act, poultry composting structures, and vehicles used for the transportation of dead animals. The bill also requires the Department to promulgate rules regarding the construction and operation of a "composting structure", which means a structure designed and built solely for composting organic material and dead livestock but not poultry. (The bill defines "livestock" as any species of animal used for human food or fiber or those species used for service to humans.)

The bill requires that, until rules are promulgated, a composting structure follow the standards contained in the MSU extension staff paper "ANS-Mimeo #369, file no. 19.42, dated March 1998", which is incorporated by reference.

Currently, the Director may inspect each facility and vehicle licensed under the Act and each poultry composting structure as often as necessary to maintain the standards in the Act or in rules promulgated under the Act. The bill adds that the Director may inspect composting structures.

The bill also permits the Director to authorize alternative methods of composting livestock or poultry for emergency, commercial, research, or other applications. Carcasses resulting from

### **CONTENT**

**The bill amended Public Act 239 of 1982 (which regulates dead animal dealers and rendering plants as well as the disposal of dead animals, and provides for poultry composting) to do the following:**

- **Permit the processing of dead animals at composting structures.**
- **Require a composting structure to follow standards contained in a Michigan State University (MSU) extension staff paper, as specified in the bill, until rules are promulgated.**
- **Require the Department of Agriculture to promulgate rules governing composting structures.**
- **Permit the Director of the Department to inspect a composting structure.**
- **Permit a person aggrieved by a departmental order issued under the Act to request a hearing under the Administrative Procedures Act (APA).**
- **Permit the Director, after the opportunity for a hearing, to impose an administrative fine of up to \$1,000 for each violation of the Act.**

mortality intrinsic to a livestock and poultry operation under common ownership or management may be composted in a structure together provided the structure meets the Act's requirements relative to both a composting structure and a poultry composting structure and all rules applicable to each as promulgated under the Act. A composting structure must be used to compost only the normal and natural daily mortality associated with a livestock production unit under common ownership or management. Any increase in mortality, due to any cause known or unknown, must be reported immediately to the Director. No carcasses resulting from an increase in mortality may be added to the composting structure without the Director's permission.

The Act requires that all dead animals be disposed of within 24 hours after death by any of the methods specified in the Act. The bill adds to these methods processing at a composting structure. The Act exempts certain dead animals from its disposal requirements. The bill adds to these exemptions dead animals used as specimens at educational institutions.

The Act provides that, except when transported in a vehicle meeting the requirements of promulgated rules, dead animals transported from a licensed facility to another licensed facility for production into animal or pet food must be decharacterized or denatured. The Act also had required that the container be labeled as animal or pet food. The bill requires, instead, that the container be labeled as inedible.

#### Violations

The bill provides that, after notice and an opportunity for a hearing and upon a finding that a person has violated a provision of the Act, the Director may impose an administrative fine of up to \$1,000 for each violation. If the Director finds that a violation occurred despite the exercise of due care or if the violation did not result in significant harm to human health or to the environment, the Director may issue a warning rather than an administrative fine.

Under the Act, the Department may bring an action to obtain a declaratory judgment that a method, act, or practice violates the Act or a rule promulgated under it and/or to obtain an injunction against a person who is engaging in or is about to engage in a method, act, or practice that violates the Act. The bill provides that in an action to obtain an injunction, venue is the county in which the

person is engaging in, or is about to engage in, the method, act, or practice.

In addition to the other actions provided for in the Act, the bill permits the Director to bring a civil action in a court of competent jurisdiction through the Attorney General for a violation of the Act or a rule promulgated under it. If the court determines that a violation has occurred, the court may impose a civil fine of up to \$5,000 for each violation.

The bill requires the Director to advise the Attorney General of a person's failure to pay an administrative or civil fine imposed under the Act. The Attorney General is required to bring a civil action in a court of competent jurisdiction to recover this fine.

In addition to any other defense available under law, the bill provides that a person may present as a defense to an administrative or civil action brought under the Act evidence that at the time of the alleged violation he or she was in compliance with the Act and rules promulgated under it.

The bill specifies that applicable provisions of the Revised Judicature Act apply to civil actions brought under Public Act 239.

MCL 287.653 et al.

#### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Incineration, burial, and rendering are the most commonly used methods of disposing of dead livestock, particularly swine, which result during the normal operation of the State's livestock industry. Each of the disposal options, however, has limitations, according to farmers and the Michigan Department of Agriculture. Burning dead animal carcasses can be an expensive process because incinerators use fossil fuels and the resulting exhaust must comply with clean air regulations. While burial is relatively inexpensive, farmers often cannot use this disposal method in the winter when the ground is frozen. In some cases, additional facilities must be built to store carcasses until they can be buried when the ground thaws. In addition, the State's high watertable affects the burial of carcasses. Where watertables are high, carcasses decay less rapidly. Furthermore, burial has the potential for polluting groundwater. In the

rendering process, carcasses are reduced to tallow, meat scrap, crackling, and other byproducts that are unfit for human consumption but can be sold as commodities. Some rendering operations, however, apparently are reluctant to serve small farms because they do not generate enough carcasses. Also, rendering may produce undesirable odors.

Composting, on the other hand, is an effective, safe, and economic disposal method. Reportedly, research conducted from 1993 to 1995 at Michigan State University on composting swine carcasses indicates that composting destroys diseases, such as salmonella, within seven days. When composting is done properly, odors and pests evidently are minimal. In addition, composting results in material that can be applied to cropland.

Since Public Act 228 of 1993 amended the 1982 law to permit Michigan farmers to compost dead poultry, composting has been demonstrated to be an efficient and safe alternative method for disposing of dead fowl. The bill also allows livestock producers to use this disposal method in accordance with rules regarding the construction and operation of a structure designed for composting organic material and dead livestock.

Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

The bill will have minimal fiscal impact on State and local government due to increased revenue from civil fines, and greater enforcement authority.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.