

SENATE BILL No. 1011

December 8, 2009, Introduced by Senator GEORGE and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11507a, 11526a, 11549, and 11550 (MCL
324.11507a, 324.11526a, 324.11549, and 324.11550), section 11507a
as amended by 2004 PA 39, section 11526a as added by 2004 PA 40,
section 11549 as amended by 2006 PA 58, and section 11550 as
amended by 2003 PA 153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11507a. (1) The owner or operator of a landfill **OR A**
2 **MATERIAL RECOVERY FACILITY, TRANSFER STATION, OR OTHER FACILITY**
3 **THAT PROCESSES WASTE UNDER SECTION 11526A(2) (B)** shall annually
4 submit a report to the state and the county and municipality in
5 which the landfill **OR OTHER FACILITY** is located that contains
6 information on the amount of solid waste received ~~by the landfill~~

during the year itemized, to the extent possible, by county, state, or country of origin. ~~and~~ **A REPORT SUBMITTED BY A LANDFILL UNDER THIS SUBSECTION SHALL ALSO INCLUDE** the amount of remaining disposal capacity at the landfill. Remaining disposal capacity shall be calculated as the permitted capacity less waste in place for any area that has been constructed and is not yet closed plus the permitted capacity for each area that has a permit for construction under this part but has not yet been constructed. The report shall be submitted on a form provided by the department within 45 days following the end of each state fiscal year.

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

Sec. 11526a. (1) ~~Beginning October 1, 2004, in order to protect the public health, safety, and welfare and the environment of this state from the improper disposal of waste that is prohibited from disposal in a landfill, and in recognition that the~~ **THE** nature of solid waste collection and transport limits the ability of the state to conduct cost effective inspections to ensure compliance with state law. ~~the~~ **THE PURPOSE OF THIS SECTION IS TO DO ALL OF THE FOLLOWING:**

(A) **PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT OF THIS STATE FROM THE IMPROPER DISPOSAL OF WASTE THAT IS PROHIBITED FROM DISPOSAL IN A LANDFILL.**

(B) **FACILITATE THE INSPECTION OF SOLID WASTE THAT, UNLIKE SOLID WASTE GENERATED IN THIS STATE OR JURISDICTIONS DESCRIBED IN SUBSECTION (2) (B), CANNOT BE PRESUMED TO MEET THE REQUIREMENTS FOR**

1 DISPOSAL IN A LANDFILL UNDER SECTION 11514.

2 (C) PROMOTE RECYCLING.

3 (2) ~~THE~~ owner or operator of a landfill shall not accept for
4 disposal in this state solid waste, including, but not limited to,
5 municipal solid waste incinerator ash, that was generated outside
6 of this state unless 1 or more of the following are met:

7 (a) The solid waste is composed of a uniform type of item,
8 material, or substance, other than municipal solid waste
9 incinerator ash, that meets the requirements for disposal in a
10 landfill ~~under this part and the rules promulgated under this part~~
11 **SECTION 11514 AND THE PERSON TRANSPORTING THE SOLID WASTE PROVIDES**
12 **THE OWNER OR OPERATOR OF THE LANDFILL WITH A CERTIFICATE TO THAT**
13 **EFFECT. THE CERTIFICATE SHALL BE ON A FORM APPROVED BY THE**
14 **DEPARTMENT AND SHALL BE SIGNED BY AN AUTHORIZED AGENT OF THE**
15 **GENERATOR. THE OWNER OR OPERATOR OF THE LANDFILL SHALL CERTIFY ON**
16 **THE FORM ITS RECEIPT OF THE SOLID WASTE AND MAINTAIN A COPY OF THE**
17 **FORM AVAILABLE FOR INSPECTION BY THE DEPARTMENT FOR 6 YEARS.**

