

# SENATE BILL No. 725

August 5, 2009, Introduced by Senators BIRKHOLZ, GARCIA, PATTERSON, BARCIA and JANSEN  
and referred to the Committee on Energy Policy and Public Utilities.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 11504, 11507a, and 11514 (MCL 324.11504,  
324.11507a, and 324.11514), section 11504 as amended by 1996 PA  
359, section 11507a as amended by 2004 PA 39, and section 11514 as  
amended by 2008 PA 394, and by adding section 11512b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 11504. (1) "Health officer" means a full-time  
2       administrative officer of a certified city, county, or district  
3       department of health.

4       (2) "Inert material" means a substance that will not  
5       decompose, dissolve, or in any other way form a contaminated  
6       leachate upon contact with water, or other liquids determined by  
7       the department as likely to be found at the disposal area,

1 percolating through the substance.

2 (3) "Insurance" means insurance that conforms to the  
3 requirements of 40 C.F.R.—**CFR** 258.74(d) provided by an insurer who  
4 has a certificate of authority from the Michigan commissioner of  
5 insurance to sell this line of coverage. An applicant for an  
6 operating license shall submit evidence of the required coverage by  
7 submitting both of the following to the department:

8 (a) A certificate of insurance that uses wording approved by  
9 the department.

10 (b) A certified true and complete copy of the insurance  
11 policy.

12 (4) "Landfill" means a disposal area that is a sanitary  
13 landfill.

14 (5) **"LANDFILL ENERGY PRODUCTION FACILITY" MEANS A LANDFILL**  
15 **DESIGNATED AS A LANDFILL ENERGY PRODUCTION FACILITY IN ITS**  
16 **OPERATING LICENSE PURSUANT TO SECTION 11512B.**

17 (6) ~~(5)~~—"Letter of credit" means an irrevocable letter of  
18 credit that complies with 40 C.F.R.—**CFR** 258.74(c).

19 (7) ~~(6)~~—"Medical waste" means that term as it is defined in  
20 ~~part 138—SECTION 13805~~ of the public health code, ~~Act No. 378 of~~  
21 ~~the Public Acts of 1978, being sections 333.13801 to 333.13831 of~~  
22 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.13805.~~

23 (8) ~~(7)~~—"Municipal solid waste incinerator" means an  
24 incinerator that is owned or operated by any person, and meets all  
25 of the following requirements:

26 (a) The incinerator receives ~~solid waste~~ from off site and  
27 burns only household **SOLID** waste from single and multiple

1 dwellings, hotels, motels, and other residential sources, or ~~this~~  
2 **SUCH** household waste together with solid waste from commercial,  
3 institutional, municipal, county, or industrial sources that, if  
4 **OTHERWISE** disposed of, would not be required to be placed in a  
5 disposal facility licensed under part 111.

6 (b) The **PERSON WHO OPERATES THE** incinerator has established  
7 contractual requirements or other notification or inspection  
8 procedures sufficient to ~~assure~~ **ENSURE** that the incinerator  
9 receives and burns only waste referred to in subdivision (a).

10 (c) The incinerator meets the requirements of this part and  
11 the rules promulgated under this part.

12 (d) The incinerator is not an industrial furnace as defined in  
13 ~~40 C.F.R.~~ **CFR** 260.10.

14 (e) The incinerator is not an incinerator that receives and  
15 burns only medical waste or only waste produced at 1 or more  
16 hospitals.

17 (9) ~~(8)~~ "Municipal solid waste incinerator ash" means the  
18 substances remaining after combustion in a municipal solid waste  
19 incinerator.

20 (10) ~~(9)~~ "Perpetual care fund" means a perpetual care fund  
21 provided for in section 11525.

22 (11) ~~(10)~~ "Trust fund" means a trust fund held by a trustee  
23 ~~which~~ **THAT** has the authority to act as a trustee and whose trust  
24 operations are regulated and examined by a federal or state agency.  
25 A trust fund shall comply with section 11523b.

26 Sec. 11507a. (1) The owner or operator of a landfill shall  
27 annually submit a report to the state and the county and

1 municipality in which the landfill is located that contains  
2 information on ~~the~~ **ALL OF THE FOLLOWING:**

3 (A) **THE** amount of solid waste received by the landfill during  
4 the year itemized, to the extent possible, by county, state, or  
5 country of origin. ~~and the~~

6 (B) **THE** amount of remaining disposal capacity at the landfill.  
7 Remaining disposal capacity shall be calculated as the permitted  
8 capacity less waste in place for any area that has been constructed  
9 and is not yet closed plus the permitted capacity for each area  
10 that has a permit for construction under this part but has not yet  
11 been constructed.

