

**SUBSTITUTE FOR
HOUSE BILL NO. 5149**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11701, 11702, and 11715b (MCL 324.11701,
324.11702, and 324.11715b), sections 11701 and 11702 as amended and
section 11715b as added by 2004 PA 381.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11701. As used in this part:

2 (a) "Agricultural land" means land on which a food crop, a
3 feed crop, or a fiber crop is grown, including land used or
4 suitable for use as a range or pasture; a sod farm; or a Christmas
5 tree farm.

6 (b) "Certified health department" means a city, county, or
7 district department of health certified under section 11716.

1 (c) "Cesspool" means a cavity in the ground that receives
2 waste to be partially absorbed directly or indirectly by the
3 surrounding soil.

4 (d) "Department" means the department of environmental quality
5 or its authorized agent.

6 (e) "Director" means the director of the department of
7 environmental quality or his or her designee.

8 (f) "Domestic septage" means liquid or solid material removed
9 from a septic tank, cesspool, portable toilet, type III marine
10 sanitation device, or similar storage or treatment works that
11 receives only domestic sewage. Domestic septage does not include
12 liquid or solid material removed from a septic tank, cesspool, or
13 similar facility that receives either commercial wastewater or
14 industrial wastewater and does not include grease removed from a
15 grease interceptor, grease trap, or other appurtenance used to
16 retain grease or other fatty substances contained in restaurant
17 waste.

18 (g) "Domestic sewage" means waste and wastewater from humans
19 or household operations.

20 (h) "Domestic treatment plant septage" means biosolids
21 generated during the treatment of domestic sewage in a treatment
22 works and transported to a receiving facility or managed in
23 accordance with a residuals management program approved by the
24 department.

25 (i) "Food establishment septage" means material pumped from a
26 grease interceptor, grease trap, or other appurtenance used to
27 retain grease or other fatty substances contained in restaurant

1 wastes and which is blended into a uniform mixture, consisting of
2 not more than 1 part of that restaurant-derived material per 3
3 parts of domestic septage, prior to land application or disposed of
4 at a receiving facility.

5 (j) "Fund" means the septage waste program fund created in
6 section 11717.

7 (k) "Governmental unit" means a county, township,
8 municipality, or regional authority.

9 (l) "Incorporation" means the mechanical mixing of surface-
10 applied septage waste with the soil.

11 (m) "Injection" means the pressurized placement of septage
12 waste below the surface of soil.

13 (n) "Operating plan" means a plan developed by a receiving
14 facility for receiving septage waste that specifies at least all of
15 the following:

16 (i) Categories of septage waste that the receiving facility
17 will receive.

18 (ii) The receiving facility's service area.

19 (iii) The hours of operation for receiving septage waste.

20 (iv) Any other conditions for receiving septage waste
21 established by the receiving facility.

22 (o) "Pathogen" means a disease-causing agent. Pathogen
23 includes, but is not limited to, certain bacteria, protozoa,
24 viruses, and viable helminth ova.

25 (p) "Peace officer" means a sheriff or sheriff's deputy, a
26 village or township marshal, an officer of the police department of
27 any city, village, or township, any officer of the Michigan state

1 police, any peace officer who is trained and certified pursuant to
 2 the commission on law enforcement standards act, 1965 PA 203, MCL
 3 28.601 to 28.616, or any conservation officer appointed by the
 4 department or the department of natural resources pursuant to
 5 section 1606.

6 (q) "Portable toilet" means a receptacle for human waste
 7 temporarily in a location for human use.

8 (r) "Receiving facility" means a structure that is designed to
 9 receive septage waste for treatment at a wastewater treatment plant
 10 **OR AT A RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECT AUTHORIZED**
 11 **UNDER SECTION 11511B** to which the structure is directly connected,
 12 and that is available for that purpose as provided for in an
 13 ordinance of the local unit of government ~~that operates the~~
 14 ~~wastewater treatment plant or in an operating plan~~ **WHERE THE**
 15 **STRUCTURE IS LOCATED OR IN AN OPERATING PLAN**. Receiving facility
 16 does not include either of the following:

17 (i) A septic tank.

18 (ii) A structure or a wastewater treatment plant at which the
 19 disposal of septage waste is prohibited by order of the department
 20 under section 11708 or 11715b.

