

HOUSE BILL No. 5861

April 9, 2002, Introduced by Reps. Spade, Hansen, Sheltroun, Wojno, Mans, Anderson, Kolb, Zelenko, Schauer, Bogardus, Minore, Neumann, Dennis, Jacobs and George and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11503 and 17101 (MCL 324.11503 and 324.17101), section 11503 as amended by 1998 PA 466 and section 17101 as amended by 1995 PA 124, and by adding sections 11539b and 17106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11503. (1) "Department" means the department of envi-
2 ronmental quality.

3 (2) "Director" means the director of the department.

4 (3) "Discharge" includes, but is not limited to, any spill-
5 ing, leaking, pumping, pouring, emitting, emptying, discharging,
6 injecting, escaping, leaching, dumping, or disposing of a
7 substance into the environment which is or may become injurious
8 to the public health, safety, or welfare, or to the environment.

1 (4) "Disposal area" means 1 or more of the following at a
2 location as defined by the boundary identified in its construc-
3 tion permit or engineering plans approved by the department:

4 (a) A solid waste transfer facility.

5 (b) ~~Incinerator~~ AN INCINERATOR.

6 (c) ~~Sanitary~~ A SANITARY landfill.

7 (d) ~~Processing~~ A PROCESSING plant.

8 (e) ~~Other~~ ANY OTHER solid waste handling or disposal
9 facility utilized in the disposal of solid waste.

10 (5) "Enforceable mechanism" means a legal method whereby the
11 state, a county, a municipality, or a person is authorized to
12 take action to guarantee compliance with an approved county solid
13 waste management plan. Enforceable mechanisms include contracts,
14 intergovernmental agreements, laws, ordinances, rules, and
15 regulations.

16 (6) "Escrow account" means an account managed by a bank or
17 other financial institution whose account operations are regu-
18 lated and examined by a federal or state agency and which com-
19 plies with section 11523b.

20 (7) "Financial assurance" means the mechanisms used to
21 demonstrate that the funds necessary to meet the cost of closure,
22 postclosure maintenance and monitoring, and corrective action
23 will be available whenever they are needed.

24 (8) "Financial test" means a corporate or local government
25 financial test or guarantee approved for type II landfills under
26 subtitle D of the solid waste disposal act, title II of Public
27 Law 89-272, 42 U.S.C. 6941 and 6942 to 6949a. An owner or

1 operator may use a single financial test for more than 1
2 facility. Information submitted to the department to document
3 compliance with the test shall include a list showing the name
4 and address of each facility and the amount of funds assured by
5 the test for each facility. For purposes of the financial test,
6 the owner or operator shall aggregate the sum of the closure,
7 postclosure, and corrective action costs it seeks to assure with
8 any other environmental obligations assured by a financial test
9 under state or federal law.

10 (9) "Food processing residuals" means any of the following:

11 (a) Residuals of fruits, vegetables, aquatic plants, or
12 field crops.

13 (b) Otherwise unusable parts of fruits, vegetables, aquatic
14 plants, or field crops from the processing thereof.

15 (c) Otherwise unusable food products which do not meet size,
16 quality, or other product specifications and which were intended
17 for human or animal consumption.

18 (10) "Garbage" means rejected food wastes including waste
19 accumulation of animal, fruit, or vegetable matter used or
20 intended for food or that attends the preparation, use, cooking,
21 dealing in, or storing of meat, fish, fowl, fruit, or vegetable
22 matter.

23 (11) "MERCURY-ADDED PRODUCT" MEANS THAT TERM AS DEFINED IN
24 PART 171.

25 (12) ~~-(11)-~~ "Scrap wood" means wood or wood product that is
26 1 or more of the following:

1 (a) Plywood, pressed board, oriented strand board, or any
2 other wood or wood product mixed with glue or filler.

3 (b) Wood or wood product treated with creosote or
4 pentachlorophenol.

5 (c) Any other wood or wood product designated as scrap wood
6 in rules promulgated by the department.

7 (13) ~~(12)~~ "Treated wood" means wood or wood product that
8 has been treated with 1 or more of the following:

9 (a) Chromated copper arsenate (CCA).