12 (C) **IF THE LANDFILL IS A LANDFILL ENERGY PRODUCTION FACILITY,**  
13 **BOTH OF THE FOLLOWING:**

14 (i) **THE AMOUNT OF LANDFILL GAS RECOVERED AT THE LANDFILL DURING**  
15 **THE YEAR, AS DETERMINED BY METERING OR ANOTHER APPROVED METHOD.**

16 (ii) **HOW THE LANDFILL GAS WAS MANAGED.**

17 (2) The report **UNDER SUBSECTION (1)** shall be submitted on a  
18 form provided by the department within 45 days following the end of  
19 each state fiscal year.

20 (3) ~~(2)~~ By January 31 of each year, the department shall  
21 submit to the legislature a report summarizing the information  
22 obtained under subsection (1).

23 **SEC. 11512B. (1) SUBJECT TO SUBSECTION (4), IF A LANDFILL**  
24 **OPERATING LICENSE DESIGNATES THE LANDFILL AS A LANDFILL ENERGY**  
25 **PRODUCTION FACILITY, YARD CLIPPINGS MAY BE DISPOSED OF AT THE**  
26 **LANDFILL IN LANDFILL CELLS SERVED BY A LANDFILL GAS COLLECTION**  
27 **SYSTEM DESCRIBED IN SUBSECTION (2) (A) .**

1 (2) IF A LANDFILL MEETS ALL OF THE FOLLOWING REQUIREMENTS, THE  
2 LANDFILL'S OPERATING LICENSE SHALL DESIGNATE THE LANDFILL AS A  
3 LANDFILL ENERGY PRODUCTION FACILITY:

4 (A) THE LANDFILL HAS A LANDFILL GAS COLLECTION SYSTEM THAT IS  
5 CAPABLE OF RECOVERING LANDFILL GAS FROM LANDFILL CELLS RECEIVING  
6 YARD CLIPPINGS AND INSTALLATION OF WHICH IS DOCUMENTED IN THE  
7 LANDFILL'S OPERATING RECORD.

8 (B) SUBJECT TO SUBSECTION (3), AT LEAST EVERY OTHER YEAR, THE  
9 LANDFILL ENERGY PRODUCTION FACILITY SHALL RECOVER AND BENEFICIALLY  
10 UTILIZE NOT LESS THAN 70% OF THE ANNUAL GAS PRODUCTION FROM THE  
11 LANDFILL AS A SOURCE OF ENERGY FOR 1 OR MORE OF THE FOLLOWING:

12 (i) GENERATION OF ELECTRICITY, A DIRECT FUEL USE, OR ANY OTHER  
13 USE AS A SUBSTITUTE FOR CONVENTIONAL FUELS.

14 (ii) FLARING DURING TESTING, MAINTENANCE, MALFUNCTION, OR  
15 UNPLANNED INTERRUPTION OF THE LANDFILL GAS COLLECTION SYSTEM OR OF  
16 AN ON-SITE OR OFF-SITE ENERGY USE; FOR PLANNING, CONSTRUCTION, OR  
17 PROVING CAPACITY FOR AN INTENDED ON-SITE OR OFF-SITE ENERGY USE; OR  
18 FOR A SIMILAR REASON. FLARING SHALL NOT BE UTILIZED FOR MORE THAN A  
19 TOTAL OF 2 CONTINUOUS YEARS. HOWEVER, A REQUEST TO EXTEND FLARING  
20 SHALL BE APPROVED BY THE DEPARTMENT IF THE LANDFILL OWNER OR  
21 OPERATOR SUBMITS A SCHEDULE FOR THE USE OF LANDFILL GAS FOR THE  
22 GENERATION OF ELECTRICITY, A DIRECT FUEL USE, OR ANY OTHER USE AS A  
23 SUBSTITUTE FOR CONVENTIONAL FUELS.

24 (3) FOR PURPOSES OF SUBSECTION (2)(B), THE PERCENTAGE OF  
25 LANDFILL GAS RECOVERED SHALL BE CALCULATED BY DIVIDING THE AMOUNT  
26 OF GAS RECOVERED AS REPORTED UNDER SECTION 11507A BY THE TOTAL  
27 ANNUAL LANDFILL ENERGY PRODUCTION FACILITY GAS GENERATION

1 ESTIMATION, BASED ON EITHER THE EPA LANDFILL GAS EMISSION MODEL  
2 (LANDGEM) USING CLEAN AIR ACT DEFAULT VALUES  $K=0.05 \text{ YEAR}^{-1}$  FOR THE  
3 METHANE GENERATION RATE AND  $L_0=110\text{M}^3/\text{MG}$  FOR THE POTENTIAL METHANE  
4 GENERATION CAPACITY, OR A SITE-SPECIFIC GAS GENERATION ESTIMATION  
5 PROPOSED BY THE LANDFILL OWNER OR OPERATOR AND APPROVED BY THE  
6 DEPARTMENT, AND MULTIPLYING THE QUOTIENT BY 100.

