

SENATE BILL NO. 1093

April 29, 1998, Introduced by Senators MC MANUS, SCHUETTE, GAST and BYRUM and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1982 PA 239, entitled

"An act to license and regulate animal food manufacturing plants, transfer stations, dead animal dealers, rendering plants, and certain vehicles; to regulate the disposal of dead animals and to provide for poultry composting; to prescribe the powers and duties of certain state departments; to impose fees; to prescribe penalties; and to repeal certain acts and parts of acts,"

by amending the title and sections 3, 15, 19, 21, 23, and 29 (MCL 287.653, 287.665, 287.669, 287.671, 287.673, and 287.679), the title and sections 3, 15, 19, 23, and 29 as amended by 1993 PA 228 and section 21 as amended by 1996 PA 65, and by adding section 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to license and regulate animal food manufacturing

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plants, transfer stations, dead animal dealers, rendering plants,

4

and certain vehicles; to regulate the disposal of dead animals

1 and to provide for poultry AND LIVESTOCK composting; to prescribe
2 ~~the~~ powers and duties of certain state departments; to impose
3 fees; to PROVIDE FOR REMEDIES AND TO prescribe penalties; and to
4 repeal ~~certain~~ acts and parts of acts.

5 Sec. 3. (1) "Animal" means mollusks, crustaceans, and ver-
6 tebrates other than human beings.

7 (2) "Animal food manufacturing plant" means an establishment
8 at which animal or pet food is produced through the slaughtering,
9 boning, grinding, cooking, canning, or freezing of dead animals.

10 (3) "COMPOSTING STRUCTURE" MEANS A STRUCTURE DESIGNED AND
11 BUILT FOR THE SOLE PURPOSE OF COMPOSTING ORGANIC MATERIAL AND
12 DEAD LIVESTOCK AND NOT POULTRY.

13 (4) ~~(3)~~ "Dead animals" means restaurant grease and the
14 bodies, any part of the bodies, or any material produced from the
15 bodies of animals which have been slaughtered or have died from
16 any other cause and are not intended for human food. ~~—~~ Dead
17 animals ~~—does—~~ DO not include a finished product which has been
18 processed by an approved method.

19 (5) ~~(4)~~ "Dead animal dealer" means a person that procures
20 and transports dead animals to or from a facility licensed under
21 this act.

22 (6) ~~(5)~~ "Decharacterize" means a procedure that renders
23 dead animals unfit for human consumption.

24 (7) ~~(6)~~ "Denature" means a procedure that will impart a
25 distinctive color, odor, or taste to dead animals so that the
26 bodies are unfit for human consumption or cannot be used for
27 animal or pet food unless properly rendered.

1 (8) ~~-(7)-~~ "Department" means the department of agriculture.

2 (9) ~~-(8)-~~ "Director" means the director of the department of
3 agriculture or his or her authorized representative.

4 (10) ~~-(9)-~~ "Facility" means ~~each~~ ANY of the following:

5 (a) An animal food manufacturing plant.

6 (b) A rendering plant.

7 (c) A transfer station.

8 (11) "LIVESTOCK" MEANS ANY SPECIES OF ANIMAL USED FOR HUMAN
9 FOOD OR FIBER OR THOSE SPECIES USED FOR SERVICE TO HUMANS.

10 LIVESTOCK INCLUDES, BUT IS NOT LIMITED TO, CATTLE, SHEEP, NEW
11 WORLD CAMELIDS, BISON, CAPTIVE CERVIDAE, RATITES, SWINE, EQUINE,
12 AQUACULTURE SPECIES, AND RABBITS.