21 (s) "Receiving facility service area" or "service area" means
 22 the territory for which a receiving facility has the capacity and
 23 is available to receive and treat septage waste, subject to the
 24 following:

25 (i) Beginning ~~1 year after the effective date of the 2004~~
 26 ~~amendatory act that added this subdivision~~ **OCTOBER 12, 2005** and
 27 before the 2011 state fiscal year, the geographic service area of a

1 receiving facility shall not extend more than 15 radial miles from
2 the receiving facility.

3 (ii) After the 2010 state fiscal year, the geographic service
4 area of a receiving facility shall not extend more than 25 radial
5 miles from the receiving facility.

6 (t) "Sanitary sewer cleanout septage" means sanitary sewage or
7 cleanout residue removed from a separate sanitary sewer collection
8 system that is not land applied and that is transported by a
9 vehicle licensed under this part elsewhere within the same system
10 or to a receiving facility that is approved by the department.

11 (u) "Septage waste" means the fluid mixture of untreated and
12 partially treated sewage solids, liquids, and sludge of human or
13 domestic origin ~~which~~ **THAT** is removed from a wastewater system.
14 Septage waste consists only of food establishment septage, domestic
15 septage, domestic treatment plant septage, or sanitary sewer
16 cleanout septage, or any combination of these.

17 (v) "Septage waste servicing license" means a septage waste
18 servicing license as provided for under sections 11703 and 11706.

19 (w) "Septage waste vehicle" means a vehicle that is self-
20 propelled or towed and that includes a tank used to transport
21 septage waste. Septage waste vehicle does not include an
22 ~~instrument~~ **IMPLEMENT** of husbandry as defined in section 21 of the
23 Michigan vehicle code, 1949 PA 300, MCL 257.21.

24 (x) "Septage waste vehicle license" means a septage waste
25 vehicle license as provided for under sections 11704 and 11706.

26 (y) "Septic tank" means a septic toilet, chemical closet, or
27 other enclosure used for the decomposition of domestic sewage.

1 (z) "Service" or "servicing" means cleaning, removing,
2 transporting, or disposing, by application to land or otherwise, of
3 septage waste.

4 (aa) "Site" means a location or locations on a parcel or
5 tract, as those terms are defined in section 102 of the land
6 division act, 1967 PA 288, MCL 560.102, proposed or used for the
7 disposal of septage waste on land.

8 (bb) "Site permit" means a permit issued under section 11709
9 authorizing the application of septage waste to a site.

10 (cc) "Storage facility" means a structure that receives
11 septage waste for storage but not for treatment.

12 (dd) "Tank" means an enclosed container placed on a septage
13 waste vehicle to carry or transport septage waste.

14 (ee) "Type I public water supply", ~~well~~, "type IIa public
15 water supply", ~~well~~, "type IIb public water supply", ~~well~~,
16 and "type III public water supply" ~~well~~ mean those terms,
17 respectively, as described in R 325.10502 of the Michigan
18 administrative code.

19 (ff) "Type III marine sanitation device" means that term as
20 defined in 33 CFR 159.3.

21 Sec. 11702. (1) A person shall not engage in servicing or
22 contract to engage in servicing except as authorized by a septage
23 waste servicing license and a septage waste vehicle license issued
24 by the department pursuant to part 13. A person shall not contract
25 for another person to engage in servicing unless the person who is
26 to perform the servicing has a septage waste servicing license and
27 a septage waste vehicle license.

1 (2) The septage waste servicing license and septage waste
2 vehicle license requirements provided in this part are not
3 applicable to a publicly owned receiving facility subject to a
4 permit issued under part 31 **OR SECTION 11511B.**

5 Sec. 11715b. (1) The department shall promulgate rules
6 establishing design and operating requirements for receiving
7 facilities and the control of nuisance conditions.

