

SENATE BILL NO. 729

October 1, 1997, Introduced by Senator BENNETT and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11104, 11126, 11130, 11133, 11138, 11144, 11146, 11147, and 11148 (MCL 324.11104, 324.11126, 324.11130, 324.11133, 324.11138, 324.11144, 324.11146, 324.11147, and 324.11148) and by adding section 11132a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11104. (1) "Operator" means the person responsible for
2 the overall operation of a disposal, treatment, or storage facil-
3 ity with approval of the department either by contract or
4 license.

5 (2) "Solid waste" means that term as it is defined in part
6 115.

1 (3) "Storage" means the holding of hazardous waste for a
2 temporary period, at the end of which the hazardous waste is
3 treated, disposed of, or stored elsewhere.

4 (4) "Storage facility" means a facility or part of a facil-
5 ity where managed hazardous waste, as defined by rule, is subject
6 to storage. A generator who accumulates managed hazardous waste,
7 as defined by rule, on site in containers or tanks for less than
8 91 days or a period of time prescribed by rule is not a storage
9 facility.

10 (5) "Surface impoundment" or "impoundment" means a treat-
11 ment, storage, or disposal facility or part of a treatment, stor-
12 age, or disposal facility that is a natural topographic depres-
13 sion, human-made excavation, or diked area formed primarily of
14 earthen materials, although it may be lined with human-made mate-
15 rials, that is designed to hold an accumulation of liquid wastes
16 or wastes containing free liquids, and that is not an injection
17 well. Surface impoundments include, but are not limited to,
18 holding, storage, settling, and aeration pits, ponds, and
19 lagoons.

20 (6) "The solid waste disposal act" means title II of Public
21 Law 89-272, 42 U.S.C. 6901, 6902 to 6907, 6911, 6912 to 6914a,
22 6915 to 6916, 6921 to ~~6931, 6933 to 6939b~~ 6939e, 6941, 6942 to
23 6949a, 6951 to 6956, 6961 to 6964, 6971 to ~~6979a~~ 6979b, 6981 to
24 6987, 6991 to 6991i, and 6992 to 6992k.

25 (7) "Transporter" means a person engaged in the off-site
26 transportation of hazardous waste by air, rail, highway, or
27 water.

1 (8) "Treatment" means any method, technique, or process,
2 including neutralization, designed to change the physical, chemi-
3 cal, or biological character or composition of any hazardous
4 waste, to neutralize the waste, to recover energy or material
5 resources from the waste, or to render the waste nonhazardous or
6 less hazardous, safer to transport, store, or dispose of, amena-
7 ble to recovery, amenable to storage, or reduced in volume.
8 Treatment includes any activity or processing designed to change
9 the physical form or chemical composition of hazardous waste so
10 as to render it nonhazardous.

11 (9) "Treatment facility" means a facility or part of a
12 facility where managed hazardous waste, as defined by rule, is
13 subject to treatment.

14 (10) "Updated plan" means the updated state hazardous waste
15 management plan prepared under section 11110.

16 (11) "Vehicle" means A TRANSPORT VEHICLE AS DEFINED IN 49
17 C.F.R. 171.8. ~~each separate conveyance used in the transporta-~~
18 ~~tion of hazardous waste that is 1 of the following:~~

19 ~~(a) A rail car as defined in 49 C.F.R. 171.8.~~

20 ~~(b) A semi trailer, truck, or trailer as defined in the~~
21 ~~Michigan vehicle code, Act No. 300 of the Public Acts of 1949,~~
22 ~~being sections 257.1 to 257.923 of the Michigan Compiled Laws.~~

23 ~~(c) A truck tractor as defined in Act No. 300 of the Public~~
24 ~~Acts of 1949, only if the hazardous waste is actually transported~~
25 ~~in the cab of the vehicle.~~

26 Sec. 11126. The department shall coordinate and integrate
27 the provisions of this part for purposes of administration and

