

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 introduced 4-29-98)
Sponsor: Senator George A. McManus, Jr.
Committee: Farming, Agribusiness, and Food Systems

Date Completed: 5-13-98

CONTENT

The bill would amend 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:

- **Require a composting facility to follow standards contained in a Michigan State University (MSU) extension staff paper, as specified in the bill.**
- **Permit the Director of the Department of Agriculture to inspect a composting structure that was used for composting organic material and dead livestock but not poultry.**
- **Permit the processing of dead animals at composting structures.**
- **Permit a person aggrieved by a departmental order to request a hearing under the Administrative Procedures Act (APA), and permit the Director, after the opportunity for a hearing, to impose an administrative fine of up to \$1,000 for each violation.**
- **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.**

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 would require the Department to promulgate rules regarding the construction and operation of a "composting structure", which would mean a structure designed and built solely for composting organic material and dead livestock but not poultry.

Currently, until the rules are promulgated, a licensed facility must conform to the Act's specifications for construction and operation of a facility. The bill would require, instead, that until rules were promulgated, a composting facility follow the standards contained in the MSU extension staff paper "ANS-Mimeo #369, file no. 19.42, dated March 1998", which would be incorporated by reference. The bill also would delete provisions permitting the operation of poultry composting structures that participated in the Department's poultry composting pilot research project at MSU.

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 would add that the Director could inspect composting structures. 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 would add to these methods processing at a composting structure. The Act exempts certain dead animals from its disposal requirements. The bill would add 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 requires that the container be labeled as animal or pet food. The bill would require, instead, that the container be labeled as inedible.

Under the bill, a person aggrieved by an order issued by the Department under the Act could request an administrative hearing pursuant to the APA. After notice and an opportunity for a hearing and upon a finding that a person had violated a provision of the Act, the Director could impose an administrative fine of up to \$1,000 for each violation. If the Director found that a violation occurred despite the exercise of due care or if the violation had not resulted in significant harm to human health or to the environment, the Director could 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 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 would have to be in the county in which the person engaging in, or was about to engage in, the method, act, or practice. In addition to the other actions provided for in the Act, the Director could 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 determined that a violation had occurred, the court could impose a civil fine of up to \$5,000 for each violation. Applicable provisions of the Revised Judicature Act would apply to civil actions brought under the Act.

The Director would have to advise the Attorney General of a person's failure to pay an administrative or civil fine imposed under the Act. The Attorney General would be 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, a person could 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 had complied with the Act and rules promulgated under it.

MCL 287.653 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

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

Fiscal Analyst: G. Cutler

S9798\S1093SA

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.