

HOUSE BILL No. 5791

May 21, 1990, Introduced by Reps. Willis Bullard and Trim and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 3, 7, 10, 11, 30, 31, and 33 of Act No. 641 of the Public Acts of 1978, entitled as amended

"Solid waste management act,"

section 3 as amended by Act No. 9 of the Public Acts of 1990, section 7 as amended by Act No. 6 of the Public Acts of 1988, sections 10 and 33 as amended by Act No. 209 of the Public Acts of 1987, and sections 11 and 30 as amended by Act No. 52 of the Public Acts of 1989, being sections 299.403, 299.407, 299.410, 299.411, 299.430, 299.431, and 299.433 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 3, 7, 10, 11, 30, 31, and
2 33 of Act No. 641 of the Public Acts of 1978, section 3 as
3 amended by Act No. 9 of the Public Acts of 1990, section 7 as

1 amended by Act No. 6 of the Public Acts of 1988, sections 10 and
2 33 as amended by Act No. 209 of the Public Acts of 1987, and sec-
3 tions 11 and 30 as amended by Act No. 52 of the Public Acts of
4 1989, being sections 299.403, 299.407, 299.410, 299.411, 299.430,
5 299.431, and 299.433 of the Michigan Compiled Laws, are amended
6 to read as follows:

7 TITLE

8 An act to protect the public health and the environment; to
9 provide for the regulation and management of solid wastes includ-
10 ing ash resulting from the combustion of certain solid wastes; to
11 prescribe the powers and duties of certain state and local agen-
12 cies and officials; to impose certain charges on the disposal of
13 solid waste in certain disposal areas; to provide for certain
14 fees; to prescribe penalties AND PROVIDE REMEDIES; to make an
15 appropriation; and to repeal certain acts and parts of acts.

16 Sec. 3. (1) "Applicant" means an individual, sole proprie-
17 torship, partnership, corporation, association, municipality,
18 this state, a county, or any other governmental authority created
19 by statute.

20 (2) "AQUIFER" MEANS A GEOLOGIC FORMATION, GROUP OF GEOLOGIC
21 FORMATIONS, OR PART OF A GEOLOGIC FORMATION CAPABLE OF YIELDING A
22 SIGNIFICANT AMOUNT OF GROUNDWATER TO WELLS OR SPRINGS.

23 (3) ~~-(2)-~~ "Ashes" means the residue from the burning of
24 wood, coal, coke, refuse, wastewater sludge, or other combustible
25 materials.

26 (4) ~~-(3)-~~ "Bond" means a surety bond from a surety company
27 authorized to transact business in this state, a certificate of

1 deposit, a cash bond, or an irrevocable letter of credit, in
2 favor of the director.

3 (5) ~~(4)~~ "Certified health department" means a city,
4 county, or district department of health which is specifically
5 delegated authority by the director to perform designated activi-
6 ties as prescribed by this act.

7 (6) ~~(5)~~ "Coal or wood ash" means either or both of the
8 following:

9 (a) The residue remaining after the ignition of coal or
10 wood, or both, and may include noncombustible materials; ~~—~~ oth-
11 erwise referred to as bottom ash.

12 (b) The airborne residues from burning coal or wood, or
13 both, that are finely divided particles entrained in flue gases
14 arising from a combustion chamber; ~~—~~ otherwise referred to as
15 fly ash.

16 (7) ~~(6)~~ "Collection center" means a tract of land, build-
17 ing, unit, or appurtenance or combination thereof that is used to
18 collect junk motor vehicles and farm implements under section
19 23.

20 Sec. 7. (1) "Solid waste" means garbage, rubbish, ashes,
21 incinerator ash, incinerator residue, street cleanings, municipal
22 and industrial sludges, solid commercial and solid industrial
23 waste, and animal waste. Solid waste does not include the
24 following:

25 (a) Human body waste.

26 (b) Liquid waste.

1 (c) Ferrous or nonferrous scrap directed to a scrap metal
2 processor or to a reuser of ferrous or nonferrous products.

3 (d) Slag or slag products directed to a slag processor or to
4 a reuser of slag or slag products.

5 (e) Sludges and ashes managed as recycled or nondetrimental
6 materials appropriate for agricultural or silvicultural use pur-
7 suant to a plan approved by the director.

