

# SENATE BILL No. 503

May 15, 2007, Introduced by Senators BARCIA, VAN WOERKOM, BIRKHOLZ, GILBERT, BROWN, KUIPERS, PATTERSON, CROPSEY and STAMAS 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 part 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 86 ANIMAL WASTE HANDLERS

SEC. 8601. AS USED IN THIS PART:

(A) "AFO" MEANS AN ANIMAL FEEDING OPERATION AS DEFINED IN SECTION 3101.

(B) "COMMERCIAL ANIMAL WASTE HANDLER" MEANS A PERSON WHO, FOR CONSIDERATION, HANDLES OR DISPOSES OF OR OFFERS TO HANDLE OR DISPOSE OF MANURE, PRODUCTION AREA WASTE, OR PROCESS WASTEWATER FROM AN ANIMAL FEEDING OPERATION OWNED OR OPERATED BY ANOTHER PERSON.

1 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

2 (D) "LAND APPLICATION AREA" MEANS LAND UNDER THE CONTROL OF AN  
3 AFO OWNER OR OPERATOR, WHETHER IT IS OWNED, RENTED, LEASED, OR  
4 SUBJECT TO AN ACCESS AGREEMENT, TO WHICH PRODUCTION AREA WASTE OR  
5 PROCESS WASTEWATER IS OR MAY BE APPLIED. LAND APPLICATION AREA  
6 INCLUDES LAND NOT OWNED BY THE AFO OWNER OR OPERATOR BUT ON WHICH  
7 THE AFO OWNER OR OPERATOR HAS CONTROL OF THE LAND APPLICATION OF  
8 PRODUCTION AREA WASTE OR AFO PROCESS WASTEWATER.

9 (E) "MANURE" INCLUDES MANURE, BEDDING, COMPOST, AND RAW  
10 MATERIALS OR OTHER MATERIALS COMMINGLED WITH MANURE OR SET ASIDE  
11 FOR DISPOSAL.

12 (F) "PROCESS WASTEWATER" MEANS ANY OF THE FOLLOWING:

13 (i) SPILLAGE OR OVERFLOW OF WATER USED FOR AFO ANIMAL OR  
14 POULTRY WATERING SYSTEMS.

15 (ii) WATER DIRECTLY OR INDIRECTLY USED AT AN AFO FOR WASHING,  
16 CLEANING, OR FLUSHING PENS, BARNs, MANURE PITS, OR OTHER  
17 FACILITIES; FOR DIRECT CONTACT SWIMMING, WASHING, OR SPRAY COOLING  
18 OF ANIMALS; OR FOR DUST CONTROL.

19 (iii) ANY WATER THAT COMES INTO CONTACT WITH, OR IS A  
20 CONSTITUENT OF, ANY AFO RAW MATERIALS, PRODUCTS, OR BYPRODUCTS,  
21 INCLUDING MANURE, LITTER, FEED, MILK, EGGS, OR BEDDING.

22 (G) "PRODUCTION AREA" MEANS THAT PART OF AN AFO THAT INCLUDES  
23 ANIMAL CONFINEMENT AREAS, MANURE STORAGE AREAS, RAW MATERIALS  
24 STORAGE AREAS, WASTE CONTAINMENT AREAS, ANY EGG WASHING OR EGG  
25 PROCESSING FACILITY, AND ANY AREA USED IN THE STORAGE, HANDLING,  
26 TREATMENT, OR DISPOSAL OF MORTALITIES. AS USED IN THIS SUBDIVISION:

27 (i) "ANIMAL CONFINEMENT AREA" INCLUDES OPEN LOTS, HOUSED LOTS,

1 FEEDLOTS, CONFINEMENT HOUSES, STALL BARNs, FREE STALL BARNs, MILK  
2 ROOMS, MILKING CENTERS, COWYARDS, BARNYARDS, MEDICATION PENS,  
3 WALKERS, ANIMAL WALKWAYS, AND STABLES.

4 (ii) "MANURE STORAGE AREA" INCLUDES LAGOONS, RUNOFF PONDS,  
5 STORAGE SHEDS, STOCKPILES, UNDERHOUSE OR PIT STORAGES, LIQUID  
6 IMPOUNDMENTS, STATIC PILES, AND COMPOSTING PILES.

7 (iii) "RAW MATERIALS STORAGE AREA" INCLUDES FEED SILOS, SILAGE  
8 BUNKERS, AND BEDDING MATERIALS.

9 (iv) "WASTE CONTAINMENT AREA" INCLUDES SETTLING BASINS AND  
10 AREAS WITHIN BERMS AND DIVERSIONS THAT SEPARATE UNCONTAMINATED  
11 STORM WATER.

12 (H) "PRODUCTION AREA WASTE" MEANS MANURE OR ANY WASTE FROM THE  
13 PRODUCTION AREA AND ANY PRECIPITATION, INCLUDING, BUT NOT LIMITED  
14 TO, RAIN OR SNOW, THAT COMES INTO CONTACT WITH, OR IS CONTAMINATED  
15 BY, MANURE OR ANY OF THE COMPONENTS LISTED IN THE DEFINITION OF  
16 PRODUCTION AREA. PRODUCTION AREA WASTE DOES NOT INCLUDE WATER FROM  
17 LAND APPLICATION AREAS.

