

SENATE BILL No. 450

June 15, 2011, Introduced by Senator KAHN and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 11108 (MCL 324.11108), as amended by 2001 PA
165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11108. (1) Except as otherwise provided in this section,
2 each owner or operator of a landfill shall pay to the department a
3 fee assessed on hazardous waste disposed of in a landfill. The fee
4 shall be based on the quantity of hazardous waste specified on the
5 manifest or monthly operating report and shall be \$10.00 per ton,
6 \$10.00 per cubic yard, or 1/2 cent per pound depending on the unit
7 of measure used by the owner or operator to calculate the fee. The

1 fee for fractional quantities of hazardous waste shall be
2 proportional. If the hazardous waste is required to be listed on a
3 manifest and the owner or operator of the landfill determines that
4 the hazardous waste quantity ~~figure~~ on the manifest is not
5 accurate, the owner or operator shall correct the hazardous waste
6 quantity ~~figure~~ on all manifest copies accompanying the shipment,
7 note the reason for the ~~changes~~ **CHANGE** in the discrepancy
8 indication space on the manifest, and assess the fee in accordance
9 with the corrected hazardous waste quantity. ~~figure~~. Payment shall
10 be made within 30 days after the close of each quarter. The
11 landfill owner or operator shall assess off-site generators the
12 fee. The fee for hazardous waste that is generated and disposed of
13 on the site of a landfill owner or operator shall be paid by that
14 owner or operator.

15 (2) Except as otherwise provided in this section, each owner
16 or operator of a solidification facility licensed pursuant to
17 section 11123 shall pay to the department a fee assessed on
18 hazardous waste received at the solidification facility. The fee
19 shall be based on the quantity of hazardous waste specified on the
20 manifest or monthly operating report and shall be \$10.00 per ton,
21 \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound
22 depending on the unit of measure used by the owner or operator to
23 calculate the fee. The fee for fractional quantities of hazardous
24 waste shall be proportional. If the hazardous waste is required to
25 be listed on a manifest and the owner or operator of the
26 solidification facility determines that the hazardous waste
27 quantity ~~figure~~ on the manifest is not accurate, the owner or

1 operator shall correct the hazardous waste quantity ~~figure~~ on all
2 manifest copies accompanying the shipment, note the reason for the
3 change in the discrepancy indication space on the manifest, and
4 assess the fee in accordance with the corrected hazardous waste
5 quantity. ~~figure~~. Payment shall be made within 30 days after the
6 close of each quarter. The solidification facility owner or
7 operator shall assess off-site generators the fee. The fee for
8 hazardous waste that is generated and solidified on the site of a
9 solidification owner or operator shall be paid by that owner or
10 operator.

11 (3) The following hazardous waste is exempt from the fees
12 provided for in this section:

13 (a) Ash that results from the incineration of hazardous waste
14 or the incineration of solid waste as defined in part 115.

15 (b) Hazardous waste exempted by rule because of its character
16 or the treatment it has received.

17 (c) Hazardous ~~waste that is removed from a site of~~
18 ~~environmental contamination that is included in a list submitted to~~
19 ~~the legislature pursuant to section 20105, or hazardous waste that~~
20 is removed as part of a site cleanup activity at the expense of the
21 state or federal government.

22 (d) Solidified hazardous waste produced by a solidification
23 facility licensed pursuant to section 11123 and destined for land
24 disposal.

25 (e) Hazardous waste generated pursuant to a 1-time closure or
26 site cleanup activity in this state if the closure or cleanup
27 activity has been authorized in writing by the department.

1 Hazardous waste resulting from the cleanup of inadvertent releases
2 which occur after March 30, 1988 is not exempt from the ~~fee~~**FEES**.

3 (f) Primary and secondary wastewater treatment solids from a
4 wastewater treatment plant that includes an aggressive biological
5 treatment facility as defined in ~~section 3005(j)(12)(B) of subtitle~~
6 ~~C of the solid waste disposal act, title II of Public Law 89-272,~~
7 ~~42 U.S.C. 6925~~ **42 USC 6295**.

8 (g) Emission control dust or sludge from the primary
9 production of steel in electric furnaces.