1 enforcement with appropriate state and federal law including the
2 clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431,
3 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to
4 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574,
5 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to
6 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to
7 7671q; the federal water pollution control act, chapter 758, 86
8 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257,
9 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299,
10 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345, 1361 to
11 1377, and 1381 to 1387; title XIV of the public health service
12 act, chapter 373, 88 Stat. 1660; the toxic substances control
13 act, Public Law 94-469, 15 U.S.C. 2601 to 2629, 2641 to 2656,
14 ~~and~~ 2661 to 2671, AND 2681 TO 2692; the resource conservation
15 and recovery act of 1976, 42 U.S.C. 6901 to 6987; parts 31, 55,
16 115, and 121; the safe drinking water act, ~~Act No. 399 of the~~
17 ~~Public Acts of 1976, being sections 325.1001 to 325.1023 of the~~
18 ~~Michigan Compiled Laws~~ 1976 PA 399, MCL 325.1001 TO 325.1023;
19 ~~and~~ the fire ~~protection~~ PREVENTION code, ~~Act No. 207 of the~~
20 ~~Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan~~
21 ~~Compiled Laws~~ 1941 PA 207, MCL 29.1 TO 29.34; AND THE HAZARDOUS
22 MATERIALS TRANSPORTATION ACT. The coordination and integration
23 shall be effected only to the extent that it can be done in a
24 manner consistent with the goals and policies of this part.

25 Sec. 11130. ~~(1) A person shall not engage in the business~~
26 ~~of transporting hazardous waste within this state without a~~
27 ~~hazardous waste transporter business license from the~~

1 ~~department. Any vehicle used to transport hazardous wastes off~~
2 ~~site shall be licensed under this part. An application for a~~
3 ~~hazardous waste transporter business license or a vehicle license~~
4 ~~shall be made on a form provided by the department. Railcars,~~
5 ~~airplanes, and watercraft used for the transportation of hazard-~~
6 ~~ous waste are exempt from the requirements of this section to~~
7 ~~obtain a hazardous waste transporter business license or a vehi-~~
8 ~~cle license.~~

9 ~~(2) An application for a hazardous waste transporter busi-~~
10 ~~ness license shall be accompanied by the following:~~

11 ~~(a) A business license application fee of \$1,000.00 of which~~
12 ~~\$100.00 shall be retained as a processing of the application~~
13 ~~fee. The remaining business license application fee and the~~
14 ~~vehicle license application fee as required in subdivision (b)~~
15 ~~shall be refunded if the application is denied by the~~
16 ~~department.~~

17 ~~(b) A vehicle license application fee of \$500.00 for each~~
18 ~~vehicle used by the hazardous waste transporter to transport or~~
19 ~~carry hazardous waste.~~

20 ~~(c) Proof of financial responsibility as defined in rules~~
21 ~~promulgated under this part.~~

22 ~~(1) -(3)- The hazardous waste transporter account is created~~
23 ~~within the environmental pollution prevention fund which is~~
24 ~~hereby created in the state treasury.~~

25 ~~(2) -(4)- The state treasurer may receive money or other~~
26 ~~assets from any source for deposit into the account. -The~~
27 ~~license fees collected pursuant to this section shall be~~

1 ~~deposited in the hazardous waste transporter account.~~ The state
2 treasurer shall direct the investment of the account. The state
3 treasurer shall credit to the account interest and earnings from
4 account investments.

5 (3) ~~-(5)-~~ Money remaining in the account at the close of the
6 fiscal year shall not lapse to the general fund.

7 (4) ~~-(6)-~~ The department shall expend money from the
8 account, upon appropriation, for the implementation of this
9 part. In addition, funds not expended for the implementation of
10 this part may be utilized for emergency response and cleanup
11 activities related to hazardous waste that are initiated by the
12 department.

13 SEC. 11132A. (1) A TRANSPORTER SHALL DO THE FOLLOWING:

14 (A) OBTAIN AND UTILIZE AN ENVIRONMENTAL PROTECTION AGENCY
15 IDENTIFICATION NUMBER IN ACCORDANCE WITH THE RULES PROMULGATED
16 UNDER THIS PART.

17 (B) IF TRANSPORTING BY HIGHWAY, REGISTER AND BE PERMITTED IN
18 ACCORDANCE WITH THE HAZARDOUS MATERIALS TRANSPORTATION ACT AND
19 CARRY A COPY OF THE REGISTRATION AND PERMIT ON THE VEHICLE FOR
20 INSPECTION BY THE DEPARTMENT, THE DEPARTMENT OF STATE POLICE, OR
21 THE AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OF COMMUNITY
22 HEALTH, A PEACE OFFICER, OR A REPRESENTATIVE OF THE UNITED STATES
23 ENVIRONMENTAL PROTECTION AGENCY.

