

HOUSE BILL No. 6148

September 9, 2004, Introduced by Reps. Lipsey, Kolb, Meisner, Bieda, Brown, Vagnozzi, Minore and Tobocman 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, 11514, and 11539 (MCL 324.11503, 324.11514, and 324.11539), section 11503 as amended by 1998 PA 466 and section 11514 as amended by 2004 PA 34, and by adding section 11514a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11503. (1) "Department" means the department of
2 environmental quality.

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

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

1 environment.

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

6 (a) A solid waste transfer facility.

7 (b) Incinerator.

8 (c) Sanitary landfill.

9 (d) Processing plant.

10 (e) Other solid waste handling or disposal facility utilized
11 in the disposal of solid waste.

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

18 (6) "Escrow account" means an account managed by a bank or
19 other financial institution whose account operations are
20 regulated and examined by a federal or state agency and which
21 complies with section 11523b.

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

26 (8) "Financial test" means a corporate or local government
27 financial test or guarantee approved for type II landfills under

1 subtitle D of the solid waste disposal act, title II of Public
2 Law 89-272, 42 ~~U.S.C.~~ **USC** 6941 and 6942 to 6949a. An owner or
3 operator may use a single financial test for more than 1
4 facility. Information submitted to the department to document
5 compliance with the test shall include a list showing the name
6 and address of each facility and the amount of funds assured by
7 the test for each facility. For purposes of the financial test,
8 the owner or operator shall aggregate the sum of the closure,
9 postclosure, and corrective action costs it seeks to assure with
10 any other environmental obligations assured by a financial test
11 under state or federal law.

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

13 (a) Residuals of fruits, vegetables, aquatic plants, or field
14 crops.

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

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

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

25 (11) **"Labeled mercury-added product" means a mercury-added**
26 **product labeled as provided in section 17206.**

27 (12) **"Mercury-added product" means that term as defined in**

1 **part 172.**

2 **(13)** ~~—(11)—~~ "Scrap wood" means wood or wood product that is 1
3 or more of the following:

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

6 (b) Wood or wood product treated with creosote or
7 pentachlorophenol.

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

10 **(14)** ~~—(12)—~~ "Treated wood" means wood or wood product that
11 has been treated with 1 or more of the following:

12 (a) Chromated copper arsenate (CCA).

13 (b) Ammoniacal copper quat (ACQ).

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

15 (d) Any other chemical designated in rules promulgated by the
16 department.

17 **(15)** ~~—(13)—~~ "Wood" means trees, branches, bark, lumber,
18 pallets, wood chips, sawdust, or other wood or wood product but
19 does not include scrap wood, treated wood, painted wood or
20 painted wood product, or any wood or wood product that has been
21 contaminated during manufacture or use.

22 Sec. 11514. (1) The legislature declares that optimizing
23 recycling opportunities and the reuse of materials shall be a
24 principal objective of the state's solid waste management plan
25 and further that recycling and reuse of materials are in the best
26 interest of promoting the public health and welfare. The state
27 shall develop policies and practices that promote recycling and

1 reuse of materials and, to the extent practical, minimize the use
2 of landfilling as a method for disposal of its waste.

3 (2) A person shall not knowingly deliver to a landfill for
4 disposal, or, if the person is an owner or operator of a
5 landfill, knowingly permit disposal in the landfill of, any of
6 the following:

7 (a) Medical waste, unless that medical waste has been
8 decontaminated or is not required to be decontaminated but is
9 packaged in the manner required under part 138 of the public
10 health code, 1978 PA 368, MCL 333.13801 to 333.13831.

11 (b) Subject to subsection (4), more than a de minimis amount
12 of open, empty, or otherwise used beverage containers.

13 (c) More than a de minimis number of whole motor vehicle
14 tires.

15 (d) More than a de minimis amount of yard clippings, unless
16 they are diseased or infested.

17 **(e) A mercury-added product.**

18 (3) A person shall not deliver to a landfill for disposal,
19 or, if the person is an owner or operator of a landfill, permit
20 disposal in the landfill of, any of the following:

21 (a) Used oil as defined in section 16701.

22 (b) A lead acid battery as defined in section 17101.

23 (c) Low-level radioactive waste as defined in section 2 of
24 the low-level radioactive waste authority act, 1987 PA 204, MCL
25 333.26202.

26 (d) Regulated hazardous waste as defined in R 299.4104 of the
27 Michigan administrative code.

1 (e) Liquid waste as prohibited by R 299.4432(2)(c) of the
2 Michigan administrative code.

3 (f) Sewage.

4 (g) PCBs as defined in 40 CFR section 761.3.