18 SEC. 8602. (1) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF  
19 THE RULES PROMULGATED UNDER SUBSECTION (2), A COMMERCIAL ANIMAL  
20 WASTE HANDLER SHALL NOT HANDLE MANURE, PRODUCTION AREA WASTE, OR  
21 PROCESS WASTEWATER AT AN AFO UNLESS THE PERSON OBTAINS A LICENSE OR  
22 CERTIFICATION UNDER THIS SECTION.

23 (2) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
24 ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL PROMULGATE RULES  
25 FOR THE LICENSING OR CERTIFICATION OF COMMERCIAL ANIMAL WASTE  
26 HANDLERS. THE RULES SHALL PROVIDE FOR ALL OF THE FOLLOWING:

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

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

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

16 (3) A PERSON WHO IS CERTIFIED BY THE MICHIGAN CUSTOM MANURE  
17 APPLICATORS ASSOCIATION SHALL BE CONSIDERED TO HAVE MET THE  
18 CERTIFICATION REQUIREMENTS OF THIS SECTION.

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

23 (5) AS A CONDITION OF LICENSURE OR CERTIFICATION UNDER THIS  
24 SECTION, A PERSON SHALL MAINTAIN A BOND IN AN AMOUNT NOT LESS THAN  
25 \$25,000.00. THE BOND SHALL BE EXECUTED BY THE PERSON AS PRINCIPAL  
26 AND ISSUED BY A CORPORATION QUALIFIED UNDER THE LAWS OF THIS STATE  
27 AS SURETY, PAYABLE TO THE STATE OF MICHIGAN, AND CONDITIONED UPON

1 COMPLIANCE WITH STATE AND FEDERAL LAWS, RULES, AND REGULATIONS  
2 APPLICABLE TO THE LICENSEE OR CERTIFICATION.

3 (6) THE FEE FOR A COMMERCIAL ANIMAL WASTE HANDLER LICENSE OR  
4 CERTIFICATION IS \$100.00 PER YEAR. IF AN ANNUAL FEE IS PAID FOR A  
5 COMMERCIAL ANIMAL WASTE HANDLER LICENSE OR CERTIFICATION, BUT THE  
6 APPLICATION FOR THE LICENSE OR CERTIFICATION IS DENIED, THE  
7 DEPARTMENT SHALL PROMPTLY REFUND THE FEE. FOR EACH STATE FISCAL  
8 YEAR, A PERSON POSSESSING A COMMERCIAL ANIMAL WASTE HANDLER LICENSE  
9 OR CERTIFICATION AS OF JANUARY 1 OF THAT FISCAL YEAR SHALL BE  
10 ASSESSED THE \$100.00 ANNUAL FEE. THE DEPARTMENT SHALL NOTIFY THOSE  
11 PERSONS OF THEIR FEE ASSESSMENTS BY FEBRUARY 1 OF THAT FISCAL YEAR.  
12 PAYMENT SHALL BE POSTMARKED BY MARCH 15 OF THAT FISCAL YEAR.

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

19 (8) IF A PERSON FAILS TO PAY A FEE REQUIRED UNDER THIS SECTION  
20 IN FULL, PLUS ANY INTEREST ACCRUED, BY OCTOBER 1 OF THE YEAR  
21 FOLLOWING THE DATE OF NOTIFICATION OF THE FEE ASSESSMENT, THE  
22 DEPARTMENT MAY ISSUE AN ORDER THAT REVOKES THE PERSON'S COMMERCIAL  
23 ANIMAL WASTE HANDLER LICENSE OR CERTIFICATION. FEES AND INTEREST  
24 COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED INTO THE  
25 AGRICULTURE POLLUTION PREVENTION FUND CREATED IN SECTION 8206.

26 (9) THE DEPARTMENT MAY SUSPEND OR REVOKE AN ANIMAL WASTE  
27 HANDLER LICENSE OR CERTIFICATION IF THE DEPARTMENT, AFTER NOTICE

1 AND OPPORTUNITY FOR AN ADMINISTRATIVE HEARING, DETERMINES THAT THE  
2 PERSON VIOLATED THIS PART OR RULES PROMULGATED UNDER THIS PART.

3 SEC. 8603. THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE  
4 SHALL PROMOTE COMPOSTING, WASTEWATER TREATMENT, AND OTHER  
5 ALTERNATIVE TECHNOLOGIES TO ENCOURAGE THE BENEFICIAL USE OF MANURE,  
6 PROCESS WASTEWATER, AND PRODUCTION AREA WASTE AND SHALL ASSIST AFO  
7 OWNERS AND OPERATORS TO EMPLOY THESE METHODS.

8 SEC. 8604. A PERSON WHO VIOLATES THIS PART IS GUILTY OF A  
9 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR  
10 A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

11 Enacting section 1. This amendatory act does not take effect  
12 unless Senate Bill No. 504

13 of the 94th Legislature is enacted into law.