

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4438

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11701 and 11718 (MCL 324.11701 and 324.11718),
section 11701 as amended by 2016 PA 294 and section 11718 as
amended by 2004 PA 381, and by adding section 11721.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11701. As used in this part:

2 (a) "Agricultural land" means land on which a food crop, a
3 feed crop, or a fiber crop is grown, including land used or
4 suitable for use as a range or pasture; a sod farm; or a Christmas
5 tree farm.

6 (b) "Certified health department" means a city, county, or
7 district department of health certified under section 11716.

8 (c) "Cesspool" means a cavity in the ground that receives

1 waste to be partially absorbed directly or indirectly by the
2 surrounding soil.

3 (d) "Department" means the department of environmental quality
4 or its authorized agent.

5 (e) "Director" means the director of the department of
6 environmental quality or his or her designee.

7 (f) "Domestic septage" means liquid or solid material removed
8 from a septic tank, cesspool, portable toilet, type III marine
9 sanitation device, or similar storage or treatment works that
10 receives only domestic sewage. Domestic septage does not include
11 liquid or solid material removed from a septic tank, cesspool, or
12 similar facility that receives either commercial wastewater or
13 industrial wastewater and does not include grease removed from a
14 grease interceptor, grease trap, or other appurtenance used to
15 retain grease or other fatty substances contained in restaurant
16 waste.

17 (g) "Domestic sewage" means waste and wastewater from humans
18 or household operations.

19 (h) "Domestic treatment plant septage" means biosolids
20 generated during the treatment of domestic sewage in a treatment
21 works and transported to a receiving facility or managed in
22 accordance with a residuals management program approved by the
23 department.

24 **(I) "FARM OPERATION" MEANS THAT TERM AS DEFINED IN SECTION 2**
25 **OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.**

26 (J) ~~(i)~~ "Food establishment septage" means material pumped
27 from a grease interceptor, grease trap, or other appurtenance used

1 to retain grease or other fatty substances contained in restaurant
2 wastes and that is blended into a uniform mixture, consisting of
3 not more than 1 part of that restaurant-derived material per 3
4 parts of domestic septage ~~—~~ prior to land application or **IS**
5 disposed of at a receiving facility.

6 **(K)** ~~(j)~~—"Fund" means the septage waste program fund created in
7 section 11717.

8 **(I)** ~~(k)~~—"Governmental unit" means a county, township,
9 municipality, or regional authority.

10 **(M)** ~~(l)~~—"Incorporation" means the mechanical mixing of
11 surface-applied septage waste with the soil.

12 **(N)** ~~(m)~~—"Injection" means the pressurized placement of septage
13 waste below the surface of soil.

14 **(O)** ~~(n)~~—"Operating plan" means a plan developed by a receiving
15 facility for receiving septage waste that specifies at least all of
16 the following:

17 (i) Categories of septage waste that the receiving facility
18 will receive.

19 (ii) The receiving facility's service area.

20 (iii) The hours of operation for receiving septage waste.

21 (iv) Any other conditions for receiving septage waste
22 established by the receiving facility.

23 **(P)** ~~(o)~~—"Pathogen" means a disease-causing agent. Pathogen
24 includes, but is not limited to, certain bacteria, protozoa,
25 viruses, and viable helminth ova.

26 **(Q)** ~~(p)~~—"Peace officer" means a sheriff or sheriff's deputy, a
27 village or township marshal, an officer of the police department of

1 any city, village, or township, any officer of the Michigan state
2 police, any peace officer who is trained and licensed or certified
3 under the Michigan commission on law enforcement standards act,
4 1965 PA 203, MCL 28.601 to 28.615, or any conservation officer
5 appointed by the department or the department of natural resources
6 under section 1606.

7 (R) ~~(q)~~—"Portable toilet" means a receptacle for human waste
8 temporarily in a location for human use.