8 (2) A person shall not commence construction of a receiving
9 facility on or after the date on which rules are promulgated under
10 subsection (1) unless the owner has a permit from the department
11 authorizing the construction of the receiving facility. The
12 application for a permit shall include a basis of design for the
13 receiving facility, engineering plans for the receiving facility
14 sealed by an engineer licensed to practice in Michigan, and any
15 other information required by the department. If the proposed
16 receiving facility will be part of a sewerage system whose
17 construction is required to be permitted under part 41 **OR A**
18 **RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECT WHOSE CONSTRUCTION**
19 **AND OPERATION IS REQUIRED TO BE PERMITTED UNDER SECTION 11511B,** the
20 permit issued under part 41 **OR PART 115, RESPECTIVELY,** satisfies
21 the permitting requirement of this subsection.

22 (3) Subject to subsection (4), a person shall not operate a
23 receiving facility contrary to an operating plan approved by the
24 department.

25 (4) If the operation of a receiving facility commenced before
26 ~~the effective date of this section~~ **OCTOBER 12, 2004,** subsection
27 (3) applies to that receiving facility beginning ~~1 year after the~~

1 ~~effective date of this section~~ **OCTOBER 12, 2005.**

2 (5) Before submitting a proposed operating plan to the
3 department for approval, a person shall do all of the following:

4 (a) Publish notice of the proposed operating plan in a
5 newspaper of general circulation in the area where the receiving
6 facility is located.

7 (b) If the person maintains a website, post notice of the
8 proposed operating plan on its website.

9 (c) Submit notice of the proposed operating plan by first-
10 class mail to the county health department and the legislative body
11 of each city, village, and township located in whole or in part
12 within the service area of the ~~wastewater treatment plant to which~~
13 ~~the~~ receiving facility. ~~is connected.~~

14 (6) Notice of a proposed operating plan under subsection (5)
15 shall contain all of the following:

16 (a) A statement that the receiving facility proposes to
17 receive or, in the case of a receiving facility described in
18 subsection (4), to continue to receive septage waste for treatment.

19 (b) A copy of the proposed operating plan or a statement where
20 the operating plan is available for review during normal business
21 hours.

22 (c) A request for written comments on the proposed operation
23 of the receiving facility and the deadline for receipt of such
24 comments, which shall be not less than 30 days after publication,
25 posting, or mailing of the notice.

26 (7) After the deadline for receipt of comments under
27 subsection (6), the person proposing to operate a receiving

1 facility may modify the plan in response to any comments received
2 and shall submit a summary of the comments and the current version
3 of the proposed operating plan to the department for approval.

4 (8) The operator of a receiving facility may modify an
5 approved operating plan if the modifications are approved by the
6 department. Subsections (5) to (7) do not apply to the modification
7 of the operating plan.

8 (9) If the owner or operator of a receiving facility violates
9 this section or rules promulgated under this section, after
10 providing an opportunity for a hearing, the department may order
11 that a receiving facility cease operation as a receiving facility.

12 (10) The department shall post on its website both of the
13 following:

14 (a) Approved operating plans, including any modifications
15 under subsection (8).

16 (b) Notice of any orders under subsection (9).

17 (11) If construction of a receiving facility commenced before
18 the date on which rules are promulgated under subsection (1), all
19 of the following apply:

20 (a) Within 1 year after the date on which rules are
21 promulgated under subsection (1), the owner of the receiving
22 facility shall submit to the department and obtain department
23 approval of a report prepared by a professional engineer licensed
24 to practice in Michigan describing the receiving facility's state
25 of compliance with the rules and proposing any modifications to the
26 receiving facility necessary to comply with the rules.

27 (b) If, according to the report approved under subdivision

1 (a), modifications to the receiving facility are necessary to
2 comply with the rules promulgated under subsection (1), within 18
3 months after the report is approved under subdivision (a), the
4 owner of the receiving facility shall submit to the department
5 engineering plans for modifying the receiving facility and shall
6 obtain a construction permit from the department for modifying the
7 receiving facility.

8 (c) Within 3 years after the report is approved under
9 subdivision (a), the owner of the receiving facility shall complete
10 construction modifying the receiving facility so that it complies
11 with those rules.

12 (12) After a hearing, the department may order that a
13 receiving facility whose owner fails to comply with this section
14 cease operating as a receiving facility.

15 Enacting section 1. This amendatory act does not take effect
16 unless all of the following bills of the 93rd Legislature are
17 enacted into law:

18 (a) Senate Bill No. 747.

19 (b) House Bill No. 5148.