

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 205

A bill to amend 1981 PA 93, entitled  
"Michigan right to farm act,"  
by amending section 4 (MCL 286.474), as amended by 1995 PA 94;  
and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 4. (1) ~~This~~ SUBJECT TO SUBSECTION (2), THE DIRECTOR  
2 SHALL INVESTIGATE ALL COMPLAINTS INVOLVING A FARM OR FARM OPERA-  
3 TION, INCLUDING, BUT NOT LIMITED TO, COMPLAINTS INVOLVING THE USE  
4 OF MANURE AND OTHER NUTRIENTS, AGRICULTURAL WASTE PRODUCTS, DUST,  
5 NOISE, ODOR, FUMES, AIR POLLUTION, SURFACE WATER OR GROUNDWATER  
6 POLLUTION, FOOD AND AGRICULTURAL PROCESSING BY-PRODUCTS, CARE OF  
7 FARM ANIMALS AND PEST INFESTATIONS. WITHIN 7 BUSINESS DAYS OF  
8 RECEIPT OF THE COMPLAINT, THE DIRECTOR SHALL CONDUCT AN ON-SITE  
9 INSPECTION OF THE FARM OR FARM OPERATION. THE DIRECTOR SHALL

1 NOTIFY, IN WRITING, THE CITY, VILLAGE, OR TOWNSHIP AND THE COUNTY  
2 IN WHICH THE FARM OR FARM OPERATION IS LOCATED OF THE COMPLAINT.

3       (2) THE COMMISSION AND THE DIRECTOR SHALL ENTER INTO A MEMO-  
4 RANDUM OF UNDERSTANDING WITH THE DIRECTOR OF THE DEPARTMENT OF  
5 ENVIRONMENTAL QUALITY. THE INVESTIGATION AND RESOLUTION OF ENVI-  
6 RONMENTAL COMPLAINTS CONCERNING FARMS OR FARM OPERATIONS SHALL BE  
7 CONDUCTED IN ACCORDANCE WITH THE MEMORANDUM OF UNDERSTANDING.  
8 HOWEVER, THE DIRECTOR SHALL NOTIFY THE DEPARTMENT OF ENVIRONMEN-  
9 TAL QUALITY OF ANY POTENTIAL VIOLATION OF THE NATURAL RESOURCES  
10 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO  
11 324.90106, OR A RULE PROMULGATED UNDER THAT ACT. ACTIVITIES AT A  
12 FARM OR FARM OPERATION ARE SUBJECT TO APPLICABLE PROVISIONS OF  
13 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA  
14 451, MCL 324.101 TO 324.90106, AND THE RULES PROMULGATED UNDER  
15 THAT ACT. THE COMMISSION AND THE DIRECTOR SHALL DEVELOP PROCE-  
16 DURES FOR THE INVESTIGATION AND RESOLUTION FOR OTHER FARM-RELATED  
17 COMPLAINTS.

18       (3) IF THE DIRECTOR FINDS UPON INVESTIGATION UNDER SUBSEC-  
19 TION (1) THAT THE PERSON RESPONSIBLE FOR A FARM OR FARM OPERATION  
20 IS USING GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRAC-  
21 TICES, THE DIRECTOR SHALL NOTIFY, IN WRITING, THAT PERSON, THE  
22 COMPLAINANT, AND THE CITY, VILLAGE, OR TOWNSHIP AND THE COUNTY IN  
23 WHICH THE FARM OR FARM OPERATION IS LOCATED OF THIS FINDING. IF  
24 THE DIRECTOR IDENTIFIES THAT THE SOURCE OR POTENTIAL SOURCES OF  
25 THE PROBLEM WERE CAUSED BY THE USE OF OTHER THAN GENERALLY  
26 ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES, THE DIRECTOR  
27 SHALL ADVISE THE PERSON RESPONSIBLE FOR THE FARM OR FARM

