



**House
Legislative
Analysis
Section**

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REGULATE IMPORTATION OF SOLID WASTE

RECEIVED

House Bill 5524 as introduced
First Analysis (9-27-88)

NOV 10 1988

Sponsor: Rep. Mat J. Dunaskiss
Committee: Conservation and Environment

Mich. State Law Library

THE APPARENT PROBLEM:

Michigan's Solid Waste Management Act was enacted in 1978 to help the state better regulate the disposal of trash at licensed landfills throughout the state. Solid waste disposal management remains one of the state's most pressing concerns, perhaps most clearly evident in the legislature's recent action to place on the November ballot an \$800 million bond proposal to clean up the environment. As solid waste landfills continue to decrease in number, many feel the state needs tougher laws to ensure that limited space in remaining landfills is utilized primarily by citizens of the state for dumping refuse. (In fact, the state hopes to find ways to use landfills in conjunction with recycling plants, in order to limit landfill use as much as possible.) Reportedly, refuse from large metropolitan areas in the East and Midwest is often shipped to other areas of the country where it can be dumped at a much lower cost — sometimes as much as five times less. As the exportation of waste from large cities continues to increase, a number of states have attempted to prohibit imported refuse altogether, only to find themselves violating others' constitutional rights to interstate commerce. (The U.S. Supreme Court, in a 1978 case, Philadelphia v. New Jersey, ruled that such prohibition was unconstitutional.) Although Michigan cannot legally ban imported refuse, the Solid Waste Management Act permits local and state health and environmental officials to sanction landfills if they exceed their own waste management limits. Not only are some landfills believed to be exceeding their solid waste limits, some are accepting waste contaminated with high levels of hazardous materials such as lead, sometimes without even knowing it. Some feel that since the state cannot legally ban the importation of waste into the state, it should at least attempt to better regulate those who transport and accept it for disposal here, with the objective of reducing imported waste as much as possible.

THE CONTENT OF THE BILL:

The bill would amend the Solid Waste Management Act to prohibit an owner or operator of a disposal area from accepting solid waste that was not generated in Michigan unless the owner or operator obtained a letter from the designated planning agency for the county in which the disposal area was located that stated that the acceptance of solid waste that was not generated in the state was consistent with the approved county solid waste management plan. The bill would also prohibit a person from transporting solid waste that was not generated in the state over a road, railroad, or waterway in the state unless the transporting unit was clearly identified in letters at least two inches high indicating that it was a solid waste hauler and identifying the state where the solid waste was collected.

MCL 299.413 and 299.420a

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would not affect state expenditures. (9-26-88)

ARGUMENTS:

For:

Exporting trash from large metropolitan areas to distant sites has become more common as refuse companies take advantage of cost savings from transporting trash over road and rail to cheaper areas of the country. In fact, such exportation of garbage can have lucrative possibilities when investors charge high prices for hauling away garbage from highly populated regions, and then ship it at low prices to inexpensive landfills (sometimes which they themselves own) in other parts of the country. Some have estimated that a company can realize a \$500,000 profit for every 5,000 tons of garbage hauled — an average one-day's haul. While these companies enjoy the huge profits from such ventures, landfills that accept the garbage must find ways to handle both locally-generated incoming trash and that from other states. Michigan already has a number of dumping sites considered contaminated beyond human health standards. Pollution appears in many forms near state landfills: contaminated drinking water, blackened skies, and littered countryside. Further, state landfills are filling up faster than state and local waste management officials had once planned they would — not only due to imported garbage, but also because materials that could be disposed of elsewhere are filling up remaining landfill space, such as bags stuffed with grass clippings and leaves. Although the state cannot prohibit the importation of trash, it should at least assure state residents they are not accepting hazardous (or hazardous amounts of) waste, by requiring that state landfill operators accept only "clean" trash in amounts that account for future domestic dumping. This bill would give local waste management officials more power to deny the importation of trash that threatens the present or future well-being of state residents.

For:

The bill would help the state defend its position in some current cases involving blatant misuse of state landfills for dumping other states' trash. In one instance, a Pittsburgh-based firm recently purchased a landfill near Port Huron, apparently in order to dump 5,000 tons of garbage shipped daily straight from New York City. After local health officials ordered the landfill to shut down, the company filed a suit which is scheduled to be heard in early October. By requiring landfill operators to get permission from local health department officials to dump out-of-state trash, the bill would strengthen the state's case in shutting down any landfills which attempted to operate beyond local waste management levels.

H.B. 5524 (9-27-88)

OVER

Against:

The bill's requirement that any transporting unit carrying trash, whether by road, railroad, or waterway, be identified as a waste hauler, including the originating state, with "letters at least 2 inches high," would be impractical and cost prohibitive. Current law regarding the transport of hazardous materials requires transport units to clearly identify a hauler's contents in order to provide vital information to health officials if an accident should occur. Most of the material hauled by those that would be covered under the bill is assumed not to be hazardous waste; even if some of it were hazardous it is probably because either the hauler of the waste was not aware of it, or the hauler was intentionally concealing it. The bill would have no effect in either of these situations, anyway. Also, the provision could set a precedent to require the public identification of all transported materials into the state (currently, transporters are required to have a bill of transport for everything shipped, which is usually seen only by authorized individuals or agencies), whether hazardous or not, which could negatively impact future interstate commerce within the state.

POSITIONS:

The Department of Natural Resources supports the concept of the bill. (9-23-88)

The Michigan United Conservation Clubs supports the bill. (9-23-88)

The St. Clair County Health Department supports the bill. (9-23-88)

The Michigan Association of Counties supports the bill. (9-23-88)

The Oakwood Environmental Concerns Association of Detroit supports the concept of the bill, but feels the bill should include a provision requiring those that transport solid waste to disclose records indicating they had complied with interstate transportation laws in former transports. (9-23-88)