

HOUSE BILL No. 5035

July 18, 2007, Introduced by Rep. Mayes and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 8517 (MCL 324.8517), as added by 1998 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8517. (1) Except as otherwise provided in this section,
2 ~~it is the express legislative intent that this part preempt~~
3 **PREEMPTS** any local ordinance, regulation, or resolution that
4 ~~purports to~~**WOULD** duplicate, extend, or revise in any manner the
5 provisions of this part. Except as otherwise provided for in this
6 section, a local unit of government shall not ~~enact~~**ADOPT**,
7 maintain, or enforce an ordinance, regulation, or resolution that
8 contradicts or conflicts in any manner with this part.

1 (2) If a local unit of government is under contract with the
 2 department to act as its agent or the local unit of government has
 3 received prior written authorization from the department, that
 4 local unit of government may ~~enact~~**ADOPT** an ordinance that is
 5 identical to this part and rules promulgated under this part,
 6 except as prohibited in subsection (6). The local unit of
 7 government's enforcement response for a violation of the ordinance
 8 that involves the manufacturing, storage, distribution, ~~or~~ sale, **OR**
 9 **AGRICULTURAL USE** of products regulated by this part is limited to
 10 issuing a cease and desist order in the manner prescribed in
 11 section 8511.

12 (3) A local unit of government may ~~enact~~**ADOPT** an ordinance
 13 prescribing standards different from those contained in this part
 14 and rules promulgated under this part and that regulates the
 15 manufacturing, storage, distribution, ~~or~~ sale, **OR AGRICULTURAL USE**
 16 of a product regulated by this part **ONLY** under either or both of
 17 the following circumstances:

18 (a) Unreasonable adverse effects on the environment or public
 19 health will exist within the local unit of government, ~~—The~~
 20 ~~determination that unreasonable adverse effects on the environment~~
 21 ~~or public health will exist shall take~~**TAKING** into consideration
 22 specific populations whose health may be adversely affected within
 23 that local unit of government.

24 (b) The local unit of government has determined that the
 25 manufacturing, storage, distribution, ~~or~~ sale, **OR AGRICULTURAL USE**
 26 of a product regulated by this part within that unit of government
 27 has resulted or will result in the violation of other existing

1 state or federal laws.

2 (4) An ordinance ~~enacted pursuant to subsections (2) and~~
3 **ADOPTED UNDER SUBSECTION (2) OR** (3) shall not conflict with
4 existing state laws or federal laws. An ordinance ~~enacted pursuant~~
5 ~~to~~ **ADOPTED UNDER** subsection (3) shall not be enforced by a local
6 unit of government until approved by the commission of agriculture.
7 The commission of agriculture shall provide a detailed explanation
8 of the basis of ~~the~~ **A** denial within 60 days.

9 (5) ~~Upon identification of~~ **WITHIN 60 DAYS AFTER THE**
10 **LEGISLATIVE BODY OF A LOCAL UNIT OF GOVERNMENT SUBMITS TO THE**
11 **DEPARTMENT A RESOLUTION IDENTIFYING** unreasonable adverse effects on
12 the environment or public health ~~by a local unit of government as~~
13 ~~evidenced by a resolution submitted to the department~~ **AS PROVIDED**
14 **FOR IN SUBSECTION (3) (A)**, the department shall hold a local public
15 meeting ~~within 60 days after the submission of the resolution to~~
16 determine the nature and extent of unreasonable adverse effects on
17 the environment or public health due to the manufacturing, storage,
18 distribution, ~~or sale,~~ **OR AGRICULTURAL USE** of a product regulated
19 by this part. Within 30 days after the local public meeting, the
20 department shall issue a detailed opinion regarding the existence
21 of unreasonable adverse effects on the environment or public health
22 as identified by the resolution of the local unit of government.

23 (6) The director may contract with a local unit of government
24 to act as its agent for the purpose of enforcing this part and the
25 rules promulgated under this part. The department ~~shall have~~ **HAS**
26 sole authority to assess fees, register fertilizer or soil
27 conditioner products, cancel or suspend registrations, and regulate

1 and enforce all provisions of section 8512.

2 (7) ~~For any ordinance enacted pursuant to this section, the A~~
3 local unit of government ~~shall provide that~~ **ADOPTS AN ORDINANCE**
4 **UNDER SUBSECTION (2) OR (3) SHALL REQUIRE** persons enforcing the
5 ordinance **TO** comply with ~~the~~ training and enforcement requirements
6 ~~as~~ determined appropriate by the director.