

SENATE BILL No. 388

April 22, 2003, Introduced by Senator THOMAS and referred to the Committee on Appropriations.

A bill to amend 1981 PA 93, entitled "Michigan right to farm act," by amending section 4 (MCL 286.474), as amended by 1999 PA 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SENATE BILL No. 388

1 Sec. 4. (1) Subject to subsection (2), the director shall
2 investigate all complaints involving a farm or farm operation,
3 including, but not limited to, complaints involving the use of
4 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
10 notify, in writing, the city, village, or township and the county
11 in which the farm or farm operation is located of the complaint.

1 (2) The commission and the director shall enter into a
2 memorandum of understanding with the director of the department
3 of environmental quality. The investigation and resolution of
4 environmental complaints concerning farms or farm operations
5 shall be conducted in accordance with the memorandum of
6 understanding. However, the director shall notify the department
7 of environmental quality of any potential violation of the
8 natural resources and environmental protection act, 1994 PA 451,
9 MCL 324.101 to 324.90106, or a rule promulgated under that act.
10 Activities at a farm or farm operation are subject to applicable
11 provisions of the natural resources and environmental protection
12 act, 1994 PA 451, MCL 324.101 to 324.90106, and the rules
13 promulgated under that act. The commission and the director
14 shall develop procedures for the investigation and resolution for
15 other farm-related complaints.

16 (3) If the director finds upon investigation under subsection
17 (1) that the person responsible for a farm or farm operation is
18 using generally accepted agricultural and management practices,
19 the director shall notify, in writing, that person, the
20 complainant, and the city, village, or township and the county in
21 which the farm or farm operation is located of this finding. If
22 the director identifies that the source or potential sources of
23 the problem were caused by the use of other than generally
24 accepted agricultural and management practices, the director
25 shall advise the person responsible for the farm or farm
26 operation that necessary changes should be made to resolve or
27 abate the problem and to conform with generally accepted

1 agricultural and management practices and that if those changes
2 cannot be implemented within 30 days, the person responsible for
3 the farm or farm operation shall submit to the director an
4 implementation plan including a schedule for completion of the
5 necessary changes. When the director conducts a follow-up
6 on-site inspection to verify whether those changes have been
7 implemented, the director shall notify, in writing, the city,
8 village, or township and the county in which the farm or farm
9 operation is located of the time and date of the follow-up
10 on-site inspection and shall allow a representative of the city,
11 village, or township and the county to be present during the
12 follow-up on-site inspection. If the changes have been
13 implemented, the director shall notify, in writing, the person
14 responsible for the farm or farm operation, the complainant, and
15 the city, village, or township and the county in which the farm
16 or farm operation is located of this determination. If the
17 changes have not been implemented, the director shall notify, in
18 writing, the complainant and the city, village, or township and
19 the county in which the farm or farm operation is located that
20 the changes have not been implemented and whether a plan for
21 implementation has been submitted. Upon request, the director
22 shall provide a copy of the implementation plan to the city,
23 village, or township and the county in which the farm or farm
24 operation is located.

25 (4) A complainant who brings more than 3 unverified
26 complaints against the same farm or farm operation within 3 years
27 may be ordered, by the director, to pay to the department the

1 full costs of investigation of any fourth or subsequent
2 unverified complaint against the same farm or farm operation. As
3 used in this subsection, "unverified complaint" means a complaint
4 in response to which the director determines that the farm or
5 farm operation is using generally accepted agricultural and
6 management practices.

7 (5) Except as provided in subsection (6), this act does not
8 affect the application of state statutes and federal statutes.

9 (6) Beginning June 1, 2000, except as otherwise provided in
10 this section, it is the express legislative intent that this act
11 preempt any local ordinance, regulation, or resolution that
12 purports to extend or revise in any manner the provisions of this
13 act or generally accepted agricultural and management practices
14 developed under this act. Except as otherwise provided in this
15 section, a local unit of government shall not enact, maintain, or
16 enforce an ordinance, regulation, or resolution that conflicts in
17 any manner with this act or generally accepted agricultural and
18 management practices developed under this act.

19 (7) A local unit of government may submit to the director a
20 proposed ordinance prescribing standards different from those
21 contained in generally accepted agricultural and management
22 practices if adverse effects on the environment or public health
23 will exist within the local unit of government. A proposed
24 ordinance under this subsection shall not conflict with existing
25 state laws or federal laws. At least 45 days prior to enactment
26 of the proposed ordinance, the local unit of government shall
27 submit a copy of the proposed ordinance to the director. Upon

1 receipt of the proposed ordinance, the director shall hold a
2 public meeting in that local unit of government to review the
3 proposed ordinance. In conducting its review, the director shall
4 consult with the departments of environmental quality and
5 community health and shall consider any recommendations of the
6 county health department of the county where the adverse effects
7 on the environment or public health will allegedly exist. Within
8 30 days after the public meeting, the director shall make a
9 recommendation to the commission on whether the ordinance should
10 be approved. An ordinance enacted under this subsection shall
11 not be enforced by a local unit of government until approved by
12 the commission. ~~of agriculture.~~

13 (8) By May 1, 2000, the commission shall issue proposed
14 generally accepted agricultural and management practices for site
15 selection and odor controls at new and expanding animal livestock
16 facilities. The commission shall adopt such generally accepted
17 agricultural and management practices by June 1, 2000. In
18 developing these generally accepted agricultural and management
19 practices, the commission shall do both of the following:

20 (a) Establish an advisory committee to provide
21 recommendations to the commission. The advisory committee shall
22 include the entities listed in section 2(d), 2 individuals
23 representing townships, 1 individual representing counties, and 2
24 individuals representing agricultural industry organizations.

25 (b) For the generally accepted agricultural and management
26 practices for site selection, consider groundwater protection,
27 soil permeability, and other factors determined necessary or

1 appropriate by the commission.

2 (9) If generally accepted agricultural and management
3 practices require the person responsible for the operation of a
4 farm or farm operation to prepare a manure management plan, the
5 person responsible for the operation of the farm or farm
6 operation shall provide a copy of that manure management plan to
7 the city, village, or township or the county in which the farm or
8 farm operation is located, upon request. A manure management
9 plan provided under this subsection is exempt from disclosure
10 under the freedom of information act, 1976 PA 442, MCL 15.231 to
11 15.246.

12 (10) The department shall do all of the following:

13 (a) Annually submit to the standing committees of the senate
14 and house of representatives with jurisdiction over issues
15 pertaining to agriculture and local government a report on the
16 implementation of this act.

17 (b) Make available on the department's website current
18 generally accepted agricultural and management practices.

19 (c) Establish a toll-free telephone number for receipt of
20 information on noncompliance with generally accepted agricultural
21 and management practices.

22 (11) In the case of a farm or farm operation found by the
23 department to be in noncompliance with the generally accepted
24 agricultural and management practices after 2 follow-up
25 inspections conducted by the department, the director shall order
26 the farm or farm operation to pay the full costs of investigation
27 and review of all subsequent inspections conducted by the

1 department to determine conformance to the generally accepted
2 agricultural and management practices relative to that complaint.

3 (12) ~~(11)~~ As used in this section:

4 (a) "Adverse effects on the environment or public health"
5 means any unreasonable risk to human beings or the environment,
6 based on scientific evidence and taking into account the
7 economic, social, and environmental costs and benefits and
8 specific populations whose health may be adversely affected.

9 (b) "Commission" means the commission of agriculture.

10 (c) "Department" means the department of agriculture.

11 (d) "Director" means the director of the department or his or
12 her designee.