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1 OPERATION THAT NECESSARY CHANGES SHOULD BE MADE TO RESOLVE OR  
2 ABATE THE PROBLEM AND TO CONFORM WITH GENERALLY ACCEPTED AGRICUL-  
3 TURAL AND MANAGEMENT PRACTICES AND THAT IF THOSE CHANGES CANNOT  
4 BE IMPLEMENTED WITHIN 30 DAYS, THE PERSON RESPONSIBLE FOR THE  
5 FARM OR FARM OPERATION SHALL SUBMIT TO THE DIRECTOR AN IMPLEMEN-  
6 TATION PLAN INCLUDING A SCHEDULE FOR COMPLETION OF THE NECESSARY  
7 CHANGES. WHEN THE DIRECTOR CONDUCTS A FOLLOW-UP ON-SITE INSPEC-  
8 TION TO VERIFY WHETHER THOSE CHANGES HAVE BEEN IMPLEMENTED, THE  
9 DIRECTOR SHALL NOTIFY, IN WRITING, THE CITY, VILLAGE, OR TOWNSHIP  
10 AND THE COUNTY IN WHICH THE FARM OR FARM OPERATION IS LOCATED OF  
11 THE TIME AND DATE OF THE FOLLOW-UP ON-SITE INSPECTION AND SHALL  
12 ALLOW A REPRESENTATIVE OF THE CITY, VILLAGE, OR TOWNSHIP AND THE  
13 COUNTY TO BE PRESENT DURING THE FOLLOW-UP ON-SITE INSPECTION. IF  
14 THE CHANGES HAVE BEEN IMPLEMENTED, THE DIRECTOR SHALL NOTIFY, IN  
15 WRITING, THE PERSON RESPONSIBLE FOR THE FARM OR FARM OPERATION,  
16 THE COMPLAINANT, AND THE CITY, VILLAGE, OR TOWNSHIP AND THE  
17 COUNTY IN WHICH THE FARM OR FARM OPERATION IS LOCATED OF THIS  
18 DETERMINATION. IF THE CHANGES HAVE NOT BEEN IMPLEMENTED, THE  
19 DIRECTOR SHALL NOTIFY, IN WRITING, THE COMPLAINANT AND THE CITY,  
20 VILLAGE, OR TOWNSHIP AND THE COUNTY IN WHICH THE FARM OR FARM  
21 OPERATION IS LOCATED THAT THE CHANGES HAVE NOT BEEN IMPLEMENTED  
22 AND WHETHER A PLAN FOR IMPLEMENTATION HAS BEEN SUBMITTED. UPON  
23 REQUEST, THE DIRECTOR SHALL PROVIDE A COPY OF THE IMPLEMENTATION  
24 PLAN TO THE CITY, VILLAGE, OR TOWNSHIP AND THE COUNTY IN WHICH  
25 THE FARM OR FARM OPERATION IS LOCATED.

26 (4) A COMPLAINANT WHO BRINGS MORE THAN 3 UNVERIFIED  
27 COMPLAINTS AGAINST THE SAME FARM OR FARM OPERATION WITHIN 3 YEARS

1 MAY BE ORDERED, BY THE DIRECTOR, TO PAY TO THE DEPARTMENT THE  
2 FULL COSTS OF INVESTIGATION OF ANY FOURTH OR SUBSEQUENT UNVERI-  
3 FIED COMPLAINT AGAINST THE SAME FARM OR FARM OPERATION. AS USED  
4 IN THIS SUBSECTION, "UNVERIFIED COMPLAINT" MEANS A COMPLAINT IN  
5 RESPONSE TO WHICH THE DIRECTOR DETERMINES THAT THE FARM OR FARM  
6 OPERATION IS USING GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT  
7 PRACTICES.

8 (5) EXCEPT AS PROVIDED IN SUBSECTION (6), THIS act does not  
9 affect the application of state statutes and federal statutes.

