

HOUSE BILL No. 5283

November 6, 2003, Introduced by Reps. Gillard, Kolb, Bieda, Gleason, Condino, Elkins, Adamini, Byrum, Tobocman, Minore, Wojno, Spade, Paletko, Sak, Plakas, Lipsey, Farrah, Hopgood, Hunter, Gieleghem, O'Neil, Law, Accavitti, Vagnozzi, Meisner, Anderson and Reeves 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 11506, 11546, and 11549 (MCL 324.11506,
324.11546, and 324.11549), section 11506 as amended by 1998 PA
466.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11506. (1) "Solid waste" means garbage, rubbish,
2 ashes, incinerator ash, incinerator residue, street cleanings,
3 municipal and industrial sludges, solid commercial and solid
4 industrial waste, and animal waste other than organic waste
5 generated in the production of livestock and poultry. Solid
6 waste does not include the following:

7 (a) Human body waste.

8 (b) Medical waste as it is defined in part 138 of the public
9 health code, 1978 PA 368, MCL 333.13801 to 333.13831, and

1 regulated under that part and part 55.

2 (c) Organic waste generated in the production of livestock
3 and poultry.

4 (d) Liquid waste.

5 (e) Ferrous or nonferrous scrap directed to a scrap metal
6 processor or to a reuser of ferrous or nonferrous products.

7 (f) Slag or slag products directed to a slag processor or to
8 a reuser of slag or slag products.

9 (g) Sludges and ashes managed as recycled, or nondetrimental
10 materials appropriate for agricultural or silvicultural use
11 pursuant to a plan approved by the department. Food processing
12 residuals; wood ashes resulting solely from a source that burns
13 only wood that is untreated and inert; lime from kraft pulping
14 processes generated prior to bleaching; or aquatic plants may be
15 applied on, or composted and applied on, farmland or forestland
16 for an agricultural or silvicultural purpose, or used as animal
17 feed, as appropriate, and such an application or use does not
18 require a plan described in this subdivision or a permit or
19 license under this part. In addition, source separated materials
20 approved by the department for land application for agricultural
21 and silvicultural purposes and compost produced from those
22 materials may be applied to the land for agricultural and
23 silvicultural purposes and such an application does not require a
24 plan described in this subdivision or permit or license under
25 this part. Land application authorized under this subdivision
26 for an agricultural or silvicultural purpose, or use as animal
27 feed, as provided for in this subdivision shall occur in a manner

1 that prevents losses from runoff and leaching, and if applied to
2 land, the land application shall be at an agronomic rate
3 consistent with generally accepted agricultural and management
4 practices under the Michigan right to farm act, 1981 PA 93,
5 MCL 286.471 to 286.474.

6 (h) Materials approved for emergency disposal by the
7 department.

8 (i) Source separated materials.

9 (j) Site separated material.

10 (k) Fly ash or any other ash produced from the combustion of
11 coal, when used in the following instances:

12 (i) With a maximum of 6% of unburned carbon as a component of
13 concrete, grout, mortar, or casting molds.

14 (ii) With a maximum of 12% unburned carbon passing
15 M.D.O.T. test method MTM 101 when used as a raw material in
16 asphalt for road construction.

17 (iii) As aggregate, road, or building material which in
18 ultimate use will be stabilized or bonded by cement, limes, or
19 asphalt.

20 (iv) As a road base or construction fill that is covered with
21 asphalt, concrete, or other material approved by the department
22 and which is placed at least 4 feet above the seasonal
23 groundwater table.

24 (v) As the sole material in a depository designed to reclaim,
25 develop, or otherwise enhance land, subject to the approval of
26 the department. In evaluating the site, the department shall
27 consider the physical and chemical properties of the ash

1 including leachability, and the engineering of the depository,
2 including, but not limited to, the compaction, control of surface
3 water and groundwater that may threaten to infiltrate the site,
4 and evidence that the depository is designed to prevent water
5 percolation through the material.

6 (1) Other wastes regulated by statute.

7 (2) "Solid waste hauler" means a person who owns or operates
8 a solid waste transporting unit **or that owns or operates a**
9 **business that engages in the transportation of solid waste using**
10 **the solid waste transporting unit.**

11 (3) "Solid waste processing plant" means a tract of land,
12 building, unit, or appurtenance of a building or unit or a
13 combination of land, buildings, and units that is used or
14 intended for use for the processing of solid waste or the
15 separation of material for salvage or disposal, or both, but does
16 not include a plant engaged primarily in the acquisition,
17 processing, and shipment of ferrous or nonferrous metal scrap, or
18 a plant engaged primarily in the acquisition, processing, and
19 shipment of slag or slag products.