8 (f) Materials approved for emergency disposal by the
9 director.

10 (g) Source separated materials.

11 (h) Site separated material.

12 (i) Fly ash or any other ash produced from the combustion of
13 coal, when used in ANY OF the following instances:

14 (i) With a maximum of 6% of unburned carbon as a component
15 of concrete, grout, mortar, or casting molds.

16 (ii) With a maximum of 12% unburned carbon passing
17 M.D.O.T. test method MTM 101 when used as a raw material in
18 asphalt for road construction.

19 (iii) As aggregate, road, or building material which in
20 ultimate use will be stabilized or bonded by cement, limes, or
21 asphalt.

22 (iv) As a road base or construction fill which is covered
23 with asphalt, concrete, or other material approved by the direc-
24 tor and which is placed at least 4 feet above the seasonal
25 groundwater table.

26 (v) As the sole material in a depository designed to
27 reclaim, develop, or otherwise enhance land, subject to the

1 approval of the director. In evaluating the site, the director
2 shall consider the physical and chemical properties of the ash
3 including leachability, and the engineering of the depository,
4 including, but not limited to, the compaction, control of surface
5 water and groundwater that may threaten to infiltrate the site,
6 and evidence that the depository is designed to prevent water
7 percolation through the material.

8 (j) Other wastes regulated by statute.

9 (2) "Solid waste hauler" means a person who owns or operates
10 a solid waste transporting unit.

11 (3) "Solid waste processing plant" means a tract of land, A
12 building, A unit, ~~or~~ appurtenance of a building or unit, or a
13 combination of land, buildings, and units that is used or
14 intended for use for the processing of solid waste or the separa-
15 tion of material for salvage or disposal, or both, but does not
16 include a plant engaged primarily in the acquisition, processing,
17 and shipment of ferrous or nonferrous metal scrap, or a plant
18 engaged primarily in the acquisition, processing, and shipment of
19 slag or slag products.

20 (4) "Solid waste transporting unit" means a container, which
21 may be an integral part of a truck or other piece of equipment,
22 used for the transportation of solid waste.

23 (5) "Solid waste transfer facility" means a tract of land, a
24 building and any appurtenances, ~~or~~ a container, or any combina-
25 tion of land, buildings, or containers that is used or intended
26 for use in the rehandling or storage of solid waste incidental to

1 the transportation of the solid waste, but is not located at the
2 site of generation or the site of disposal of the solid waste.

3 (6) "Source separated material" means glass, metal, wood,
4 paper products, plastics, rubber, textiles, garbage, yard clip-
5 pings, or any other material approved by the director that is
6 separated at the source of generation for the purpose of conver-
7 sion into raw materials or new products.

8 (7) "USABLE AQUIFER" MEANS AN AQUIFER THAT IS CAPABLE OF
9 PROVIDING WATER IN SUFFICIENT QUANTITIES AND OF A QUALITY SUIT-
10 ABLE FOR UTILIZATION AS AN INDIVIDUAL, PUBLIC, INDUSTRIAL, OR
11 AGRICULTURAL WATER SOURCE. USABLE AQUIFER DOES NOT INCLUDE A
12 MINERAL WELL REGULATED PURSUANT TO THE MINERAL WELL ACT, ACT
13 NO. 315 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 319.211 TO
14 319.236 OF THE MICHIGAN COMPILED LAWS, OR AN OIL OR GAS POOL OR
15 FIELD REGULATED PURSUANT TO ACT NO. 61 OF THE PUBLIC ACTS OF
16 1939, BEING SECTIONS 319.1 TO 319.27 OF THE MICHIGAN COMPILED
17 LAWS.

18 (8) ~~-(7)-~~ "Yard clippings" means fallen leaves, cut grass,
19 or other organic debris that can be converted to humus.

20 Sec. 10. (1) Except as otherwise provided in section 22a, a
21 person otherwise allowed under this act to own or operate a solid
22 waste disposal area shall not establish a disposal area without a
23 construction permit from the director, contrary to an approved
24 solid waste management plan, or contrary to a permit, license, or
25 final order issued pursuant to this act. A person proposing the
26 establishment of a disposal area shall ~~make application~~ APPLY
27 for a construction permit to the director through the health

1 officer on a form provided by the director. If the disposal area
2 is located in a county or city that does not have a certified
3 health department, the ~~application~~ PERSON shall ~~be made~~ APPLY
4 directly to the director.

