

HOUSE BILL No. 5804

March 1, 2006, Introduced by Reps. Anderson, Bieda, Accavitti, Miller, Leland, Kolb, Brandenburg, Farrah, Gaffney, Stewart, Wojno, David Law, Zelenko, Donigan, Polidori, Hopgood, Lemmons, Jr., Vagnozzi, Kathleen Law, Gonzales, Tobocman, Virgil Smith, Plakas, Condino, Clack and Lemmons, III and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 8623 and 8625.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 8623. (1) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF
2 THE RULES PROMULGATED UNDER SUBSECTION (2), A COMMERCIAL ANIMAL
3 WASTE HANDLER AND A PRIMARY ANIMAL WASTE HANDLER SHALL NOT HANDLE
4 MANURE, PRODUCTION AREA WASTE, OR PROCESS WASTEWATER AT AN AFO
5 UNLESS THE PERSON OBTAINS A LICENSE UNDER THIS SECTION.

6 (2) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
7 ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL PROMULGATE RULES
8 FOR THE LICENSING OF ANIMAL WASTE HANDLERS. THE RULES MAY PROVIDE
9 FOR SEPARATE LICENSING CATEGORIES AND REQUIREMENTS FOR COMMERCIAL

1 ANIMAL WASTE HANDLERS AND PRIMARY ANIMAL WASTE HANDLERS. THE RULES
2 SHALL PROVIDE FOR ALL OF THE FOLLOWING:

3 (A) LICENSE TERMS OF NOT LESS THAN 3 YEARS.

4 (B) TRAINING AND EDUCATION STANDARDS FOR INITIAL LICENSING FOR
5 ANIMAL WASTE HANDLERS AND CONTINUED EDUCATION OR CONTINUED
6 COMPETENCY TRAINING FOR RENEWAL LICENSING. THE DEPARTMENT MAY
7 PROVIDE BY RULE FOR A WAIVER OF THE EDUCATION AND TRAINING
8 REQUIREMENTS FOR PERSONS WHO, ON THE EFFECTIVE DATE OF THE RULES,
9 ARE ENGAGED IN HANDLING MANURE AT A CAFO AND CAN DEMONSTRATE A
10 COMBINATION OF TRAINING, EDUCATION, AND EXPERIENCE SUBSTANTIALLY
11 EQUIVALENT TO THE REQUIREMENTS IMPOSED UNDER THE RULES.

12 (C) A PROCESS FOR PHASING IN THE LICENSING REQUIREMENTS FOR
13 PERSONS OPERATING AS ANIMAL WASTE HANDLERS ON THE EFFECTIVE DATE OF
14 THE AMENDATORY ACT THAT ADDED THIS SECTION. THE PHASE-IN PERIOD
15 SHALL CONCLUDE NOT EARLIER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF
16 RULES PROMULGATED UNDER THIS SECTION.

17 (3) IN ESTABLISHING STANDARDS UNDER SUBSECTION (2), THE
18 DEPARTMENT MAY INCORPORATE BY REFERENCE EXISTING STANDARDS ADOPTED
19 BY THE FEDERAL GOVERNMENT OR EXISTING STANDARDS ADOPTED BY TRADE OR
20 INDUSTRY GROUPS.

21 (4) AS A CONDITION OF LICENSURE UNDER THIS SECTION, A LICENSEE
22 SHALL MAINTAIN A BOND IN AN AMOUNT NOT LESS THAN \$25,000.00 FOR A
23 COMMERCIAL ANIMAL WASTE HANDLER OR A PRIMARY ANIMAL WASTE HANDLER.
24 THE BOND SHALL BE EXECUTED BY THE LICENSEE AS PRINCIPAL AND ISSUED
25 BY A CORPORATION QUALIFIED UNDER THE LAWS OF THIS STATE AS SURETY,
26 PAYABLE TO THE STATE OF MICHIGAN, AND CONDITIONED UPON COMPLIANCE
27 WITH STATE AND FEDERAL LAWS, RULES, AND REGULATIONS APPLICABLE TO

1 THE LICENSEE.

2 (5) THE FEE FOR AN ANIMAL WASTE HANDLER LICENSE IS \$200.00 PER
3 YEAR. IF AN ANNUAL FEE IS PAID FOR AN ANIMAL WASTE HANDLER LICENSE,
4 BUT THE APPLICATION FOR THE LICENSE IS DENIED, THE DEPARTMENT SHALL
5 PROMPTLY REFUND THE FEE. FOR EACH STATE FISCAL YEAR, A PERSON
6 POSSESSING AN ANIMAL WASTE HANDLER LICENSE AS OF JANUARY 1 OF THAT
7 FISCAL YEAR SHALL BE ASSESSED THE \$200.00 ANNUAL FEE. THE
8 DEPARTMENT SHALL NOTIFY THOSE PERSONS OF THEIR FEE ASSESSMENTS BY
9 FEBRUARY 1 OF THAT FISCAL YEAR. PAYMENT SHALL BE POSTMARKED BY
10 MARCH 15 OF THAT FISCAL YEAR.