18 (b) The solid waste was received through a material recovery
19 facility, a transfer station, or other facility **LOCATED IN THIS**
20 **STATE** ~~that has documented that it has~~ removed from the solid waste
21 being delivered to the landfill those items that are prohibited
22 from disposal in a landfill **UNDER SECTION 11514 AND THE PERSON**
23 **TRANSPORTING THE SOLID WASTE PROVIDES THE OWNER OR OPERATOR OF THE**
24 **LANDFILL WITH A CERTIFICATE TO THAT EFFECT. THE CERTIFICATE SHALL**
25 **BE ON A FORM APPROVED BY THE DEPARTMENT AND SHALL BE SIGNED BY AN**
26 **AUTHORIZED AGENT OF THE MATERIAL RECOVERY FACILITY, TRANSFER**
27 **STATION, OR OTHER FACILITY. THE OWNER OR OPERATOR OF THE LANDFILL**

1 SHALL CERTIFY ON THE FORM ITS RECEIPT OF THE SOLID WASTE AND
2 MAINTAIN A COPY OF THE FORM AVAILABLE FOR INSPECTION BY THE
3 DEPARTMENT FOR 6 YEARS.

4 (c) The country, state, province, or local jurisdiction in
5 which the solid waste was generated is approved by the department
6 for inclusion on the list compiled by the department under section
7 11526b.

8 (3) THE DEPARTMENT SHALL INSPECT EACH FACILITY DESCRIBED IN
9 SUBSECTION (2) (B) THAT RECEIVES SOLID WASTE GENERATED OUTSIDE OF
10 THIS STATE AS FREQUENTLY AS PRACTICAL TO ENSURE COMPLIANCE WITH
11 THIS PART AND THE RULES PROMULGATED UNDER THIS PART. THE INSPECTION
12 SHALL INCLUDE SOLID WASTE GENERATED OUTSIDE OF THIS STATE AND
13 PRESENT AT THE FACILITY. IF SOLID WASTE DOES NOT MEET THE
14 REQUIREMENTS OF THIS PART AFTER BEING PROCESSED AT SUCH A FACILITY,
15 THE DEPARTMENT SHALL ORDER THAT THE WASTE BE REPROCESSED OR
16 RETURNED TO THE STATE OR COUNTRY IN WHICH IT WAS GENERATED, AT THE
17 EXPENSE OF THE PERSON TRANSPORTING THE SOLID WASTE.

18 (4) A PROCESSING INSPECTION FEE OF \$5.00 PER TON OR \$1.67 PER
19 CUBIC YARD OF SOLID WASTE GENERATED OUTSIDE OF THIS STATE AND
20 PROCESSED AT THE FACILITY IS IMPOSED ON EACH FACILITY DESCRIBED IN
21 SUBSECTION (2) (B). WITHIN 30 DAYS AFTER THE END OF EACH STATE
22 FISCAL QUARTER, A FACILITY DESCRIBED IN SUBSECTION (2) (B) SHALL PAY
23 THE DEPARTMENT ANY PROCESSING INSPECTION FEE OWED. THE DEPARTMENT
24 SHALL FORWARD PROCESSING INSPECTION FEES COLLECTED UNDER THIS
25 SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE PROCESSING
26 INSPECTION ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND ESTABLISHED
27 IN SECTION 11550. THE PROCESSING INSPECTION FEE IS IN ADDITION TO

1 **ANY OTHER FEE REQUIRED BY THIS PART.**

2 (5) ~~(2)~~—Notwithstanding section 11538 or any other provision
3 of this part, if there is sufficient disposal capacity for a
4 county's disposal needs in or within 150 miles of the county, all
5 of the following apply:

6 (a) The county is not required to identify a site for a new
7 landfill in its solid waste management plan.

8 (b) An interim siting mechanism shall not become operative in
9 the county unless the county board of commissioners determines
10 otherwise.

11 (c) The department is not required to issue a construction
12 permit for a new landfill in the county.

13 Sec. 11549. (1) A person who violates this part, a rule
14 promulgated under this part, or a condition of a permit, license,
15 or final order issued pursuant to this part is guilty of a
16 misdemeanor punishable by a fine of not more than \$1,000.00 for
17 each violation and costs of prosecution and, if in default of
18 payment of fine and costs, imprisonment for not more than 6 months.