24 (C) COMPLY WITH THE TRANSFER FACILITY OPERATING AND FINAN-
25 CIAL RESPONSIBILITY REQUIREMENTS AS REQUIRED BY THE RULES PROMUL-
26 GATED UNDER THIS PART.

1 (D) COMPLY WITH THE CONSOLIDATION AND COMMINGLING
2 REQUIREMENTS AS REQUIRED BY THE RULES PROMULGATED UNDER THIS
3 PART.

4 (E) COMPLY WITH THE VEHICLE REQUIREMENTS AS REQUIRED BY THE
5 RULES PROMULGATED UNDER THIS PART.

6 (F) UTILIZE, COMPLETE, AND RETAIN A MANIFEST FOR EACH SHIP-
7 MENT OF HAZARDOUS WASTE AS REQUIRED BY THIS PART AND THE RULES
8 PROMULGATED UNDER THIS PART.

9 (G) KEEP ALL RECORDS READILY AVAILABLE FOR REVIEW AND
10 INSPECTION BY THE DEPARTMENT, THE DEPARTMENT OF STATE POLICE, OR
11 THE AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OF COMMUNITY
12 HEALTH, A PEACE OFFICER, OR A REPRESENTATIVE OF THE UNITED STATES
13 ENVIRONMENTAL PROTECTION AGENCY.

14 (H) RETAIN ALL RECORDS AS REQUIRED BY THE RULES PROMULGATED
15 UNDER THIS PART FOR A PERIOD OF 3 YEARS. THE RETENTION PERIOD
16 REQUIRED BY THIS SUBDIVISION IS AUTOMATICALLY EXTENDED DURING THE
17 COURSE OF ANY UNRESOLVED ENFORCEMENT ACTION REGARDING THE REGU-
18 LATED ACTIVITY OR AS REQUIRED BY THE DEPARTMENT.

19 (I) COMPLY WITH THE REPORTING REQUIREMENTS AS REQUIRED BY
20 THE RULES PROMULGATED UNDER THIS PART.

21 (J) COMPLY WITH THE IMPORT AND EXPORT REQUIREMENTS AS
22 REQUIRED BY THE RULES PROMULGATED UNDER THIS PART.

23 (K) COMPLY WITH THE REQUIREMENTS REGARDING HAZARDOUS WASTE
24 DISCHARGES AS REQUIRED BY THE RULES PROMULGATED UNDER THIS PART.

25 (l) COMPLY WITH THE LAND DISPOSAL RESTRICTION REQUIREMENTS
26 AS REQUIRED BY THE RULES PROMULGATED UNDER THIS PART.

1 (M) COMPLY WITH THE UNIVERSAL WASTE REQUIREMENTS AS REQUIRED
2 BY THE RULES PROMULGATED UNDER THIS PART.

3 (N) KEEP THE OUTSIDE OF ALL VEHICLES AND ACCESSORY EQUIPMENT
4 FREE OF HAZARDOUS WASTE OR HAZARDOUS WASTE CONSTITUENTS.

5 (2) THE DEPARTMENT MAY CONDUCT AN INSPECTION TO VERIFY THAT
6 THE EQUIPMENT, LOCATION, AND METHODS OF A TRANSPORTER ARE ADE-
7 QUATE TO EFFECTUATE SERVICE UNDER THIS PART AND THE RULES PROMUL-
8 GATED UNDER THIS PART. THE DEPARTMENT SHALL ESTABLISH, BY RULE,
9 THE INSPECTION STANDARDS AND REQUIREMENTS.

10 Sec. 11133. ~~(1) A license issued pursuant to section 11132~~
11 ~~expires 2 years after the date of issuance. Application for~~
12 ~~renewal of a license shall be made at least 60 days before~~
13 ~~expiration. The fee for renewal shall be the same for an origi-~~
14 ~~nal license.~~ (2) A hazardous waste transporter business license
15 issued under this part shall be revoked if the holder of the
16 license selected a treatment, storage, or disposal facility which
17 is operated contrary to this part or the rules promulgated under
18 this part or uses a vehicle to store, treat, transport, or dis-
19 pose of hazardous waste contrary to this part or the rules
20 promulgated under this part.

21 Sec. 11138. (1) A generator of hazardous waste shall do the
22 following:

23 (a) Compile and maintain information and records regarding
24 the quantities of hazardous waste generated, characteristics and
25 composition of the hazardous waste, and the disposition of haz-
26 ardous waste generated.

1 (b) Utilize proper labeling and containerization of
2 hazardous waste as required by the department.

