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BILL



ANALYSIS

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Senate Bill 507 (as enacted)
Sponsor: Senator Mike Green
Senate Committee: Natural Resources
House Committee: Natural Resources

PUBLIC ACT 55 of 2016

Date Completed: 4-6-17

RATIONALE

In April 2014, Governor Rick Snyder announced a plan, developed by a stakeholder group led by the Department of Environmental Quality, to improve recycling in Michigan. The plan establishes metrics for increased recycling and contains several steps to reach the State's goals, such as increasing statewide participation to above the Great Lakes states' average by December 2017. The first step in the plan is to benchmark and measure progress. The recycling rate in Michigan has been estimated at about 15%; without a comprehensive system for tracking the amount and type of material that is diverted from landfills, however, the accuracy of that estimate is uncertain. Thus, it was suggested that recycling facilities should be required to report to the State regarding their collections in order to establish an accurate baseline recycling level.

CONTENT

The bill added Part 175 (Recycling Reporting) to the Natural Resources and Environmental Protection Act to do the following:

- **Require a recycling establishment to register annually with the Department of Environmental Quality (DEQ).**
- **Require a recycling establishment to report to the DEQ the amount of recyclable material received by and shipped from the establishment, broken down into specified categories.**
- **Allow a person that is not a recycling establishment to report to the DEQ voluntarily.**
- **Provide for the confidentiality of identifying information contained in a report from a recycling establishment.**
- **Allow the DEQ to aggregate report data to determine statewide quantities of recyclable materials that are recycled.**
- **Require the DEQ, by January 31, 2018, and then annually, to report to the Legislature on Part 175.**

The bill took effect on June 27, 2016.

Registration

The bill requires a recycling establishment annually to register with the DEQ on a form provided by the Department and containing the establishment's name, location, postal mailing address, electronic mail address, and telephone number, as well as the name of the establishment's contact person. The recycling establishment must register each year by July 1. A recycling establishment established after the bill's effective date and between June 1 and December 1 must first register within 30 days after it is established.

The bill defines "recycling establishment" as an establishment engaged in recycling of, or brokering of, reportable recyclable materials. The term excludes all of the following:

- An establishment that recycles fewer than 100 tons per year.
- A retail establishment that bales cardboard packaging for off-site shipment.
- A retail establishment that collects returnable beverage containers for transfer to a recycling establishment.
- An end user of reportable recyclable materials such as a paper mill, steel mill, foundry, or die caster that converts the materials into new products or raw materials for conversion into new products.
- A drop-off recycling location that sends all reportable recyclable materials to a registered recycling establishment.
- An establishment that ships reportable recyclable material to registered recycling establishments but does not engage in other recycling.

The bill defines "recycling" as an action or process, such as separation, sorting, baling, or shipping, applied to reportable recyclable materials for the purposes of reuse or conversion into raw materials or new products.

"Reportable recyclable materials" means any of the following categories of recyclable materials that are separated from household and/or commercial waste and delivered to a recycling establishment for recycling: glass; paper and paper products; plastic and plastic products; ferrous metal, including white goods; nonferrous metal; textiles; and single stream recyclable materials that include any combination of the materials listed above. "Reportable recyclable materials" does not include the following:

- Materials or products that contain iron, steel, or nonferrous metals and that are directed to or received by a person subject to the Scrap Metal Regulatory Act, or by a reuser of these metals.
- Materials generated from the shredding or dismantling of motor vehicles or parts of motor vehicles.
- A beneficial use by-product.
- A covered electronic device reported under Part 173 (Electronics).

(Part 173 prescribes registration and reporting requirements for manufacturers that sell, and recyclers of, covered electronic devices, i.e., computers and video display devices used primarily for personal or small business purposes.)

The bill defines "household waste" as any solid waste that is derived from single residences, excluding commercial waste, industrial waste, and construction and demolition waste. "Commercial waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste from single residences, hazardous waste, and industrial waste. The term includes solid waste from any of the following: multiple residences, hotels and motels, bunkhouses, ranger stations, campgrounds, picnic grounds, and day-use recreation areas.