20 (4) "Solid waste transporting unit" means a container that
21 may be an integral part of a truck or other piece of equipment
22 used for the transportation of solid waste.

23 (5) "Solid waste transfer facility" means a tract of land, a
24 building and any appurtenances, or a container, or any
25 combination of land, buildings, or containers that is used or
26 intended for use in the rehandling or storage of solid waste
27 incidental to the transportation of the solid waste, but is not

1 located at the site of generation or the site of disposal of the
2 solid waste.

3 (6) "Source separated material" means glass, metal, wood,
4 paper products, plastics, rubber, textiles, garbage, yard
5 clippings, or any other material approved by the department that
6 is separated at the source of generation for the purpose of
7 conversion into raw materials or new products including, but not
8 limited to, compost.

9 (7) "Yard clippings" means leaves, grass clippings, vegetable
10 or other garden debris, shrubbery, or brush or tree trimmings,
11 less than 4 feet in length and 2 inches in diameter, that can be
12 converted to compost humus. Yard clippings do not include
13 stumps, agricultural wastes, animal waste, roots, sewage sludge,
14 or garbage.

15 Sec. 11546. (1) The department or a health officer may
16 request that the attorney general bring an action in the name of
17 the people of the state, or a municipality or county may bring an
18 action based on facts arising within its boundaries, for any
19 appropriate relief, including injunctive relief, for a violation
20 of this part or rules promulgated under this part.

21 (2) In addition to any other relief provided by this section,
22 the court may impose on any person who violates any provision of
23 this part or rules promulgated under this part or who fails to
24 comply with any permit, license, or final order issued pursuant
25 to this part a civil fine **as follows:**

26 (a) **Except as provided in subdivision (b), a civil fine of**
27 not more than \$10,000.00 for each day of violation.

1 (b) For a second or subsequent violation, a civil fine of not
2 more than \$25,000.00 for each day of violation.

3 (3) In addition to any other relief provided by this section,
4 the court may order a person violating this part or the rules
5 promulgated under this part either to restore or to pay to the
6 state an amount equal to the cost of restoring the natural
7 resources of this state affected by the violation to their
8 original condition before the violation, and to pay to the state
9 the costs of surveillance and enforcement incurred by the state
10 as a result of the violation.

11 (4) A person who does any of the following is responsible for
12 a state civil infraction and may be ordered to pay a civil fine
13 of not more than \$5,000.00 or, for a second or subsequent
14 violation of the same statutory provision or rule promulgated
15 thereunder, not more than \$10,000.00:

16 (a) Violates section 11527 or 11528 or related rules
17 promulgated under this part.

18 (b) Delivers waste for disposal in violation of section
19 11514(2)(a) or (3).

20 (c) Permits the disposal of waste in violation of section
21 11514(2)(a) or (d) or (3)(a), (b), (e), (f), or (h).

22 (d) Transports or disposes of waste in violation of an order
23 issued by the director under section 11526c.

24 (e) Conducts open burning in violation of this part or
25 related rules promulgated under this part.

26 (f) Disposes of solid waste in an open dump, as defined in R
27 299.4104 of the Michigan administrative code, in violation of

1 this part or related rules promulgated under this part.

2 (5) A person who delivers waste for disposal or who permits
3 the disposal of waste in violation of section 11514(2)(b) or (c)
4 is responsible for a state civil infraction and may be ordered to
5 pay a civil fine of not more than \$100.00 or, for a second or
6 subsequent violation, not more than \$500.00.

7 (6) ~~-(4)-~~ This part does not preclude any person from
8 commencing a civil action based on facts that may also constitute
9 a violation of this part or the rules promulgated under this
10 part.

11 Sec. 11549. ~~-A-~~ **Except as provided in section 11546(4) and**
12 **(5),** a person who violates this part, a rule promulgated under
13 this part, or a condition of a permit, license, or final order
14 issued pursuant to this part is guilty of a misdemeanor
15 punishable by a fine of not more than \$1,000.00 for each
16 violation and costs of prosecution and, if in default of payment
17 of fine and costs, imprisonment for not more than 6 months. Each
18 day upon which a violation occurs is a separate offense.

19 Enacting section 1. This amendatory act does not take
20 effect unless all of the following bills of the 92nd Legislature
21 are enacted into law:

22 (a) Senate Bill No. 57.

23 (b) Senate Bill No. _____ or House Bill No. 5282 (request
24 no. 04291'03).