13 Sec. 15. (1) Until rules are promulgated under subsection
14 (2), a COMPOSTING FACILITY SHALL FOLLOW THE STANDARDS CONTAINED
15 IN MICHIGAN STATE UNIVERSITY EXTENSION STAFF PAPER ANS-MIMEO
16 #369, FILE NO. 19.42, DATED MARCH 1998, WHICH IS INCORPORATED BY
17 REFERENCE. ~~licensed facility shall conform to the following~~
18 ~~specifications:~~

19 ~~(a) Except for approved escapes for steam, all tanks shall~~
20 ~~be airtight. Steam shall be disposed of so that the steam does~~
21 ~~not annoy or constitute a nuisance to the public.~~

22 ~~(b) The facility shall be constructed for the purpose~~
23 ~~intended and shall be kept in good repair at all times. The~~
24 ~~facility shall have:~~

25 ~~(i) Floors constructed of an impervious material which can~~
26 ~~be easily cleaned.~~

1 ~~(ii) Good drainage.~~

2 ~~(iii) Properly equipped steel tanks, and enclosed driers and~~
3 ~~condensers, so that the escape of odors into the air is kept at~~
4 ~~an acceptable level.~~

5 ~~(c) The rendering of all dead animals shall be by a process~~
6 ~~approved by the director.~~

7 ~~(d) All processing of dead animals shall be done within the~~
8 ~~facility.~~

9 ~~(e) The facility shall be constructed in a location which~~
10 ~~precludes the maintenance of a public or private nuisance so that~~
11 ~~the facility does not interfere with the comfortable enjoyment of~~
12 ~~life and property by the public.~~

13 ~~(f) The floor space and equipment in a facility shall be~~
14 ~~thoroughly washed and cleaned at the end of each day of~~
15 ~~operation.~~

16 ~~(g) An ample supply of hot water shall be available within~~
17 ~~the facility for cleaning purposes.~~

18 ~~(h) Sewers and drains shall be flushed and cleaned on a reg-~~
19 ~~ular basis in order to insure proper drainage.~~

20 ~~(i) All unloading platforms that extend out from main build-~~
21 ~~ings shall be constructed to insure proper cleaning and~~
22 ~~drainage.~~

23 ~~(j) Effluent waste disposal from a facility shall be~~
24 ~~approved by state and federal agencies responsible for monitoring~~
25 ~~this type of waste disposal.~~

26 (2) The department shall promulgate rules PURSUANT TO THE
27 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO

1 24.328, regarding the construction and operation of a facility
 2 licensed under this act, poultry composting structures,
 3 COMPOSTING STRUCTURES, and vehicles used for the transportation
 4 of dead animals. When the rules required under this subsection
 5 are promulgated, ~~subsections (1) and (3) do~~ SUBSECTION (1) DOES
 6 not apply.

7 ~~(3) Until the rules required under subsection (2) for poul-~~
 8 ~~try composting structures are promulgated, poultry composting~~
 9 ~~structures may operate, with the approval of the director and the~~
 10 ~~approval of the head of the poultry composting pilot research~~
 11 ~~project, as a participant in the department's poultry composting~~
 12 ~~pilot research project at Michigan state university in the col-~~
 13 ~~lege of agriculture and natural resources in the animal science~~
 14 ~~department.~~

15 Sec. 19. (1) The director may inspect each facility and
 16 vehicle licensed under this act, and each poultry composting
 17 structure AND COMPOSTING STRUCTURE provided for under this act as
 18 often as may be necessary to maintain the standards ~~set forth~~
 19 ADOPTED in this act or in the rules promulgated under this act.

20 (2) The director may suspend or revoke a license issued
 21 under this act if a licensee violates this act or the rules
 22 promulgated under this act. ~~Suspension~~ THE DIRECTOR SHALL CON-
 23 DUCT SUSPENSION or revocation proceedings ~~shall be conducted~~
 24 pursuant to the administrative procedures act of 1969, ~~Act~~
 25 No. 306 of the Public Acts of 1969, as amended, being sections
 26 24.201 to 24.328 of the Michigan Compiled Laws 1969 PA 306, MCL
 27 24.201 TO 24.328.

1 Sec. 21. (1) Dead animals, except if contained in a drum,
2 barrel, or similar container, shall be transferred from 1 vehicle
3 to another only at a licensed facility.