3 (c) Provide for the transport of hazardous waste only by a
4 transporter ~~licensed~~ PERMITTED under ~~this part~~ THE HAZARDOUS
5 MATERIALS TRANSPORTATION ACT.

6 (d) Utilize and retain a manifest for each shipment of haz-
7 arduous waste transported to property that is not on site as
8 required by section 11135 and assure that the treatment, storage,
9 or disposal facility to which the waste is transported is a des-
10 ignated facility.

11 (e) Provide the information on the manifest as required
12 under section 11135(1) to each person transporting, treating,
13 storing, or disposing of hazardous waste.

14 (f) Keep all records readily available for review and
15 inspection by the department, THE DEPARTMENT OF STATE POLICE, or
16 the authorized representative of the department of ~~public~~
17 COMMUNITY health, a peace officer, or a representative of the
18 United States environmental protection agency.

19 (g) Retain all records for a period of 3 years. The reten-
20 tion period required by this subdivision is automatically
21 extended during the course of any unresolved enforcement action
22 regarding the regulated activity or as required by the
23 department.

24 (h) Compile and submit a periodic report of hazardous waste
25 generated, stored, transferred, treated, disposed of, or trans-
26 ported for treatment, storage, or disposal as required by the
27 department.

1 (2) A generator who also operates a treatment, storage, or
2 disposal facility shall keep records of all hazardous waste
3 produced and treated, stored, or disposed. The generator shall
4 submit a report to the department within a period of 10 days
5 after the end of each month for all waste produced and treated,
6 stored, or disposed.

7 Sec. 11144. (1) The department shall inspect and file a
8 written report not less than 4 times per year for each licensed
9 treatment, storage, and disposal facility.

10 (2) A person may register with the department a complaint or
11 allegation of improper action or violation of this part, a rule,
12 or a condition of the license to operate a treatment, storage, or
13 disposal facility. ~~or transporting vehicle.~~

14 (3) Upon receipt of a complaint or allegation from a municipi-
15 pality, the department shall make a record of the complaint and
16 shall order an inspection of the treatment, storage, or disposal
17 facility, ~~transporting vehicle,~~ or other location of alleged
18 violation to investigate the complaint or allegation within not
19 more than 5 business days after receipt of the complaint or
20 allegation. If a complaint or allegation is of a highly serious
21 nature, as determined by the department, the facility or
22 ~~transporting vehicle~~ THE LOCATION OF THE ALLEGED VIOLATION
23 shall be inspected as quickly as possible.

24 (4) Following an investigation of a complaint or allegation
25 under subsection (3), the department shall make a written report
26 to the municipality within 15 days.

1 (5) A person who has knowledge that hazardous waste is being
2 treated, disposed of, or stored in violation of this part shall
3 notify the department. A person who has knowledge that an emer-
4 gency situation exists shall notify the department and the
5 department of ~~public~~ COMMUNITY health.

6 Sec. 11146. (1) Any person who generates, stores, treats,
7 transports, disposes of, or otherwise handles or has handled haz-
8 ardous waste shall furnish information relating to the hazardous
9 wastes or permit access to and copying of all records relating to
10 the hazardous wastes, or both, if the information and records are
11 required to be kept under this part or the rules promulgated
12 under this part, upon a request of the department, made for the
13 purpose of developing a rule or enforcing or administering this
14 part or a rule promulgated under this part. This subsection does
15 not limit the department's authority to pursue appropriate court
16 authorization in order to obtain information pertaining to
17 enforcement actions under this part.

18 (2) The department may enter at reasonable times any treat-
19 ment, storage, or disposal facility or other place where hazard-
20 ous wastes are or have been generated, stored, treated, disposed
21 of, or transported from and may inspect the facility or other
22 place and obtain from any person samples of the hazardous wastes
23 and samples of the containers or labeling of the wastes for the
24 purpose of developing a rule or enforcing or administering this
25 part or a rule promulgated under this part.