10 (b) Ammoniacal copper quat (ACQ).

11 (c) Ammoniacal copper zinc arsenate (ACZA).

12 (d) Any other chemical designated in rules promulgated by
13 the department.

14 (14) ~~(13)~~ "Wood" means trees, branches, bark, lumber, pal-
15 lets, wood chips, sawdust, or other wood or wood product but does
16 not include scrap wood, treated wood, painted wood or painted
17 wood product, or any wood or wood product that has been contami-
18 nated during manufacture or use.

19 SEC. 11539B. (1) BY SEPTEMBER 1, 2003, EACH COUNTY SOLID
20 WASTE MANAGEMENT PLAN APPROVED OR PREPARED BY THE DEPARTMENT
21 SHALL BE AMENDED TO PROVIDE FOR AN EDUCATIONAL PROGRAM TO ADVISE
22 THE PUBLIC ABOUT LABELED MERCURY-ADDED PRODUCTS AND A COLLECTION
23 PROGRAM FOR THE COLLECTION OF MERCURY-ADDED PRODUCTS. THESE
24 AMENDMENTS SHALL BE IMPLEMENTED BY JUNE 1, 2004. COMPONENTS OF
25 THESE AMENDED PLANS THAT ARE RELATED TO THIS SUBSECTION ARE NOT
26 REQUIRED TO RECEIVE APPROVAL FROM THE DEPARTMENT.

1 (G) "MERCURY-ADDED PRODUCT" MEANS ANY ITEM THAT CONTAINS
2 INTENTIONALLY INTRODUCED MERCURY AND MAY INCLUDE, BUT IS NOT
3 LIMITED TO, THE FOLLOWING:

4 (i) A THERMOSTAT OR THERMOMETER.

5 (ii) A SWITCH, INDIVIDUALLY OR AS PART OF ANOTHER PRODUCT.

6 (iii) A MEDICAL OR SCIENTIFIC INSTRUMENT.

7 (iv) AN ELECTRIC RELAY OR OTHER ELECTRICAL DEVICE.

8 (v) A LAMP.

9 (vi) A BATTERY. HOWEVER, A BUTTON BATTERY OR A BATTERY THAT
10 IS NOT SOLD TO THE PUBLIC IS NOT A MERCURY-ADDED PRODUCT.

11 (H) ~~(f)~~ "Nickel cadmium battery" means a sealed storage
12 battery that has a nickel anode, a cadmium cathode, and an alka-
13 line electrolyte, that is widely used in cordless appliances.

14 (I) ~~(g)~~ "Retailer" means a person who sells or offers to
15 sell batteries to consumers within this state.

16 (J) ~~(h)~~ "Solid waste disposal area" means a disposal area
17 as defined in part 115.

18 (K) "THIS PART" INCLUDES ANY RULE ADOPTED UNDER THIS PART.

19 (l) ~~(i)~~ "Zinc carbon battery" means a dry cell battery
20 containing manganese dioxide and zinc electrodes and an electro-
21 lyte consisting of ammonium chloride or a zinc chloride solution,
22 or both.

23 SEC. 17106. (1) BEGINNING JANUARY 1, 2005, A MANUFACTURER
24 OR WHOLESALER SHALL NOT SELL A MERCURY-ADDED PRODUCT AT RETAIL IN
25 THIS STATE, TO A RETAILER IN THIS STATE, OR FOR USE IN THIS STATE
26 UNLESS THE ITEM IS LABELED. BEGINNING JANUARY 1, 2005, A
27 RETAILER SHALL NOT KNOWINGLY SELL AT RETAIL A MERCURY-ADDED

1 PRODUCT, UNLESS THE ITEM IS LABELED. THE LABEL SHALL CLEARLY
2 INFORM THE PURCHASER OR CONSUMER THAT MERCURY IS PRESENT IN THE
3 ITEM AND THAT THE ITEM SHALL NOT BE DISPOSED OF OR PLACED IN A
4 WASTE STREAM DESTINED FOR DISPOSAL UNTIL THE MERCURY IS REMOVED
5 AND REUSED, RECYCLED, OR OTHERWISE MANAGED TO ENSURE THAT THE
6 MERCURY DOES NOT BECOME A COMPONENT OF SOLID WASTE OR
7 WASTEWATER.