5 (h) Asbestos waste, unless the landfill complies with 40 CFR
6 section 61.154.

7 **(i) Mercury or a mercury compound. This subparagraph does**
8 **not apply to mercury or a mercury compound in a mercury-added**
9 **product that is not a labeled mercury-added product.**

10 (4) Subsection (2)(b) does not apply to green glass beverage
11 containers before June 1, 2007. The department shall convene a
12 task force to make recommendations to the legislature on the
13 special recycling problems posed by green glass beverage
14 containers, including, but not limited to, whether the June 1,
15 2007 date for applicability of subsection (2)(b) to green glass
16 beverage containers should be changed. The task force shall
17 include, but need not be limited to, all of the following:

18 (a) A representative of the landfill industry.

19 (b) A representative of a company that manufactures or uses
20 green glass beverage containers.

21 (c) A representative of a recycling company.

22 (d) A representative of an environmental organization.

23 (5) The task force under subsection (4) shall issue its
24 recommendations by December 31, 2004.

25 (6) If the department determines that a safe, sanitary, and
26 feasible alternative does not exist for the disposal of any items
27 described in subsection (2), the department shall submit a report

1 setting forth that determination and the basis for the
2 determination to the standing committees of the senate and house
3 of representatives with primary responsibility for solid waste
4 issues.

5 (7) As used in this section, "de minimis" means incidental
6 disposal of small amounts of these materials that are commingled
7 with other solid waste.

8 **Sec. 11514a. A person shall not deliver to an incinerator**
9 **for disposal, or, if the person is an owner or operator of an**
10 **incinerator, permit disposal at the incinerator of, mercury or a**
11 **mercury compound, including, but not limited to, mercury or a**
12 **mercury compound in a mercury-added product.**

13 Sec. 11539. (1) The director shall not approve a plan
14 update unless:

15 (a) The plan contains an analysis or evaluation of the best
16 available information applicable to the plan area in regard to
17 recyclable materials and all of the following:

18 (i) The kind and volume of material in the plan area's waste
19 stream that may be recycled or composted.

20 (ii) How various factors do or may affect a recycling and
21 composting program in the plan area. Factors shall include an
22 evaluation of the existing solid waste collection system;
23 materials market; transportation networks; local composting and
24 recycling support groups, or both; institutional arrangements;
25 the population in the plan area; and other pertinent factors.

26 (iii) An identification of impediments to implementing a
27 recycling and composting program and recommended strategies for

1 removing or minimizing impediments.

2 (iv) How recycling and composting and other processing or
3 disposal methods could complement each other and an examination
4 of the feasibility of excluding site separated material and
5 source separated material from other processing or disposal
6 methods.

7 (v) Identification and quantification of environmental,
8 economic, and other benefits that could result from the
9 implementation of a recycling and composting program.

10 (vi) The feasibility of source separation of materials that
11 contain potentially hazardous components at disposal areas.
12 ~~This subparagraph applies only to plan updates that are due~~
13 ~~after January 31, 1989.~~

14 (b) The plan either provides for recycling and composting
15 recyclable materials from the plan area's waste stream or
16 establishes that recycling and composting are not necessary or
17 feasible or is only necessary or feasible to a limited extent.

18 (c) A plan that proposes a recycling or composting program,
19 or both, details the major features of that program, including
20 all of the following:

21 (i) The kinds and volumes of recyclable materials that will
22 be recycled or composted.

23 (ii) Collection methods.

24 (iii) Measures that will ensure collection, such as
25 ordinances or cooperative arrangements, or both.

26 (iv) Ordinances or regulations affecting the program.

27 (v) The role of counties and municipalities in implementing

1 the plan.

2 (vi) The involvement of existing recycling interests, solid
3 waste haulers, and the community.

4 (vii) Anticipated costs.

5 (viii) ~~On-going~~ **Ongoing** program financing.

6 (ix) Equipment selection.

7 (x) Public and private sector involvement.

8 (xi) Site availability and selection.

9 (xii) Operating parameters, such as pH and heat range.

10 ~~(d) The plan includes an evaluation of how the planning~~
11 ~~entity is meeting the state's waste reduction and recycling goals~~
12 ~~as established pursuant to section 11541(4).~~

13 **(d) For a plan amended after the effective date of the 2004**
14 **amendatory act that amended this subdivision, the plan provides**
15 **for the collection and the proper management or disposal of**
16 **mercury-added products.**

17 (2) The director may promulgate rules as may be necessary to
18 implement this section.

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. _____ or House Bill No. 6147 (request
23 no. 06277'04).

24 (b) Senate Bill No. _____ or House Bill No. _____ (request
25 no. 06280'04).