

## IMPORTED SOLID WASTE

### House Bills 4098-4099 (Substitutes H-4) First Analysis (2-5-04)

**Sponsor: Rep. Paul Gieleghem**  
**Committee: Land Use and Environment**

#### ***THE APPARENT PROBLEM:***

The 2003 Report of Solid Waste Landfilled in Michigan was recently issued by the Department of Environmental Quality. The report shows that in 2003, solid waste imported into Michigan made up one-quarter of all waste disposed of in Michigan landfills. Waste disposed of by Michigan residents increased by two percent, while solid waste imported from other states and Canada increased by about 35 percent.

The largest source of waste imported into Michigan continued to be Canada, totaling about 43 percent of all imported waste. Waste also was imported from 13 states: Connecticut, Illinois, Indiana, Iowa, Maine, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin. See Background Information below.

All states are prohibited from imposing an outright ban on imported solid waste, following court decisions issued in cases brought by landfill operators under the interstate commerce clause—Article I, Section 8, Clause 3—of the U. S. Constitution. A state can, however, restrict the *kind* of imported solid waste, and allow only the importation of waste that meets its particular health and safety standards.

Legislation has been introduced to further define solid waste so that certain kinds of beverage containers cannot be buried in landfills, and also to prohibit imported waste that does not meet Michigan's health and safety standards.

#### ***THE CONTENT OF THE BILLS:***

The bills would amend the Natural Resources and Environmental Protection Act (NREPA) to provide for the regulation of imported solid waste; to prohibit the disposal of more than a *de minimis* amount of returnable containers in a landfill; and to require annual and monthly reporting by the Department of Environmental Quality. The bills are tie-barred to each other so that neither could become law both were enacted.

House Bill 4098 would amend NREPA (MCL 324.11513a), generally speaking, to prohibit a person from accepting for disposal in the state solid waste or municipal solid waste incinerator ash generated in a state or county that was not on a list specially prepared by the Department of Environmental Quality (DEQ) of certified states and countries with a solid waste disposal regulatory system at least as stringent and protective as Michigan's. The department would have to provide the list of certified states and countries to each person licensed to operate a disposal area or municipal solid waste incinerator.

Under the bill, the DEQ would have to notify as soon as possible each state and the country of Canada that disposal areas and incinerators in the state would not accept waste generated outside the state unless the department had certified that the generating state or country had a solid waste regulatory system at least as stringent and protective of public health, safety, and welfare, and the environment as exists in Michigan, in terms of what waste is allowed in the waste stream. The department would be required as soon as possible following that notification to compile the list of certified states and countries. A country or state that wished to be certified could supply the department with documentation to support its claim by including copies of all pertinent statutes and rules.

The bill says that these requirements are being imposed "in order to protect the public health, safety, and welfare, and the environment of this state from solid waste such as tires, batteries, yard clippings, used oil, and similar waste products."

(The bill would also specify that it would not prohibit the owner or operator of a disposal area from accepting homogeneous solid waste materials other than municipal solid waste incinerator ash generated outside the state if those materials met the requirements of Michigan for disposal in the disposal area.)

In addition, the bill specifies that by April 15 of each year, the director of the DEQ must determine if the amount of solid waste generated outside of the state that was accepted for disposal during the one-year period ending March 30 of that year exceeded the amount of waste accepted for disposal during the preceding one-year period, and if so, submit to the Senate and House of Representatives appropriations committees recommendations for intradepartmental transfers within the current department budget, to provide additional funding for enforcement.

Further, the bill requires that the DEQ director ensure that solid waste generated outside of the state that was accepted for disposal in the state met the requirements of this legislation, with respect to the waste that was allowed in the waste stream.

House Bill 4099 would amend NREPA (MCL 324.11505) to prohibit the disposal of more than a *de minimis* amount of returnable containers in a landfill.

Under the bill, this prohibition would not apply to green glass beverage containers. The bill would require the Department of Environmental Quality to convene a task force to make recommendations to the legislature on the special recycling problems posed by green glass beverage containers. The task force would be required to include, but would not be limited to, representatives from the landfill industry; a company that manufactures or uses green glass beverage containers; a recycling company; and, an environmental organization. The task force would be required to issue its recommendations by December 31, 2004, and the subsection of the law requiring the task force would sunset after June 1, 2007, unless the legislature had enacted the recommendations of the task force by that date.

