

HOUSE BILL No. 5149

September 8, 2005, Introduced by Reps. Acciavatti, Pavlov, Booher and Palmer and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11518 and 11701 (MCL 324.11518 and 324.11701),
section 11701 as amended by 2004 PA 381.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11518. (1) ~~At the time~~ **WHEN** a disposal area that is a
2 sanitary landfill is licensed, an instrument that imposes a
3 restrictive covenant upon the land ~~involved~~ **DESCRIBED IN THE**
4 **CONSTRUCTION PERMIT AS CONSTITUTING THE FACILITY** shall be executed
5 by all of the owners of ~~the tract of~~ **THAT** land ~~upon which the~~
6 ~~landfill is to be located~~ and the department. If the land
7 ~~involved~~ is ~~state~~ owned **BY THIS STATE**, the state administrative
8 board shall execute the covenant on behalf of ~~the~~ **THIS** state. **THE**

1 COVENANT SHALL INCLUDE A LEGAL DESCRIPTION OF THE FACILITY BOUNDARY
2 AND A MAP DEPICTING BOTH THE FACILITY BOUNDARY, WITH METES AND
3 BOUNDS FOR EACH SECTION OF TRAVERSE LABELED, AND THE SOLID WASTE

4 BOUNDARY. The instrument imposing the restrictive covenant shall be
5 filed for record by the department or a health officer in the
6 office of the register of deeds of the county, or counties, in
7 which the facility is located. The covenant shall state that the
8 land described in the covenant has been or will be used as a
9 landfill and that neither the property owners, their servants,
10 agents, or employees, nor any of their heirs, successors, lessees,
11 or assigns shall engage in filling, grading, excavating, drilling,
12 or mining on the property ~~during the first 50 years~~ following
13 completion of the landfill without authorization of the department.
14 In giving authorization, the department shall consider the original
15 design, **THE** type of operation, **THE** material deposited, and the
16 stage of decomposition of the fill. Special exemption from this
17 section may be granted by the department if the lands involved are
18 federal lands or if contracts existing between the landowner and
19 the licensee on January 11, 1979 are not renegotiable.

20 (2) This part does not prohibit the department from conveying,
21 leasing, or permitting the use of state land for a solid waste
22 disposal area or a resource recovery facility as provided by
23 applicable state law.

24 Sec. 11701. As used in this part:

25 (a) "Agricultural land" means land on which a food crop, a
26 feed crop, or a fiber crop is grown, including land used or
27 suitable for use as a range or pasture; a sod farm; or a Christmas

1 tree farm.

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

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

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

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

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

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

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

1 (i) "Food establishment septage" means material pumped from a
2 grease interceptor, grease trap, or other appurtenance used to
3 retain grease or other fatty substances contained in restaurant
4 wastes and which is blended into a uniform mixture, consisting of
5 not more than 1 part of that restaurant-derived material per 3
6 parts of domestic septage, prior to land application or disposed of
7 at a receiving facility.

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

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

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

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

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

19 (i) Categories of septage waste that the receiving facility
20 will receive.

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

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

23 (iv) Any other conditions for receiving septage waste
24 established by the receiving facility.

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

1 (p) "Peace officer" means a sheriff or sheriff's deputy, a
2 village or township marshal, an officer of the police department of
3 any city, village, or township, any officer of the Michigan state
4 police, any peace officer who is trained and certified pursuant to
5 the commission on law enforcement standards act, 1965 PA 203, MCL
6 28.601 to 28.616, or any conservation officer appointed by the
7 department or the department of natural resources pursuant to
8 section 1606.

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

11 (r) "Receiving facility" means a structure that is designed to
12 receive septage waste for treatment ~~at a wastewater treatment~~
13 ~~plant to which the structure is directly connected,~~ and that is
14 available for that purpose as provided for in an ordinance of the
15 local unit of government ~~that operates the wastewater treatment~~
16 ~~plant or in an operating plan~~ **WHERE THE STRUCTURE IS LOCATED.**

17 Receiving facility does not include either of the following:

18 (i) A septic tank.

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

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

26 (i) Beginning ~~1 year after the effective date of the 2004~~
27 ~~amendatory act that added this subdivision~~ **OCTOBER 12, 2005** and

1 before the 2011 state fiscal year, the geographic service area of a
2 receiving facility shall not extend more than 15 radial miles from
3 the receiving facility.

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

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

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

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

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

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

27 (y) "Septic tank" means a septic toilet, chemical closet, or

1 other enclosure used for the decomposition of domestic sewage.

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

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

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

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

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

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

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

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

25 (a) Senate Bill No.____ or House Bill No. 5148(request no.
26 03018'05 **).

27 (b) Senate Bill No. 747 or House Bill No.____ (request no.

1 04373'05).