5 (2) The application for a construction permit shall contain
6 the name and residence of the applicant, the location of the pro-
7 posed disposal area, and other information considered necessary
8 by the director. The application shall be accompanied by an
9 engineering plan and a construction permit application fee that
10 has been established on a graduated scale from \$300.00 to
11 \$700.00. The director shall establish by rule the scale for
12 determining the initial construction permit application fees.
13 The criteria for determining the application fee for a construc-
14 tion permit for a disposal area that is a sanitary landfill shall
15 include, at a minimum, site size, projected waste volume, nature
16 of the waste, and hydrogeological characteristics. The criteria
17 for determining the application fee for a construction permit for
18 a disposal area that is either a solid waste transfer facility or
19 a processing plant shall include, at a minimum, the projected
20 waste volume and the nature of the waste. A construction permit
21 application for a disposal area that is a sanitary landfill shall
22 be accompanied by a determination of existing hydrogeological
23 conditions specified in a hydrogeological report and A monitoring
24 program consistent with rules promulgated by the director for
25 groundwater quality standards; ~~an~~ an environmental assessment,
26 WHICH SHALL INCLUDE AN ANALYSIS OF HOW PREEXISTING GEOLOGIC
27 FORMATIONS AT A PROPOSED SITE FOR A DISPOSAL AREA WOULD PROVIDE

1 ADDITIONAL PROTECTION AGAINST THE CONTAMINATION OF A USABLE
2 AQUIFER; and an engineering plan.

3 (3) An applicant for a construction permit, within 6 months
4 after a permit denial, may resubmit the application, together
5 with the additional information as needed to address the reasons
6 for denial, without being required to pay an additional applica-
7 tion fee.

8 Sec. 11. (1) Before the submission of a construction permit
9 application for a new disposal area, the applicant shall request
10 a health officer or the director to provide an advisory analysis
11 of the proposed disposal area. However, the applicant, not less
12 than 15 days after the request, and notwithstanding an analysis
13 result, may file an application for a construction permit.

14 (2) Upon receipt of a construction permit application, the
15 director or an authorized representative of the director shall DO
16 ALL OF THE FOLLOWING:

17 (a) Immediately notify the clerk of the municipality in
18 which the disposal area is located or proposed to be located, the
19 local soil erosion and sedimentation control agency, each divi-
20 sion within the department that has responsibilities in land,
21 air, or water management, and the designated regional solid waste
22 management planning agency.

23 (b) Publish a notice in a newspaper having major circulation
24 in the vicinity of the proposed disposal area. The required pub-
25 lished notice shall contain a map indicating the location of the
26 proposed disposal area and shall contain a description of the
27 proposed disposal area and the location where the complete

1 application package may be reviewed and where copies may be
2 obtained.

3 (c) Indicate in the public, departmental, and municipality
4 notice that the department shall hold a public hearing in the
5 area of the proposed disposal area if a written request is sub-
6 mitted by the applicant or a municipality within 30 days after
7 the date of publication of the notice, or by a petition submitted
8 to the department containing a number of signatures which is
9 equal to not less than 10% of the number of registered voters of
10 the municipality where the proposed disposal area is to be
11 located who voted in the last gubernatorial election. The peti-
12 tion shall be validated by the clerk of the municipality. The
13 public hearing shall be held after the director makes a prelimi-
14 nary review of the application and all pertinent data and before
15 a construction permit is issued or denied.

16 (d) Review the plans of the proposed disposal area to deter-
17 mine if it complies with this act and the rules promulgated under
18 this act. The review shall be made by persons qualified in
19 hydrogeology and sanitary landfill engineering. A written
20 approval by the persons qualified in hydrogeology and sanitary
21 landfill engineering shall be received before a construction
22 permit is issued. If the site review, plan review, and the
23 application meet the requirements of this act and the rules
24 promulgated under this act, the director shall issue a construc-
25 tion permit which may contain a stipulation specifically applica-
26 ble to the site and operation. HOWEVER, THE DIRECTOR SHALL NOT
27 ISSUE A CONSTRUCTION PERMIT FOR A DISPOSAL AREA UNLESS THE