4 (2) All dead animals, except as provided in subsection (3),
5 shall be disposed of within 24 hours after death by any of the
6 following methods:

7 (a) Burial not less than 2 feet below the natural surface of
8 the ground ~~in accordance with~~ ACCORDING TO rules promulgated
9 under this act.

10 (b) Burning in a location ~~which~~ THAT will not annoy or
11 constitute a nuisance to the public in compliance with part 55
12 ~~(air pollution control)~~ of the natural resources and environ-
13 mental protection act, ~~Act No. 451 of the Public Acts of 1994,~~
14 ~~being sections 324.5501 to 324.5542 of the Michigan Compiled~~
15 ~~Laws~~ 1994 PA 451, MCL 324.5501 TO 324.5542. Residue from the
16 burning process shall be disposed of by burial as provided in
17 subdivision (a) or in a manner approved by the director.

18 (c) Processing at a poultry composting structure.

19 (D) PROCESSING AT A COMPOSTING STRUCTURE.

20 (E) ~~(d)~~ Procuring the services of a licensed dead animal
21 dealer.

22 (F) ~~(e)~~ Procuring the services of a licensed rendering
23 plant.

24 (G) ~~(f)~~ Procuring the services of a licensed animal food
25 manufacturing plant.

26 (3) The following dead animals are not subject to the
27 requirements of subsection (2):

1 (a) Carcasses of small mammals, deer, and birds taken under
2 the authority of a damage and nuisance animal control permit
3 issued by the Michigan department of natural resources pursuant
4 to part 401 ~~(wildlife conservation)~~ of Act No. 451 of the Public
5 Acts of 1994, being sections 324.40101 to 324.40119 of the
6 Michigan Compiled Laws OF THE NATURAL RESOURCES AND ENVIRONMEN-
7 TAL PROTECTION ACT, 1994 PA 451, MCL 324.40101 TO 324.40119.

8 (b) Small mammals, cervidae, and birds, that are road kill.

9 (c) Dead animals kept in secured temporary cold storage of
10 4.5 degrees Celsius, 40 degrees Fahrenheit, or below for a maxi-
11 mum of 7 days or frozen and securely stored at minus 11 degrees
12 Celsius, 0 degrees Fahrenheit, or below for a maximum of 30
13 days.

14 (d) Restaurant grease.

15 (E) DEAD ANIMALS USED AS SPECIMENS AT EDUCATIONAL
16 INSTITUTIONS.

17 Sec. 23. (1) Except when transported in a vehicle meeting
18 the requirements of rules promulgated under section 15, dead ani-
19 mals transported from a licensed facility to another licensed
20 facility for production into animal or pet food shall be dechar-
21 acterized or denatured ~~—~~, and the FACILITY SHALL LABEL THE con-
22 tainer ~~shall be labeled~~ as ~~animal or pet food~~ INEDIBLE. The
23 label also shall state both of the following:

24 (a) In letters not less than 3 inches high, that the mate-
25 rial is not intended for human consumption.

26 (b) The name and address of the licensee.

1 (2) A license holder shall take all reasonable precautions
2 to prevent the dead animals from being diverted for use as human
3 food.

4 (3) Unless licensed under this act, a person shall not
5 advertise involvement or participation in the business of trans-
6 porting and disposing of dead animals.

7 SEC. 28. (1) A PERSON AGGRIEVED BY AN ORDER ISSUED BY THE
8 DEPARTMENT UNDER THIS ACT MAY REQUEST AN ADMINISTRATIVE HEARING
9 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
10 306, MCL 24.201 TO 24.328.

11 (2) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING AND UPON A
12 FINDING THAT A PERSON HAS VIOLATED A PROVISION OF THIS ACT, THE
13 DIRECTOR MAY IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAT
14 \$1,000.00 FOR EACH VIOLATION. IF THE DIRECTOR FINDS THAT A VIO-
15 LATION OCCURRED DESPITE THE EXERCISE OF DUE CARE OR IF THE VIOLA-
16 TION DID NOT RESULT IN SIGNIFICANT HARM TO HUMAN HEALTH OR TO THE
17 ENVIRONMENT, THE DIRECTOR MAY ISSUE A WARNING RATHER THAN AN
18 ADMINISTRATIVE FINE.