9 (S) ~~(r)~~—"Receiving facility" means a structure that is
10 designed to receive septage waste for treatment at a wastewater
11 treatment plant or at a research, development, and demonstration
12 project authorized under section 11511b to which the structure is
13 directly connected, and that is available for that purpose as
14 provided for in an ordinance of the local unit of government where
15 the structure is located or in an operating plan. Receiving
16 facility does not include either of the following:

17 (i) A septic tank.

18 (ii) A structure or a wastewater treatment plant where the
19 disposal of septage waste is prohibited by order of the department
20 under section 11708 or 11715b.

21 (T) ~~(s)~~—"Receiving facility service area" or "service area"
22 means the territory for which a receiving facility has the capacity
23 and is available to receive and treat septage waste, except that
24 the geographic service area of a receiving facility shall not
25 extend more than 25 radial miles from the receiving facility.

26 (U) ~~(t)~~—"Sanitary sewer cleanout septage" means sanitary
27 sewage or cleanout residue removed from a separate sanitary sewer

1 collection system that is not land applied and that is transported
2 by a vehicle licensed under this part elsewhere within the same
3 system or to a receiving facility that is approved by the
4 department.

5 (V) ~~(u)~~ "Septage waste" means the fluid mixture of untreated
6 and partially treated sewage solids, liquids, and sludge of human
7 or domestic origin that is removed from a wastewater system.
8 Septage waste consists only of food establishment septage, domestic
9 septage, domestic treatment plant septage, or sanitary sewer
10 cleanout septage, or any combination of these.

11 (W) ~~(v)~~ "Septage waste servicing license" means a septage
12 waste servicing license as provided for under sections 11703 and
13 11706.

14 (X) ~~(w)~~ "Septage waste vehicle" means a vehicle that is self-
15 propelled or towed and that includes a tank used to transport
16 septage waste. Septage waste vehicle does not include an implement
17 of husbandry as defined in section 21 of the Michigan vehicle code,
18 1949 PA 300, MCL 257.21.

19 (Y) ~~(x)~~ "Septage waste vehicle license" means a septage waste
20 vehicle license as provided for under sections 11704 and 11706.

21 (Z) ~~(y)~~ "Septic tank" means a septic toilet, chemical closet,
22 or other enclosure used for the decomposition of domestic sewage.

23 (AA) ~~(z)~~ "Service" or "servicing" means cleaning, removing,
24 transporting, or disposing, by application to land or otherwise, of
25 septage waste.

26 (BB) ~~(aa)~~ "Site" means a location or locations on a parcel or
27 tract, as those terms are defined in section 102 of the land

1 division act, 1967 PA 288, MCL 560.102, proposed or used for the
2 disposal of septage waste on land.

3 (CC) ~~(bb)~~ "Site permit" means a permit issued under section
4 11709 authorizing the application of septage waste to a site.

5 (DD) ~~(ee)~~ "Storage facility" means a structure that receives
6 septage waste for storage but not for treatment.

7 (EE) ~~(dd)~~ "Tank" means an enclosed container placed on a
8 septage waste vehicle to carry or transport septage waste.

9 (FF) ~~(ee)~~ "Type I public water supply", "type IIa public water
10 supply", "type IIb public water supply", and "type III public water
11 supply" mean those terms, respectively, as described in R 325.10502
12 of the Michigan Administrative Code.

13 (GG) ~~(ff)~~ "Type III marine sanitation device" means that term
14 as defined in 33 CFR 159.3.

15 Sec. 11718. (1) The department shall promulgate rules that
16 establish both of the following:

17 (a) Continuing education requirements under section
18 ~~11706~~.11703.

19 (b) Design and operating requirements for receiving
20 facilities, as provided in section 11715b.

21 (2) The department may, in addition, promulgate rules that do
22 1 or more of the following:

23 (a) Add other materials and substances to the definition of
24 septage waste.

25 (b) Add enclosures to the list of enclosures in the definition
26 of **DOMESTIC** septage waste under section 11701 the servicing of
27 which requires a septage waste servicing license under this part.

1 (c) Specify information required on an application for a
2 septage waste servicing license, septage waste vehicle license, or
3 site permit.