Reporting

The bill requires a recycling establishment in Michigan to report to the DEQ the amount of each category of reportable recyclable material received by and the amount shipped from the establishment. For each State fiscal year, the recycling establishment, at its option, must submit either an annual report or four quarterly reports. If the establishment opts to submit an annual report covering the October 1 to September 30 State fiscal year, the report must be submitted by the following November 15. If the establishment chooses to submit quarterly reports, they must be submitted by the following dates:

- For the October 1 to December 31 quarter, by the following February 15.
- For the January 1 to March 31 quarter, by the following May 15.
- For the April 1 to June 30 quarter, by the following August 15.
- For the July 1 to September 30 quarter, by the following November 15.

A report must specify quantities of reportable recyclable materials in tons. Quantities may be determined using a volume-to-weight conversion formula provided by the DEQ. A report may provide only aggregate quantities for multiple recycling establishments if it identifies each establishment covered by the report. A report must be submitted in the manner provided by the DEQ, and must comply with any reporting guidelines established by the Department to ensure that materials are not counted more than once. A person that is not a recycling establishment may voluntarily submit reports under Part 175.

Except as provided below, information contained in a report from a recycling establishment under Part 175 is confidential, may not be disclosed by the DEQ, and is exempt from disclosure under the Freedom of Information Act.

The DEQ may aggregate data contained within the reports for the purpose of determining statewide quantities of reportable recyclable materials that are recycled. The confidentiality requirement does not apply to the aggregated data but applies to information identifying a recycling establishment.

DEQ Responsibilities

The bill requires the DEQ annually to post on its website the aggregated amount of reportable recyclable materials that were recycled during the preceding State fiscal year, both in total and by category.

By January 31, 2018, and each year after that, the DEQ, after consultation with interested parties, must submit to the Legislature a report on Part 175, including the information posted on the Department's website and any recommendations for amendments to Part 175.

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ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

With its estimated residential recycling rate of approximately 15%, Michigan lags behind most of the other Great Lakes states and the rest of the nation, which has an overall recycling rate of about 35%. The State's plan to improve its recycling rate includes measures related to the following: education and outreach; increased investment, regional collaboration, and access to recycling programs; and the development of recycling markets and the promotion of innovation in the industry. For the effective implementation and evaluation of these measures, a precise baseline needs to be determined. The reporting requirements established by the bill are similar to those that already applied to landfills, and will help to eliminate gaps in data. The bill will assist the State in identifying where improvements are most needed, measuring progress toward its recycling goals, and adjusting its strategy as appropriate. Evidently, this type of data-tracking has been an important element of the approaches used in states with high recycling rates.

Reportedly, \$435.0 million worth of recyclable materials from Michigan sources ends up in landfills every year. This waste stream represents a significant opportunity for economic development and job creation, which can be leveraged by an improvement in the State's recycling rate. Additionally, the potential environmental benefits of increased recycling are numerous and include reduced greenhouse gas emissions and other pollution, energy savings, and natural resource conservation. To realize these benefits, the State must determine accurately the current status of recycling efforts in order to guide policies and programs.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have a minor, but negative fiscal impact on the Department of Environmental Quality, and no fiscal impact on local units of government. Under the bill, the DEQ must develop forms for recycling establishments to use for reporting, receive those reports, and publish an annual report aggregating the contents of the reports from recycling establishments that it has received. All of these requirements will introduce some new, but likely minor administrative costs to the DEQ. Beginning in fiscal year 2014-15, the DEQ has been appropriated about \$1.0 million annually from the State General Fund for a new recycling initiative intended to increase the availability of residential recycling and to develop markets within Michigan for recycled products. While the bill does not specify how any new costs introduced by the bill will be covered, it is likely that some of the appropriated funds may be used to cover those costs.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.