11 (6) THE DEPARTMENT SHALL ASSESS INTEREST ON ALL ANIMAL WASTE
12 HANDLER LICENSE FEE PAYMENTS RECEIVED AFTER THE DUE DATE. THE
13 AMOUNT OF INTEREST SHALL EQUAL 0.75% OF THE PAYMENT DUE, FOR EACH
14 MONTH OR PORTION OF A MONTH THE PAYMENT REMAINS PAST DUE. THE
15 FAILURE BY A PERSON TO TIMELY PAY A FEE IMPOSED BY THIS SECTION IS
16 A VIOLATION OF THIS PART.

17 (7) IF A PERSON FAILS TO PAY A FEE REQUIRED UNDER THIS SECTION
18 IN FULL, PLUS ANY INTEREST ACCRUED, BY OCTOBER 1 OF THE YEAR
19 FOLLOWING THE DATE OF NOTIFICATION OF THE FEE ASSESSMENT, THE
20 DEPARTMENT MAY ISSUE AN ORDER THAT REVOKES THE PERSON'S ANIMAL
21 WASTE HANDLER LICENSE. FEES AND INTEREST COLLECTED UNDER THIS
22 SECTION SHALL BE DEPOSITED IN THE CAFO CLEANUP AND ENFORCEMENT FUND
23 CREATED IN SECTION 8637.

24 (8) EACH CAFO SHALL HAVE AN INDIVIDUAL LICENSED UNDER THIS
25 SECTION IN CHARGE OF THE HANDLING OF MANURE, PRODUCTION AREA WASTE,
26 AND PROCESS WASTEWATER. AN INDIVIDUAL LICENSED AS A COMMERCIAL
27 ANIMAL WASTE HANDLER MAY ACT AS A PRIMARY ANIMAL WASTE HANDLER

1 WITHOUT OBTAINING A SEPARATE LICENSE AS A PRIMARY ANIMAL WASTE
2 HANDLER.

3 (9) THE DEPARTMENT MAY SUSPEND OR REVOKE AN ANIMAL WASTE
4 HANDLER LICENSE IF THE DEPARTMENT, AFTER NOTICE AND OPPORTUNITY FOR
5 AN ADMINISTRATIVE HEARING, DETERMINES THAT THE LICENSEE VIOLATED
6 THIS PART OR RULES PROMULGATED UNDER THIS PART.

7 SEC. 8625. (1) IF PRODUCTION AREA WASTE OR PROCESS WASTEWATER
8 IS SOLD, GIVEN AWAY, OR OTHERWISE TRANSFERRED TO OTHER PERSONS AND
9 THE LAND APPLICATION OF THAT PRODUCTION AREA WASTE OR PROCESS
10 WASTEWATER IS NOT UNDER THE OPERATIONAL CONTROL OF THE CAFO OWNER
11 OR OPERATOR THAT GENERATES THE PRODUCTION AREA WASTE OR PROCESS
12 WASTEWATER, THE CAFO OWNER OR OPERATOR SHALL DO ALL OF THE
13 FOLLOWING:

14 (A) PREPARE A MANIFEST FOR TRACKING THE PRODUCTION AREA WASTE
15 OR PROCESS WASTEWATER BEFORE TRANSFERRING THE PRODUCTION AREA WASTE
16 OR PROCESS WASTEWATER.

17 (B) DESIGNATE ON THE MANIFEST THE RECIPIENT OF THE PRODUCTION
18 AREA WASTE OR PROCESS WASTEWATER.

19 (C) USE A MANIFEST FORM THAT IS APPROVED BY THE DEPARTMENT AND
20 HAS LOCATIONS FOR RECORDING ALL OF THE FOLLOWING INFORMATION:

21 (i) A MANIFEST DOCUMENT NUMBER.

22 (ii) THE GENERATOR'S NAME, MAILING ADDRESS, AND TELEPHONE
23 NUMBER.

24 (iii) THE NAME AND ADDRESS OF THE RECIPIENT OF THE PRODUCTION
25 AREA WASTE OR PROCESS WASTEWATER.

26 (iv) THE NUTRIENT CONTENT OF THE PRODUCTION AREA WASTE OR
27 PROCESS WASTEWATER TO BE USED IN DETERMINING THE APPROPRIATE LAND

1 APPLICATION RATES.

2 (v) THE TOTAL QUANTITY OF PRODUCTION AREA WASTE OR PROCESS
3 WASTEWATER BY UNITS OF WEIGHT OR VOLUME AND THE NUMBER AND SIZE OF
4 THE LOADS OR CONTAINERS USED TO TRANSFER THAT QUANTITY OF
5 PRODUCTION AREA WASTE OR PROCESS WASTEWATER.

6 (vi) A STATEMENT THAT INFORMS THE RECIPIENT OF HIS OR HER
7 RESPONSIBILITY TO PROPERLY MANAGE THE LAND APPLICATION OF THE
8 MANURE OR WASTEWATER TO MINIMIZE THE DISCHARGE OF POLLUTANTS TO
9 WATERS OF THE STATE.