1 DIRECTOR DETERMINES THAT PREEXISTING GEOLOGIC FORMATIONS AT THE
2 SITE OF THE PROPOSED DISPOSAL FACILITY WOULD PROVIDE ADDITIONAL
3 PROTECTION AGAINST THE CONTAMINATION OF A USABLE AQUIFER. Except
4 as otherwise provided in section 32a, an expansion of the area of
5 a disposal area, an enlargement in capacity of a disposal area,
6 or an alteration of a disposal area to a different type of dis-
7 posal area than had been specified in the previous construction
8 permit application ~~shall constitute~~ CONSTITUTES a new proposal
9 for which a new construction permit is required. The upgrading
10 of a disposal area type required by the director to comply with
11 this act or the rules promulgated under this act or to comply
12 with a consent order ~~shall~~ DOES not require a new construction
13 permit.

14 (e) Notify the Michigan aeronautics commission if the dis-
15 posal area is a sanitary landfill proposed to be located within
16 10,000 feet of a runway or a proposed runway extension contained
17 in a plan approved by the Michigan aeronautics commission of an
18 airport licensed and regulated by the Michigan aeronautics
19 commission. The director shall make a copy of the application
20 available to the Michigan aeronautics commission. If, after a
21 period of time for review and comment not to exceed 60 days, the
22 Michigan aeronautics commission informs the director that it
23 finds that operation of the proposed disposal area would present
24 a potential hazard to air navigation and presents the basis for
25 its findings, the director may either recommend appropriate
26 changes in the location, construction, or operation of the
27 proposed disposal area or deny the application for a construction

1 permit. The director shall give an applicant an opportunity to
2 rebut a finding of the Michigan aeronautics commission that the
3 operation of a proposed disposal area would present a potential
4 hazard to air navigation.

5 Sec. 30. (1) ~~Not later than September 11, 1979, the~~ THE
6 director shall promulgate rules for the development, form, and
7 submission of initial solid waste management plans. The rules
8 shall require all of the following:

9 (a) The establishment of goals and objectives for prevention
10 of adverse effects on the public health and on the environment
11 resulting from improper solid waste collection, processing, or
12 disposal including protection of surface and groundwater quality,
13 air quality, and the land. RULES PROMULGATED UNDER THIS SUBDIVI-
14 SION SHALL BE REVIEWED BY THE DIRECTOR AT LEAST EVERY 5 YEARS AND
15 REVISED AS NECESSARY TO ENSURE MAXIMUM PROTECTION FOR SURFACE
16 WATER AND GROUNDWATER QUALITY, AIR QUALITY, AND THE LAND.

17 (b) An evaluation of waste problems by type and volume,
18 including residential and commercial solid waste, hazardous
19 waste, industrial sludges, pretreatment residues, municipal
20 sewage sludge, air pollution control residue, and other wastes
21 from industrial or municipal sources.

22 (c) An evaluation and selection of technically and economi-
23 cally feasible solid waste management options, which may include
24 sanitary ~~landfill~~ LANDFILLS, resource recovery systems,
25 resource conservation, or a combination of options.

26 (d) An inventory and description of all existing facilities
27 where solid waste is being treated, processed, or disposed of,

1 including a summary of the deficiencies, if any, of the
2 facilities in meeting current solid waste management needs.

3 (e) The encouragement and documentation, as part of the
4 plan, of ~~all~~ opportunities for participation and involvement of
5 the public, ~~all~~ affected agencies and parties, and the private
6 sector.

7 (f) That the plan contain enforceable mechanisms for imple-
8 menting the plan, including identification of the municipalities
9 within the county responsible for the enforcement. This subdivi-
10 sion does not preclude the private sector's participation in pro-
11 viding solid waste management services consistent with the county
12 plan.

13 (g) Current and projected population densities of each
14 county and identification of population centers and centers of
15 solid waste generation, including industrial wastes.

16 (h) That the plan area has, and will have during the plan
17 period, access to a sufficient amount of available and suitable
18 land, accessible to transportation media, to accommodate the
19 development and operation of solid waste disposal areas ~~—~~ or
20 resource recovery facilities provided for in the plan.