8 (2) A MANUFACTURER OF A MERCURY-ADDED PRODUCT IS RESPONSIBLE
9 FOR AFFIXING LABELS REQUIRED UNDER SUBSECTION (1). BY JUNE 1,
10 2004, EACH MANUFACTURER REQUIRED TO LABEL MERCURY-ADDED PRODUCTS
11 UNDER THIS SECTION SHALL CERTIFY TO THE DEPARTMENT THAT IT HAS
12 DEVELOPED A LABELING PLAN FOR ITS MERCURY-ADDED PRODUCTS THAT
13 COMPLIES WITH THIS SECTION AND ANY RULES ADOPTED BY THE DEPART-
14 MENT TO IMPLEMENT THIS SECTION AND THAT THIS LABELING WILL BE
15 IMPLEMENTED FOR PRODUCTS MANUFACTURED AFTER JANUARY 1, 2005. THE
16 LABELING PLAN SHALL INCLUDE DETAILED DESCRIPTIONS OF THE PRODUCTS
17 INVOLVED AND THE LABEL SIZE, MATERIAL, CONTENT, LOCATION, AND
18 ATTACHMENT METHOD FOR EACH PRODUCT AND FOR THE PRODUCT PACKAGING,
19 WHERE NECESSARY UNDER THE RULES, TO ENSURE THAT A LABEL IS
20 CLEARLY VISIBLE AT THE TIME OF PURCHASE. THE LABELING PLAN SHALL
21 BE SUBMITTED TO THE DEPARTMENT WITH THE CERTIFICATION.

22 (3) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, BEFORE
23 DISCARDING SOLID WASTE WITHIN THE STATE, A PERSON SHALL SEPARATE
24 LABELED MERCURY-ADDED PRODUCTS FROM THAT SOLID WASTE. ANY CON-
25 TRACTOR WHO REPLACES OR REMOVES LABELED MERCURY-ADDED PRODUCTS
26 SHALL ENSURE THE PROPER SEPARATION AND DISPOSAL OF ANY DISCARDED
27 MERCURY-ADDED PRODUCT.

1 (4) THE DEPARTMENT AND THE DEPARTMENT OF COMMUNITY HEALTH
2 SHALL ASSIST COUNTIES IN DEVELOPING, DESIGNING, AND DISSEMINATING
3 INFORMATION FOR THE PUBLIC ABOUT LABELED MERCURY-ADDED PRODUCTS,
4 THE REQUIREMENTS OF THE LAW REGARDING THE SOURCE SEPARATION OF
5 WASTE MERCURY-ADDED PRODUCTS, AND THE COLLECTION PROGRAMS THAT
6 ARE AVAILABLE TO THE PUBLIC FOR WASTE MERCURY-ADDED PRODUCTS,
7 INCLUDING ANY SYSTEM FOR RETURN OF WASTE MERCURY-ADDED PRODUCTS
8 TO THE MANUFACTURERS. A COMPONENT OF THIS INFORMATION PROGRAM
9 SHALL BE DIRECTED SPECIFICALLY AT LARGE PUBLIC AND PRIVATE INSTI-
10 TUTIONS THAT USE AND DISCARD SUBSTANTIAL NUMBERS OF MERCURY-ADDED
11 PRODUCTS, AND AT ANY OTHER LARGE USERS OF THOSE PRODUCTS.

12 (5) THE DEPARTMENT SHALL PROMULGATE RULES ESTABLISHING STAN-
13 DARDS FOR AFFIXING LABELS UNDER THIS SECTION, IN COMPLIANCE WITH
14 FEDERAL LAW, TO A MERCURY-ADDED PRODUCT OR ITS PACKAGE AND OTHER
15 RULES AS NECESSARY TO IMPLEMENT THIS SECTION.