10 (4) An owner or operator of a landfill or solidification
11 facility shall assess or pay the fee described in this section
12 unless ~~a written signed certification is provided by the generator~~
13 **PROVIDES A SIGNED WRITTEN CERTIFICATION** indicating that the
14 hazardous waste is exempt from the fee. If the hazardous waste that
15 is exempt from the fee is required to be listed on a manifest, the
16 certification shall contain the manifest number of the shipment and
17 the specific fee exemption for which the hazardous waste qualifies.
18 If the hazardous waste that is exempt from the fee is not required
19 to be listed on a manifest, the certification shall provide the
20 volume of exempt hazardous waste, the waste code or waste codes of
21 the exempt waste, the date of disposal or solidification, and the
22 specific fee exemption for which the hazardous waste qualifies. The
23 owner or operator of the landfill or solidification facility shall
24 retain this certification for 4 years from the date of receipt.

25 (5) The department or a health department certified pursuant
26 to section 11145 shall evaluate the accuracy of generator fee
27 exemption certifications and shall take enforcement action against

1 a generator who files a false certificate. In addition, the
2 department shall take enforcement action to collect fees that are
3 not paid as required by this section.

4 (6) The landfill owner or operator and the solidification
5 facility owner or operator shall forward **TO THE DEPARTMENT THE** fee
6 revenue due ~~to the department~~ **UNDER THIS SECTION** with a completed
7 form that is provided or approved by the department. The owner or
8 operator shall certify that all information provided in the form is
9 accurate. The form shall include the following information:

10 (a) The volume of hazardous waste subject to a fee.

11 (b) The name of each generator who was assessed a fee, the
12 generator's identification number, manifest numbers, hazardous
13 waste volumes, and the amount of the fee assessed.

14 (7) A generator who documents to the department, on a form
15 provided by the department, a reduction in the amount of hazardous
16 waste generated as a result of a process change, or documents a
17 reduction in the amount of hazardous waste that is being disposed
18 of in a landfill, either directly or following solidification at a
19 solidification facility, as a result of a process change or the
20 generator's increased use of source separation, input substitution,
21 process reformulation, recycling, treatment, or an exchange of
22 hazardous waste that results in a utilization of that hazardous
23 waste, is eligible for a refund from ~~the~~ **THIS** state. The refund
24 shall be in the amount of \$10.00 per ton, \$10.00 per cubic yard, 4
25 cents per gallon, or 1/2 cent per pound of hazardous waste reduced
26 or managed through an alternative to landfill disposal. A generator
27 is not eligible to receive a refund for that portion of a reduction

1 in the amount of hazardous waste generated that is attributable to
2 a decrease in the generator's level of production of the products
3 that resulted in the generation of the hazardous waste.

4 (8) A generator seeking a refund shall calculate the refund
5 due by comparing hazardous waste generation, treatment, and
6 disposal activity in the calendar year immediately preceding the
7 date of filing with hazardous waste generation, treatment, and
8 disposal activity in the calendar year 2 years prior to the date of
9 filing.

10 (9) To be eligible for a refund, a generator shall file a
11 request with the department by June 30 of the year following the
12 year for which the refund is being claimed.

13 (10) A refund shall not exceed the total fees paid by the
14 generator to the landfill operator or owner and the solidification
15 facility operator or owner.

16 (11) A form submitted by the generator as provided for in
17 subsection (7) shall be certified by the generator or the
18 generator's authorized agent.

19 (12) The department shall maintain information regarding the
20 landfill disposal fees received and refunds provided under this
21 section.

22 (13) The fees collected under this section shall be forwarded
23 to the state treasurer and deposited in the waste reduction fund
24 created in subsection (14).

25 (14) The waste reduction fund is created within the state
26 treasury. The state treasurer may receive money or other assets
27 from any source for deposit into the waste reduction fund. The

1 state treasurer shall direct the investment of the waste reduction
2 fund. The state treasurer shall credit to the waste reduction fund
3 interest and earnings from waste reduction fund investments. Money
4 in the waste reduction fund at the close of the fiscal year shall
5 remain in the waste reduction fund and shall not lapse to the
6 general fund. Money from the waste reduction fund shall be
7 expended, upon appropriation, only for 1 or more of the following
8 purposes:

9 (a) To pay refunds to generators under this section.

10 (b) To fund programs created under part 143 and part 145.

11 (c) Not more than \$500,000.00 to implement section 3103a.

12 ~~(d) For state fiscal years 2002 and 2003, to fund programs~~
13 ~~created under part 111~~ **TO FUND THE PERMIT TO INSTALL PROGRAM**
14 **ESTABLISHED UNDER SECTION 5505.**

15 ~~—— (e) Not more than \$500,000.00 to implement section 5419.~~