21 (i) That the solid waste disposal areas or resource recovery
22 facilities provided for in the plan are capable of being devel-
23 oped and operated in compliance with state law and rules of the
24 department pertaining to protection of the public health and the
25 environment, considering the available land in the plan area, and
26 the technical feasibility of, and economic costs associated with,
27 the facilities.

1 (j) A timetable or schedule for implementing the county
2 solid waste management plan.

3 (2) In order for a disposal area to serve the disposal needs
4 of another county, state, or country, the service, including the
5 disposal of municipal solid waste incinerator ash, must be
6 explicitly authorized in the approved solid waste management plan
7 of the receiving county. With regard to intercounty service
8 within Michigan, the service must also be explicitly authorized
9 in the exporting county's solid waste management plan.

10 (3) A person shall not dispose of, store, or transport solid
11 waste in this state unless the person complies with the require-
12 ments of this act.

13 (4) Following approval by the director of a county solid
14 waste management plan, ~~and after July 1, 1981,~~ an ordinance,
15 law, rule, regulation, policy, or practice of a municipality,
16 county, or governmental authority created by statute, which pro-
17 hibits or regulates the location or development of a solid waste
18 disposal area, and which is not part of or not consistent with
19 the approved solid waste management plan for the county, shall be
20 considered in conflict with this act and ~~shall~~ IS not ~~be~~
21 enforceable.

22 Sec. 31. (1) ~~Not later than September 11, 1979, the~~
23 ~~director shall submit to the legislature pursuant to Act No. 306~~
24 ~~of the Public Acts of 1969, as amended, rules which~~ THE DIRECTOR
25 SHALL PROMULGATE RULES THAT contain sanitary design and oper-
26 ational standards for solid waste transporting units and disposal
27 areas and otherwise implement this act. The rules shall include

1 standards for hydrogeologic investigations; monitoring; liner
2 materials; leachate collection and treatment, if applicable;
3 groundwater separation distances; environmental assessments;
4 methane gas control; soil erosion; sedimentation control; ground-
5 water and surface water quality; noise and air pollution; and the
6 use of floodplains and wetlands.

7 (2) RULES PROMULGATED UNDER THIS SECTION SHALL BE REVIEWED
8 BY THE DIRECTOR AT LEAST EVERY 5 YEARS AND REVISED AS NECESSARY
9 TO ENSURE MAXIMUM PROTECTION FOR SURFACE WATER AND GROUNDWATER
10 QUALITY, AIR QUALITY, AND THE LAND.

11 Sec. 33. (1) The director or a health officer may request
12 that the attorney general bring an action in the name of the
13 people of the state, or a municipality or county may bring an
14 action based on facts arising within its boundaries, for any
15 appropriate relief, including injunctive relief, for a violation
16 of this act or rules promulgated ~~pursuant to~~ UNDER this act.

17 (2) In addition to any other relief provided by this sec-
18 tion, the court may impose on ~~any~~ A person who violates ~~any~~ A
19 provision of this act or rules promulgated under this act or
20 fails to comply with ~~any~~ A permit, license, or final order
21 issued pursuant to this act a civil fine of not more than
22 \$10,000.00 for each day of violation.

23 (3) In addition to any other relief provided by this sec-
24 tion, the court may order a person violating this act or the
25 rules promulgated under this act either to restore or to pay to
26 the state an amount equal to the cost of restoring the natural
27 resources, INCLUDING SURFACE WATER, GROUNDWATER, AIR, AND LAND,

1 of this state affected by the violation to their original
2 condition before the violation, ~~and~~ to pay to the state the
3 costs of surveillance and enforcement incurred by the state as a
4 result of the violation, AND TO PROVIDE A TEMPORARY AND, IF NEC-
5 ESSARY, A PERMANENT WATER SUPPLY TO A PERSON WHOSE WATER SUPPLY,
6 AS A RESULT OF THE VIOLATION, IS UNFIT OR MAY BECOME UNFIT FOR
7 ITS USE PRIOR TO IMPAIRMENT AS AN INDIVIDUAL, PUBLIC, INDUSTRIAL,
8 OR AGRICULTURAL WATER SUPPLY.

9 (4) This act shall not be construed to preclude any person
10 from commencing a civil action based on facts which may also con-
11 stitute a violation of this act or the rules promulgated under
12 this act.