10 ~~-(2) For purposes of this section, "state statutes"~~  
11 ~~includes, but is not limited to, any of the following:~~

12 ~~(a) The county rural zoning enabling act, Act No. 183 of the~~  
13 ~~Public Acts of 1943, being sections 125.201 to 125.232 of the~~  
14 ~~Michigan Compiled Laws.~~

15 ~~(b) The township rural zoning act, Act No. 184 of the Public~~  
16 ~~Acts of 1943, being sections 125.271 to 125.301 of the Michigan~~  
17 ~~Compiled Laws.~~

18 ~~(c) Act No. 207 of the Public Acts of 1921, being sections~~  
19 ~~125.581 to 125.592 of the Michigan Compiled Laws.~~

20 (6) BEGINNING JUNE 1, 2000, EXCEPT AS OTHERWISE PROVIDED IN  
21 THIS SECTION, IT IS THE EXPRESS LEGISLATIVE INTENT THAT THIS ACT  
22 PREEMPT ANY LOCAL ORDINANCE, REGULATION, OR RESOLUTION THAT PUR-  
23 PORTS TO EXTEND OR REVISE IN ANY MANNER THE PROVISIONS OF THIS  
24 ACT OR GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES  
25 DEVELOPED UNDER THIS ACT. EXCEPT AS OTHERWISE PROVIDED IN THIS  
26 SECTION, A LOCAL UNIT OF GOVERNMENT SHALL NOT ENACT, MAINTAIN, OR  
27 ENFORCE AN ORDINANCE, REGULATION, OR RESOLUTION THAT CONFLICTS IN

1 ANY MANNER WITH THIS ACT OR GENERALLY ACCEPTED AGRICULTURAL AND  
2 MANAGEMENT PRACTICES DEVELOPED UNDER THIS ACT.

3       (7) A LOCAL UNIT OF GOVERNMENT MAY SUBMIT TO THE DIRECTOR A  
4 PROPOSED ORDINANCE PRESCRIBING STANDARDS DIFFERENT FROM THOSE  
5 CONTAINED IN GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRAC-  
6 TICES IF ADVERSE EFFECTS ON THE ENVIRONMENT OR PUBLIC HEALTH WILL  
7 EXIST WITHIN THE LOCAL UNIT OF GOVERNMENT. A PROPOSED ORDINANCE  
8 UNDER THIS SUBSECTION SHALL NOT CONFLICT WITH EXISTING STATE LAWS  
9 OR FEDERAL LAWS. AT LEAST 45 DAYS PRIOR TO ENACTMENT OF THE PRO-  
10 POSED ORDINANCE, THE LOCAL UNIT OF GOVERNMENT SHALL SUBMIT A COPY  
11 OF THE PROPOSED ORDINANCE TO THE DIRECTOR. UPON RECEIPT OF THE  
12 PROPOSED ORDINANCE, THE DIRECTOR SHALL HOLD A PUBLIC MEETING IN  
13 THAT LOCAL UNIT OF GOVERNMENT TO REVIEW THE PROPOSED ORDINANCE.  
14 IN CONDUCTING ITS REVIEW, THE DIRECTOR SHALL CONSULT WITH THE  
15 DEPARTMENTS OF ENVIRONMENTAL QUALITY AND COMMUNITY HEALTH AND  
16 SHALL CONSIDER ANY RECOMMENDATIONS OF THE COUNTY HEALTH DEPART-  
17 MENT OF THE COUNTY WHERE THE ADVERSE EFFECTS ON THE ENVIRONMENT  
18 OR PUBLIC HEALTH WILL ALLEGEDLY EXIST. WITHIN 30 DAYS AFTER THE  
19 PUBLIC MEETING, THE DIRECTOR SHALL MAKE A RECOMMENDATION TO THE  
20 COMMISSION ON WHETHER THE ORDINANCE SHOULD BE APPROVED. AN ORDI-  
21 NANCE ENACTED UNDER THIS SUBSECTION SHALL NOT BE ENFORCED BY A  
22 LOCAL UNIT OF GOVERNMENT UNTIL APPROVED BY THE COMMISSION OF  
23 AGRICULTURE.