19 (2) A person who knowingly violates section 11526e is guilty
20 of a felony punishable by imprisonment for not more than 2 years or
21 a fine of not more than \$5,000.00, or both.

22 (3) Each day upon which a violation described in this section
23 occurs is a separate offense.

24 **(4) PREPARING A FALSE DOCUMENT UNDER THIS PART, KNOWING THAT**
25 **IT IS FALSE, IS A VIOLATION OF THIS PART.**

26 Sec. 11550. (1) The solid waste management fund is created
27 within the state treasury. The state treasurer may receive money

1 from any source for deposit into the fund. The state treasurer
2 shall direct the investment of the fund. The state treasurer shall
3 credit to the fund interest and earnings from fund investments.

4 (2) Money in the solid waste management fund at the close of
5 the fiscal year shall remain in the fund and shall not lapse to the
6 general fund.

7 (3) The state treasurer shall establish, within the solid
8 waste management fund, a solid waste staff account, ~~and a perpetual~~
9 care account, **AND A PROCESSING INSPECTION ACCOUNT.**

10 (4) **THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE SOLID**
11 **WASTE MANAGEMENT FUND FOR AUDITING PURPOSES.**

12 (5) ~~(4)~~—Money shall be expended from the solid waste staff
13 account, upon appropriation, only for the following purposes:

14 (a) Preparing generally applicable guidance regarding the
15 solid waste permit and license program or its implementation or
16 enforcement.

17 (b) Reviewing and acting on any application for a permit or
18 license, permit or license revision, or permit or license renewal,
19 including the cost of public notice and public hearings.

20 (c) Performing an advisory analysis under section 11510(1).

21 (d) General administrative costs of running the permit and
22 license program, including permit and license tracking and data
23 entry.

24 (e) Inspection of licensed disposal areas and open dumps.

25 (f) Implementing and enforcing the conditions of any permit or
26 license.

27 (g) Groundwater monitoring audits at disposal areas ~~which~~ **THAT**

1 are or have been licensed under this part.

2 (h) Reviewing and acting upon corrective action plans for
3 disposal areas ~~which~~**THAT** are or have been licensed under this
4 part.

5 (i) Review of certifications of closure.

6 (j) Postclosure maintenance and monitoring inspections and
7 review.

8 (k) Review of bonds and financial assurance documentation at
9 disposal areas ~~which~~**THAT** are or have been licensed under this
10 part.

11 (6) ~~(5)~~ Money shall be expended from the perpetual care
12 account, **UPON APPROPRIATION**, only for the purpose of conducting the
13 following activities at disposal areas ~~which~~**THAT** are or have been
14 licensed under this part:

15 (a) Postclosure maintenance and monitoring at a disposal area
16 ~~where~~**IF** the owner or operator is no longer required to do so.

17 (b) To conduct closure, or postclosure maintenance and
18 monitoring and corrective action if necessary, at a disposal area
19 ~~where~~**IF** the owner or operator has failed to do so. Money shall be
20 expended from the account only after funds from any perpetual care
21 fund or other financial assurance mechanisms held by the owner or
22 operator have been expended and the department has ~~used~~**MADE**
23 reasonable efforts to obtain funding from other sources.

24 (7) **MONEY SHALL BE EXPENDED FROM THE PROCESSING INSPECTION**
25 **ACCOUNT, UPON APPROPRIATION, ONLY FOR SOLID WASTE INSPECTIONS UNDER**
26 **SECTION 11526A(3) AND ENFORCEMENT ACTIONS RESULTING FROM THE**
27 **INSPECTIONS.**

1 (8) ~~(6)~~ By March 1 annually, the department shall prepare and
2 submit to the governor, the legislature, the chairs of the standing
3 committees of the senate and house of representatives with primary
4 responsibility for issues related to natural resources and the
5 environment, and the chairs of the subcommittees of the senate and
6 house appropriations committees with primary responsibility for
7 appropriations to the department a report that details the
8 activities of the previous fiscal year funded by the staff account
9 **OR THE PROCESSING INSPECTION ACCOUNT** of the solid waste management
10 fund established in this section. ~~This report~~

11 **(9) AS TO ACTIVITIES FUNDED BY THE STAFF ACCOUNT OF THE SOLID**
12 **WASTE MANAGEMENT FUND, THE REPORT UNDER SUBSECTION (8)** shall
13 include, at a minimum, ~~all~~ **EACH** of the following as it relates to
14 the department:

15 (a) The number of full-time equated positions performing solid
16 waste management permitting, compliance, and enforcement
17 activities.