19 Sec. 29. (1) A person who violates this act or a rule
20 promulgated under this act is guilty of a misdemeanor punishable
21 by a fine of not less than \$300.00 or imprisonment of not less
22 than 30 days, or both.

23 (2) A person who is convicted of violating this act or a
24 rule promulgated under this act 3 or more times is guilty of a
25 felony punishable by imprisonment for not more than 1 year or a
26 fine of not more than \$2,000.00, or both.

1 (3) Any person authorized by the director to enforce the
2 animal health laws of the state may issue an appearance ticket,
3 as described and authorized by sections 9a to 9g of chapter 4 of
4 the code of criminal procedure, ~~Act No. 175 of the Public Acts~~
5 ~~of 1927, being sections 764.9a to 764.9g of the Michigan Compiled~~
6 ~~Laws~~ 1927 PA 175, MCL 764.9A TO 764.9G, for any violation of
7 this act.

8 (4) Notwithstanding the provisions of this act, the depart-
9 ment may bring an action IN A COURT OF COMPETENT JURISDICTION to
10 do 1 or ~~more~~ BOTH of the following:

11 (a) Obtain a declaratory judgment that a method, act, or
12 practice is a violation of this act or a rule promulgated under
13 this act.

14 (b) Obtain an injunction against a person who is engaging
15 IN, or IS about to engage ~~—~~ in, a method, act, or practice that
16 violates this act or a rule promulgated under this act. VENUE IN
17 AN ACTION BROUGHT UNDER THIS SUBDIVISION IS THE COUNTY IN WHICH
18 THE PERSON IS ENGAGING IN, OR IS ABOUT TO ENGAGE IN, THE METHOD,
19 ACT, OR PRACTICE.

20 (5) IN ADDITION TO THE OTHER ACTIONS PROVIDED FOR IN THIS
21 ACT, THE DIRECTOR MAY BRING A CIVIL ACTION IN A COURT OF COMPE-
22 TENT JURISDICTION THROUGH THE DEPARTMENT OF THE ATTORNEY GENERAL
23 FOR THE VIOLATION OF THIS ACT OR A RULE PROMULGATED UNDER THIS
24 ACT. IF THE COURT DETERMINES THAT A VIOLATION HAS OCCURRED, THE
25 COURT MAY IMPOSE A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH
26 VIOLATION.

1 (6) THE DIRECTOR SHALL ADVISE THE DEPARTMENT OF THE ATTORNEY
2 GENERAL OF THE FAILURE OF A PERSON TO PAY AN ADMINISTRATIVE OR
3 CIVIL FINE IMPOSED UNDER THIS ACT. THE DEPARTMENT OF THE ATTOR-
4 NEY GENERAL SHALL BRING A CIVIL ACTION IN A COURT OF COMPETENT
5 JURISDICTION TO RECOVER THIS FINE.

6 (7) IN ADDITION TO ANY OTHER DEFENSE AVAILABLE UNDER LAW, A
7 PERSON MAY PRESENT AS A DEFENSE TO AN ADMINISTRATIVE OR CIVIL
8 ACTION BROUGHT UNDER THIS SECTION AND SECTION 28 EVIDENCE THAT AT
9 THE TIME OF THE ALLEGED VIOLATION HE OR SHE WAS IN COMPLIANCE
10 WITH THIS ACT AND RULES PROMULGATED UNDER THIS ACT.

11 (8) APPLICABLE PROVISIONS OF THE REVISED JUDICATURE ACT OF
12 1961, 1961 PA 236, MCL 600.101 TO 600.9948, APPLY TO CIVIL
13 ACTIONS BROUGHT UNDER THIS ACT.