24       (8) BY MAY 1, 2000, THE COMMISSION SHALL ISSUE PROPOSED GEN-  
25 ERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES FOR SITE  
26 SELECTION AND ODOR CONTROLS AT NEW AND EXPANDING ANIMAL LIVESTOCK  
27 FACILITIES. THE COMMISSION SHALL ADOPT SUCH GENERALLY ACCEPTED

1 AGRICULTURAL AND MANAGEMENT PRACTICES BY JUNE 1, 2000. IN  
2 DEVELOPING THESE GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT  
3 PRACTICES, THE COMMISSION SHALL DO BOTH OF THE FOLLOWING:

4 (A) ESTABLISH AN ADVISORY COMMITTEE TO PROVIDE RECOMMENDA-  
5 TIONS TO THE COMMISSION. THE ADVISORY COMMITTEE SHALL INCLUDE  
6 THE ENTITIES LISTED IN SECTION 2(D), 2 INDIVIDUALS REPRESENTING  
7 TOWNSHIPS, 1 INDIVIDUAL REPRESENTING COUNTIES, AND 2 INDIVIDUALS  
8 REPRESENTING AGRICULTURAL INDUSTRY ORGANIZATIONS.

9 (B) FOR THE GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT  
10 PRACTICES FOR SITE SELECTION, CONSIDER GROUNDWATER PROTECTION,  
11 SOIL PERMEABILITY, AND OTHER FACTORS DETERMINED NECESSARY OR  
12 APPROPRIATE BY THE COMMISSION.

13 (9) IF GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRAC-  
14 TICES REQUIRE THE PERSON RESPONSIBLE FOR THE OPERATION OF A FARM  
15 OR FARM OPERATION TO PREPARE A MANURE MANAGEMENT PLAN, THE PERSON  
16 RESPONSIBLE FOR THE OPERATION THE FARM OR FARM OPERATION SHALL  
17 PROVIDE A COPY OF THAT MANURE MANAGEMENT PLAN TO THE CITY, VIL-  
18 LAGE, OR TOWNSHIP OR THE COUNTY IN WHICH THE FARM OR FARM OPERA-  
19 TION IS LOCATED, UPON REQUEST. A MANURE MANAGEMENT PLAN PROVIDED  
20 UNDER THIS SUBSECTION IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM  
21 OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

22 (10) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

23 (A) ANNUALLY SUBMIT TO THE STANDING COMMITTEES OF THE SENATE  
24 AND HOUSE OF REPRESENTATIVES WITH JURISDICTION OVER ISSUES PER-  
25 TAINING TO AGRICULTURE AND LOCAL GOVERNMENT A REPORT ON THE  
26 IMPLEMENTATION OF THIS ACT.

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1 (B) MAKE AVAILABLE ON THE DEPARTMENT'S WEBSITE CURRENT  
2 GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES.

3 (C) ESTABLISH A TOLL-FREE TELEPHONE NUMBER FOR RECEIPT OF  
4 INFORMATION ON NONCOMPLIANCE WITH GENERALLY ACCEPTED AGRICULTURAL  
5 AND MANAGEMENT PRACTICES.

6 (11) AS USED IN THIS SECTION:

7 (A) "ADVERSE EFFECTS ON THE ENVIRONMENT OR PUBLIC HEALTH"  
8 MEANS ANY UNREASONABLE RISK TO HUMAN BEINGS OR THE ENVIRONMENT,  
9 BASED ON SCIENTIFIC EVIDENCE AND TAKING INTO ACCOUNT THE ECONOM-  
10 IC, SOCIAL, AND ENVIRONMENTAL COSTS AND BENEFITS AND SPECIFIC  
11 POPULATIONS WHOSE HEALTH MAY BE ADVERSELY AFFECTED.

12 (B) "COMMISSION" MEANS THE COMMISSION OF AGRICULTURE.

13 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

14 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS  
15 OR HER DESIGNEE.

16 Enacting section 1. Section 3a of the Michigan right to  
17 farm act, 1981 PA 93, MCL 286.473a, is repealed.