26 (3) If the department or a law enforcement official has
27 probable cause to believe that a person is violating this part or

1 a rule promulgated under this part, the department or law
2 enforcement official may search without a warrant a vehicle or
3 equipment that is possessed, used, or operated by that person.
4 The department or a law enforcement official may seize a vehicle,
5 equipment, or other property used or operated in a manner or for
6 a purpose contrary to this part or a rule promulgated under this
7 part. ~~The department shall request that the attorney general~~
8 ~~petition the circuit court for the county of Ingham or the county~~
9 ~~where the violation occurred for permission to preserve the prop-~~
10 ~~erty as evidence to prosecute the violation or alternatively~~
11 ~~shall file an appropriate action to condemn the property.~~ A
12 VEHICLE, EQUIPMENT, OR OTHER PROPERTY USED IN VIOLATION OF THIS
13 PART OR A RULE PROMULGATED UNDER THIS PART IS SUBJECT TO SEIZURE
14 AND FORFEITURE AS PROVIDED IN CHAPTER 47 OF THE REVISED JUDICA-
15 TURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO 600.4709.

16 Sec. 11147. A person who violates ~~this part by failing to~~
17 ~~carry a hazardous waste transporter vehicle license in a vehicle,~~
18 ~~who transfers a business or vehicle license in violation of sec-~~
19 ~~tion 11132, 11132A(1)(B) OR (N) or who violates rules promul-~~
20 ~~gated pursuant to UNDER section 11132 11132A(1)(B) OR (N) is~~
21 guilty of a misdemeanor punishable by imprisonment for not more
22 than 90 days or a fine of not more than \$500.00, or both, for
23 each violation. A law enforcement officer or a conservation
24 officer may issue an appearance ticket to a person who is in vio-
25 lation of ~~this section, section 11132, or the rules promulgated~~
26 ~~pursuant to section 11132 11132A(1)(B) OR (N) OR THE RULES~~
27 PROMULGATED UNDER SECTION 11132A(1)(B) OR (N).

1 Sec. 11148. (1) Subject to subsection (2), upon receipt of
2 information that the storage, transportation, treatment, or dis-
3 posal of hazardous waste may present an imminent and substantial
4 hazard to the health of persons or to the natural resources, or
5 is endangering or causing damage to public health or the environ-
6 ment, the department, after consultation with the director of
7 public health or a designated representative of the director of
8 public health, shall take 1 or more of the following actions:

9 (a) Issue an order directing the owner or operator of the
10 treatment, storage, or disposal facility, the generator, the
11 transporter, or the custodian of the hazardous waste that consti-
12 tutes the hazard, to take the steps necessary to prevent the act
13 or eliminate the practice that constitutes the hazard. The order
14 may include permanent or temporary cessation of the operation of
15 a treatment, storage, or disposal facility, generator, or
16 transporter. An order issued under this subdivision may be
17 issued without prior notice or hearing and shall be complied with
18 immediately. An order issued under this subdivision shall not
19 remain in effect more than 7 days without affording the owner or
20 operator or custodian an opportunity for a hearing. In issuing
21 an order calling for corrective action, the department shall
22 specify the precise nature of the corrective action necessary and
23 the specific time limits for performing the corrective action.
24 If corrective action is not completed within the time limit spec-
25 ified and pursuant to the department's requirements, the depart-
26 ment shall issue a cease and desist order against the owner or
27 operator of the treatment, storage, or disposal facility,

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1 generator, or transporter and initiate action to revoke the
2 operating ~~or transporter's~~ license and take appropriate
3 action.

4 (b) Request that the attorney general commence an action to
5 enjoin the act or practice and obtain injunctive relief upon a
6 showing by the department that a person has engaged in the pro-
7 hibited act or practice.

8 (c) Revoke a permit, license, or construction permit after
9 reasonable notice and hearing pursuant to the administrative pro-
10 cedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
11 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws~~
12 1969 PA 306, MCL 24.201 TO 24.328, if the department finds that a
13 treatment, storage, or disposal facility ~~or transporting~~
14 ~~vehicle~~ is not, or has not been, constructed or operated pursu-
15 ant to the approved plans or this part and the rules promulgated
16 under this part, or the conditions of a license or construction
17 permit.

18 (2) A determination of an instance of imminent and substan-
19 tial hazard to the health of persons shall be made by the direc-
20 tor of ~~public~~ COMMUNITY health.

21 Enacting section 1. Section 11132 of the natural resources
22 and environmental protection act, 1994 PA 451, MCL 324.11132, is
23 repealed.

Enacting section 2. This amendatory act takes effect July 1,
1998.

24 Enacting section 3. This amendatory act does not take
25 effect unless all of the following bills of the 89th Legislature
26 are enacted into law:

- 1 (a) Senate Bill No. 554.
- 2 (b) Senate Bill No. 731.
- 3