4 (d) Establish standards or procedures for a department
5 ~~declaration~~ **ORDER** under section 11708 ~~that~~ **PROHIBITING THE**
6 **OPERATION OF** a wastewater treatment plant or structure ~~is~~
7 ~~unavailable as a receiving facility. because of excessive hydraulic~~
8 ~~or organic loading, odor problems, or other factors.~~

9 (3) THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE DEPARTMENT
10 OF AGRICULTURE AND RURAL DEVELOPMENT SHALL JOINTLY PROMULGATE RULES
11 ESTABLISHING FIELD SANITATION AND FOOD SAFETY STANDARDS FOR THE
12 PURPOSES OF SECTION 11721.

13 SEC. 11721. (1) A FARM OPERATION IS EXEMPT FROM THIS PART AS
14 IT APPLIES TO SERVICING PORTABLE TOILETS, TO ASSOCIATED DOMESTIC
15 SEPTAGE MANAGEMENT EQUIPMENT SUCH AS TRAILERS, PUMPS, AND SEPTAGE
16 WASTE VEHICLES, AND TO ASSOCIATED STORAGE FACILITIES, IF ALL OF THE
17 FOLLOWING REQUIREMENTS ARE MET:

18 (A) THE PORTABLE TOILETS ARE USED TO COMPLY WITH REQUIREMENTS
19 LISTED IN THE PUBLICATION UNDER SUBSECTION (2).

20 (B) THE MANAGEMENT, PUMPING, AND TEMPORARY STORAGE OF THE
21 DOMESTIC SEPTAGE FROM THE PORTABLE TOILETS BY THE FARM OPERATION
22 DOES NOT RESULT IN A RELEASE OF DOMESTIC SEPTAGE INTO THE
23 ENVIRONMENT.

24 (C) THE PORTABLE TOILETS AND ASSOCIATED SEPTAGE MANAGEMENT
25 EQUIPMENT ARE SECURELY FASTENED TO A VEHICLE OR TRAILER IN A MANNER
26 THAT PREVENTS A RELEASE WHILE BEING MOVED BY THE FARM OPERATION ON
27 OR ACROSS A PUBLIC STREET, ROAD, OR HIGHWAY.

1 (D) THE FARM OPERATION DOES NOT MOVE PORTABLE TOILETS THAT
2 CONTAIN DOMESTIC SEPTAGE ON OR ACROSS A LIMITED ACCESS HIGHWAY AS
3 DEFINED IN SECTION 26 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,
4 MCL 257.26.

5 (E) THE FARM OPERATION DOES NOT STORE DOMESTIC SEPTAGE FOR
6 MORE THAN 60 DAYS OR IN A TANK LARGER THAN 3,000 GALLONS.

7 (F) THE FARM OPERATION UTILIZES THE SERVICES OF A PERSON WITH
8 A SEPTAGE WASTE SERVICING LICENSE AND SEPTAGE WASTE VEHICLE LICENSE
9 TO DISPOSE OF THE DOMESTIC SEPTAGE FROM THE PORTABLE TOILETS IN A
10 RECEIVING FACILITY.

11 (G) THE FARM OPERATION DOES NOT MOVE DOMESTIC SEPTAGE ON OR
12 ACROSS A PUBLIC STREET, ROAD, OR HIGHWAY IN A TANK LARGER THAN 450
13 GALLONS.

14 (2) THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT SHALL
15 PUBLISH BOTH OF THE FOLLOWING:

16 (A) A LIST OF FIELD SANITATION, WORKER PROTECTION, AND FOOD
17 SAFETY REQUIREMENTS APPLICABLE TO THE EXEMPTION PROVIDED FOR IN
18 THIS SECTION.

19 (B) A GUIDE TO RECOMMEND SPILL PREPAREDNESS, SPILL MITIGATION,
20 AND SPILL RESPONSE PROGRAMS APPLICABLE TO THE EXEMPTION PROVIDED
21 FOR IN THIS SECTION.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.