Under the bill “returnable container” would mean that term as it is defined in Section 1 of the Initiated Law of 1976. [There, the term “returnable container” means a beverage container upon which a deposit of at least 10 cents has been paid, or is required to be paid upon the removal of the container from the sale or consumption area, and for which a refund of at least 10 cents in cash is payable by every dealer or distributor in this state of that beverage in beverage containers, as further provided in Section 2 of the initiated law.] The bill would define “*de minimis*” to mean incidental disposal of small amounts of these materials that are commingled with other solid waste.

The bill also specifies that by the tenth day of each month, the DEQ director submit to the standing committees of the Senate and the House of Representatives with primary responsibility for solid waste issues, a report that sets forth all of the following:

- the amount and types of solid waste generated outside of this state and accepted for disposal in the state during the preceding calendar month;
- the origins of that waste; and
- the locations where that waste was disposed of;

This reporting requirement would apply beginning the tenth day of the month after the first full calendar month following the effective date of this legislation.

Further, the bill requires that by July 1 of each year, the director submit to the standing committees of the Senate and House of Representatives with primary responsibility for solid waste issues, a report containing proposals for reducing the amount of solid waste generated outside the state that is accepted for disposal in the state.

### **BACKGROUND INFORMATION:**

<i>Waste Generation Origin</i>	<i>Waste Volume (Cubic Yards)</i>	<i>Waste Volume (Cubic Yards)</i>
	<i>Fiscal Year 2002</i>	<i>Fiscal Year 2003</i>
Canada	6,607,856	9,433,028
Connecticut	720	228,900
Illinois	1,697,441	1,846,199
Indiana	1,701,290	1,783,267
Iowa	0	50
Maine	0	88,618
Massachusetts	0	134,726
<b>Michigan</b>	<b>46,046,479</b>	<b>47,115,961</b>
Missouri	60	0
New Hampshire	0	34,842
New Jersey	103	1,581
New York	5,038	150,235
Ohio	1,043,872	1,246,453
Pennsylvania	82	0
Wisconsin	437,981	551,569

Source: Report of Solid Waste Landfilled in Michigan for Fiscal Year 2003; Department of Environmental Quality

Information is submitted from all Michigan landfills to the Department of Environmental Quality, as required under Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994. The department has published an annual report for eight years. The 67-page report can be read on (and downloaded from) the department's web site at [www.michigan.gov/deq](http://www.michigan.gov/deq) and under "Announcements" click on the report title.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes that the bills would not have a fiscal impact on the state or on local government. (11-25-03)

### ***ARGUMENTS:***

#### ***For:***

Michigan should have more laws that enable regulators to curb the flow of out-of-state and foreign trash. It is imperative that the legislature enact better laws to prohibit the importation of solid waste when it fails to meet Michigan landfill health and safety standards. The governor called for a bipartisan effort to reduce the amount of imported trash in Michigan during her annual state of the state address, and this legislation is one of several steps the legislature has taken to address this unacceptable public problem.

#### ***Against:***

House Bill 4099 was amended in committee to allow for disposal in landfills of *de minimis* amounts of returnable containers. Green glass beverage containers also would be exempt from the disposal prohibition. These provisions weaken the bill.

#### ***Response:***

According to committee testimony, the recycling markets for green glass are mercurial, going up and down. When prices fall, recycling the glass becomes unprofitable. In an effort to create a better market, the department will convene a task force to make recommendations to the legislature before December 31, 2004.

#### ***Against:***

The bills were amended in committee to require the director of the Department of Environmental Quality to submit monthly reports, and two new annual reports, to committees of the legislature. According to a department spokesman, these many reporting requirements would be difficult to meet. Instead, the department recommends that reporting be consolidated, perhaps to coincide with its annual

solid waste landfill report, published for the past eight years, most recently in February 2003.

### ***POSITIONS:***

The Michigan Townships Association supports House Bill 4098. (2-4-04)

The Ecology Center supports the bills. (2-4-04)

The Michigan Environmental Council supports the bills. (2-4-04)

Clean Water Action supports the bills. (2-4-04)

The Department of Environmental Quality supports the bills with amendments. (2-4-04)

The Michigan Beer and Wine Wholesalers support House Bill 4099 with amendment. (4-2-04)

Spartan Stores opposes House Bill 4099. (2-4-04)

The Michigan Waste Industry Association opposes the bills. (2-4-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.