7 (4) IF A LANDFILL ENERGY PRODUCTION FACILITY FAILS TO MEET THE  
8 REQUIREMENTS OF SUBSECTION (2) (B), IN ADDITION TO OTHER SANCTIONS  
9 FOR VIOLATION OF THIS PART, THE DEPARTMENT, AFTER NOTICE AND  
10 OPPORTUNITY FOR AN EVIDENTIARY HEARING, MAY REVOKE, SUSPEND, OR  
11 MODIFY THE DESIGNATION OF THE LANDFILL AS A LANDFILL ENERGY  
12 PRODUCTION FACILITY.

13 Sec. 11514. (1) Optimizing recycling opportunities, including  
14 electronics recycling opportunities, and the reuse of materials  
15 shall be a principal objective of the state's solid waste  
16 management plan. Recycling and reuse of materials, including the  
17 reuse of materials from electronic devices, are in the best  
18 interest of promoting the public health and welfare. The state  
19 shall develop policies and practices that promote recycling and  
20 reuse of materials and, to the extent practical, minimize the use  
21 of landfilling as a method for disposal of its waste. Policies and  
22 practices that promote recycling and reuse of materials, including  
23 materials from electronic devices, will conserve raw materials,  
24 conserve landfill space, and avoid the contamination of soil and  
25 groundwater from heavy metals and other pollutants.

26 (2) A person shall not knowingly deliver to a landfill for  
27 disposal, or, if the person is an owner or operator of a landfill,

1 knowingly permit disposal in the landfill of, any of the following:

2 (a) Medical waste, unless that medical waste has been  
3 decontaminated or is not required to be decontaminated but is  
4 packaged in the manner required under part 138 of the public health  
5 code, 1978 PA 368, MCL 333.13801 to 333.13831.

6 (b) More than a de minimis amount of open, empty, or otherwise  
7 used beverage containers.

8 (c) More than a de minimis number of whole motor vehicle  
9 tires.

10 (d) More than a de minimis amount of yard clippings, unless

11 ~~they~~ **1 OR MORE OF THE FOLLOWING APPLY:**

12 (i) **YARD CLIPPING** are diseased, infested, or composed of  
13 invasive species as authorized by section 11521(1)(i).

14 (ii) **THE LANDFILL IS A LANDFILL ENERGY PRODUCTION FACILITY.**

15 (3) A person shall not deliver to a landfill for disposal, or,  
16 if the person is an owner or operator of a landfill, permit  
17 disposal in the landfill of, any of the following:

18 (a) Used oil as defined in section 16701.

19 (b) A lead acid battery as defined in section 17101.

20 (c) Low-level radioactive waste as defined in section 2 of the  
21 low-level radioactive waste authority act, 1987 PA 204, MCL  
22 333.26202.

23 (d) Regulated hazardous waste as defined in R 299.4104 of the  
24 Michigan administrative code.

25 (e) Bulk or noncontainerized liquid waste or waste that  
26 contains free liquids, unless the waste is 1 of the following:

27 (i) Household waste other than septage waste.

1           (ii) Leachate or gas condensate that is approved for  
2 recirculation.

3           (iii) Septage waste or other liquids approved for beneficial  
4 addition under section 11511b.

5           (f) Sewage.

6           (g) PCBs as defined in 40 CFR 761.3.

7           (h) Asbestos waste, unless the landfill complies with 40 CFR  
8 61.154.

9           (4) A person shall not knowingly deliver to a municipal solid  
10 waste incinerator for disposal, or, if the person is an owner or  
11 operator of a municipal solid waste incinerator, knowingly permit  
12 disposal in the incinerator of, more than a de minimis amount of  
13 yard clippings, unless they are diseased, infested, or composed of  
14 invasive species as authorized by section 11521(1)(i). The  
15 department shall post, and a solid waste hauler that disposes of  
16 solid waste in a municipal solid waste incinerator shall provide  
17 its customers with, notice of the prohibitions of this subsection  
18 in the same manner as provided in section 11527a.

19           (5) If the department determines that a safe, sanitary, and  
20 feasible alternative does not exist for the disposal in a landfill  
21 or municipal solid waste incinerator of any items described in  
22 subsection (2) or (4), respectively, the department shall submit a  
23 report setting forth that determination and the basis for the  
24 determination to the standing committees of the senate and house of  
25 representatives with primary responsibility for solid waste issues.