18 (b) All of the following information related to the
19 construction permit applications received under section 11509:

20 (i) The number of applications received by the department,
21 reported as the number of applications determined to be
22 administratively incomplete and the number determined to be
23 administratively complete.

24 (ii) The number of applications determined to be
25 administratively complete for which a final action was taken by the
26 department. The number of final actions shall be reported as the
27 number of applications approved, the number of applications denied,

1 and the number of applications withdrawn by the applicant.

2 (iii) The percentage and number of applications determined to be
3 administratively complete for which a final decision was made

4 ~~within 120 days of receipt as required by section 11511~~ **THE**

5 **PROCESSING PERIOD SPECIFIED IN SECTION 1301.**

6 (c) All of the following information related to the operating
7 license applications received under section 11512:

8 (i) The number of applications received by the department,
9 reported as the number of applications determined to be
10 administratively incomplete and the number determined to be
11 administratively complete.

12 (ii) The number of applications determined to be
13 administratively complete for which a final action was taken by the
14 department. The number of final actions shall be reported as the
15 number of applications approved, the number of applications denied,
16 and the number of applications withdrawn by the applicant.

17 (iii) The percentage and number of applications determined to be
18 administratively complete for which a final decision was made

19 ~~within 90 days of receipt as required by section 11516~~ **THE**

20 **PROCESSING PERIOD SPECIFIED IN SECTION 1301.**

21 (d) The number of inspections conducted at licensed disposal
22 areas as required by section 11519.

23 (e) The number of letters of warning sent to licensed disposal
24 areas.

25 (f) The number of contested case hearings and civil actions
26 initiated and completed, the number of voluntary consent orders and
27 administrative orders entered or issued, and the amount of fines

1 and penalties collected through such actions or orders.

2 (g) For each enforcement action that includes a penalty, a
3 description of what corrective actions were required by the
4 enforcement action.

5 (h) The number of solid waste complaints received,
6 investigated, resolved, and not resolved by the department.

7 (i) The amount of revenue in the staff account of the solid
8 waste management fund at the end of the fiscal year.

9 (10) AS TO ACTIVITIES FUNDED BY THE PROCESSING INSPECTION
10 ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND, THE REPORT UNDER
11 SUBSECTION (8) SHALL INCLUDE, AT A MINIMUM, EACH OF THE FOLLOWING
12 AS IT RELATES TO THE DEPARTMENT:

13 (A) THE NUMBER OF INSPECTIONS CONDUCTED UNDER SECTION
14 11526A(3).

15 (B) THE TOTAL AMOUNT OF WASTE INSPECTED UNDER SECTION
16 11526A(3).

17 (C) THE NUMBER OF INSPECTIONS THAT IDENTIFIED ITEMS OR
18 MATERIALS PROHIBITED FROM DISPOSAL IN A LANDFILL UNDER SECTION
19 11514, THE ITEMS OR MATERIALS IDENTIFIED, THE APPROXIMATE NUMBER OR
20 AMOUNT OF THOSE ITEMS OR MATERIALS, THE STATES OR PROVINCES WHERE
21 THOSE MATERIALS WERE GENERATED, AND THE AMOUNT OF SOLID WASTE
22 RETURNED TO THE STATE OR PROVINCE IN WHICH IT WAS GENERATED.

23 (D) THE NUMBER OF WARNING LETTERS SENT AS A RESULT OF
24 INSPECTIONS UNDER SECTION 11526A(3).

25 (E) THE INFORMATION REQUIRED BY SUBSECTION (9) (F) AND (G).