10 (vii) THE FOLLOWING CERTIFICATION: "I CERTIFY THAT THE
11 PRODUCTION AREA WASTE OR PROCESS WASTEWATER IS ACCURATELY DESCRIBED
12 ABOVE AND IS SUITABLE FOR LAND APPLICATION.".

13 (viii) OTHER CERTIFICATION STATEMENTS AS MAY BE REQUIRED BY THE
14 DEPARTMENT.

15 (ix) THE ADDRESS OR OTHER DESCRIPTION OF THE FINAL DESTINATION
16 OF THE PRODUCTION AREA WASTE OR PROCESS WASTEWATER, FOR COMPLETION
17 BY THE RECIPIENT AFTER LAND APPLICATION OR OTHER DISPOSAL OR USE OF
18 THE PRODUCTION AREA WASTE OR PROCESS WASTEWATER.

19 (x) DATES AND SIGNATURES OF THE GENERATOR AND RECIPIENT.

20 (D) SIGN THE MANIFEST CERTIFICATION BY HAND.

21 (E) OBTAIN THE HANDWRITTEN SIGNATURE OF THE RECIPIENT AND THE
22 DATE OF ACCEPTANCE ON THE MANIFEST.

23 (F) RETAIN 1 COPY OF THE MANIFEST.

24 (G) GIVE THE REMAINING COPIES OF THE MANIFEST TO THE
25 RECIPIENT.

26 (H) ADVISE THE RECIPIENT OF HIS OR HER RESPONSIBILITIES TO
27 COMPLETE THE MANIFEST AND RETURN A COPY TO THE GENERATOR WITHIN 30

1 DAYS AFTER COMPLETION OF THE LAND APPLICATION OR OTHER DISPOSAL OR
2 USE OF THE PRODUCTION AREA WASTE OR PROCESS WASTEWATER.

3 (I) KEEP ALL COPIES OF MANIFESTS WITH THE CAFO OWNER'S OR
4 OPERATOR'S CNMP FOR 3 YEARS.

5 (J) MAKE COPIES OF THE MANIFESTS AVAILABLE TO THE DEPARTMENT
6 OR THE DEPARTMENT OF AGRICULTURE FOR INSPECTION OR COPYING UPON
7 REQUEST. MANIFESTS ARE EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF
8 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

9 (2) SUBSECTION (1) DOES NOT APPLY TO QUANTITIES OF PRODUCTION
10 AREA WASTE OR PROCESS WASTEWATER LESS THAN 1 CUBIC YARD OR 1 TON
11 PER RECIPIENT PER DAY.

12 (3) ONE MANIFEST MAY BE USED FOR MULTIPLE LOADS OR CONTAINERS
13 OF THE SAME PRODUCTION AREA WASTE OR PROCESS WASTEWATER TRANSFERRED
14 IN 1 CALENDAR DAY TO THE SAME DESTINATION.

15 (4) THE GENERATOR SHALL NOT SELL, GIVE AWAY, OR OTHERWISE
16 TRANSFER PRODUCTION AREA WASTE OR PROCESS WASTEWATER TO A RECIPIENT
17 IF ANY OF THE FOLLOWING OCCUR:

18 (A) THE RECIPIENT HAS PREVIOUSLY NOT RETURNED A COPY OF A
19 COMPLETED MANIFEST TO THE GENERATOR.

20 (B) A MANIFEST RETURNED BY THE RECIPIENT INDICATES IMPROPER
21 LAND APPLICATION, USE, OR DISPOSAL.

22 (C) THE GENERATOR HAS BEEN ADVISED BY THE DEPARTMENT THAT THE
23 DEPARTMENT OR A COURT OF APPROPRIATE JURISDICTION HAS DETERMINED
24 THAT THE RECIPIENT HAS IMPROPERLY LAND-APPLIED, USED, OR DISPOSED
25 OF MANIFESTED PRODUCTION AREA WASTE OR PROCESS WASTEWATER.

26 Enacting section 1. This amendatory act does not take effect
27 unless all of the following bills of the 93rd Legislature are

1 enacted into law:

2 (a) Senate Bill No.____ or House Bill No. 5801(request no.
3 01066'05).

4 (b) Senate Bill No.____ or House Bill No. 5803(request no.
5 01074'05).

6 (c) Senate Bill No.____ or House Bill No. 5802(request no.
7 01075'05).

8 (d) Senate Bill No.____ or House Bill No. 5809(request no.
9 01081'05).

10 (e) Senate Bill No.____ or House Bill No. 5807(request no.
11 02008'05).

12 (f) Senate Bill No.____ or House Bill No. 5808(request no.
13 02009'05).

14 (g) Senate Bill No.____ or House Bill No. 5806(request no.
15 02010'05).

16 (h) Senate Bill No. ____ or House Bill No. 5805(request no.
17 02032'05).