

HOUSE BILL No. 5712

February 16, 2006, Introduced by Reps. Booher, Baxter, Proos, Hansen, Pavlov, Emmons, Huizenga, Newell, Stahl, Garfield, Mortimer, Nitz, Casperson, Hune, Meyer and Vander Veen and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 8601a and 8605.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 8601A. AS USED IN THIS PART:**

2 **(A) "AGRICULTURAL STORM WATER DISCHARGE" MEANS A**
3 **PRECIPITATION-RELATED DISCHARGE FROM A FARM OR FARM OPERATION THAT,**
4 **AT THE TIME OF DISCHARGE, IS VERIFIED UNDER THE LIVESTOCK SYSTEM OF**
5 **THE MAEAP AND MANAGED IN ACCORDANCE WITH THE COMPREHENSIVE NUTRIENT**
6 **MANAGEMENT PLAN APPROVED UNDER THAT VERIFICATION.**

7 **(B) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL**

1 QUALITY.

2 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS OR
3 HER DESIGNEE TO WHOM THE DIRECTOR DELEGATES A POWER OR DUTY BY
4 WRITTEN INSTRUMENT.

5 (D) "FARM" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
6 MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

7 (E) "FARM OPERATION" MEANS THAT TERM AS DEFINED IN SECTION 2
8 OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

9 (F) "GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES"
10 MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE MICHIGAN RIGHT TO
11 FARM ACT, 1981 PA 93, MCL 286.472.

12 (G) "LIVESTOCK PRODUCTION FACILITY" MEANS THAT TERM AS DEFINED
13 WITHIN THE GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES
14 FOR SITE SELECTION AND ODOR CONTROLS AT NEW AND EXPANDING ANIMAL
15 LIVESTOCK FACILITIES.

16 (H) "MICHIGAN AGRICULTURE ENVIRONMENTAL ASSURANCE PROGRAM" OR
17 "MAEAP" MEANS A 3-PHASE PROGRAM, AS IT EXISTED ON THE EFFECTIVE
18 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION, THAT MEETS
19 ALL OF THE FOLLOWING REQUIREMENTS:

20 (i) WAS RECOMMENDED BY THE MICHIGAN AGRICULTURE POLLUTION
21 PREVENTION IMPLEMENTATION PLAN SIGNED BY THE DIRECTOR AND THE
22 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE IN 1998.

23 (ii) CONSISTS OF EDUCATION, ON-FARM RISK ASSESSMENT, AND THIRD
24 PARTY VERIFICATION BY THE DEPARTMENT OF AGRICULTURE.

25 (iii) FOCUSES ON LIVESTOCK, CROPPING, OR FARMSTEAD SYSTEMS.

26 (iv) IS DESIGNED TO HELP FARMS AND FARM OPERATIONS VOLUNTARILY
27 PREVENT OR MINIMIZE AGRICULTURAL POLLUTION RISKS.

1 SEC. 8605. (1) THE OWNER OR OPERATOR OF A LIVESTOCK PRODUCTION
2 FACILITY MAY SUBMIT TO THE DEPARTMENT OF AGRICULTURE A WRITTEN
3 REQUEST THAT THE LIVESTOCK PRODUCTION FACILITY BE REGISTERED FOR
4 THE PURPOSES OF SUBSECTION (4). UPON RECEIPT OF THE REQUEST, THE
5 DEPARTMENT OF AGRICULTURE SHALL NOTIFY THE DEPARTMENT AND MAKE THE
6 REQUEST AVAILABLE TO THE PUBLIC. WITHIN 180 DAYS AFTER RECEIPT OF
7 THE REQUEST BY THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF
8 AGRICULTURE AND THE DEPARTMENT SHALL DETERMINE WHETHER THE
9 LIVESTOCK PRODUCTION FACILITY IS ENTITLED TO REGISTRATION PURSUANT
10 TO SUBSECTION (2) OR (3), AS APPLICABLE, AND SHALL NOTIFY THE OWNER
11 OR OPERATOR OF THE DETERMINATION. THE DEPARTMENT OF AGRICULTURE
12 SHALL ENTER THE LIVESTOCK PRODUCTION FACILITY ON A REGISTRY IF IT
13 IS ENTITLED TO REGISTRATION. THE DEPARTMENT OF AGRICULTURE SHALL
14 MAKE THE REGISTRY AVAILABLE TO THE PUBLIC.

15 (2) AN EXISTING OR EXPANDING LIVESTOCK PRODUCTION FACILITY IS
16 ENTITLED TO REGISTRATION UNDER SUBSECTION (1) IF THE LIVESTOCK
17 PRODUCTION FACILITY MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

18 (A) IS VERIFIED UNDER AND CONTINUES TO BE IN COMPLIANCE WITH
19 THE LIVESTOCK SYSTEM OF THE MICHIGAN AGRICULTURE ENVIRONMENTAL
20 ASSURANCE PROGRAM.

21 (B) HAS NOT HAD A DISCHARGE OF WASTE OR WASTE EFFLUENT INTO
22 THE WATERS OF THIS STATE WITHIN THE LAST 5 YEARS, OTHER THAN AN
23 AGRICULTURAL STORM WATER DISCHARGE.

24 (3) A NEW LIVESTOCK PRODUCTION FACILITY IS ENTITLED TO
25 REGISTRATION UNDER SUBSECTION (1) IF ALL OF THE FOLLOWING
26 REQUIREMENTS ARE MET:

27 (A) BEFORE CONSTRUCTION OF THE LIVESTOCK PRODUCTION FACILITY,

1 THE OWNER OR OPERATOR SUBMITS TO THE DEPARTMENT OF AGRICULTURE A
2 WRITTEN NOTICE OF INTENT TO SUBMIT A REQUEST FOR REGISTRATION UNDER
3 SUBSECTION (1).

4 (B) BEFORE POPULATING THE LIVESTOCK PRODUCTION FACILITY, THE
5 OWNER OR OPERATOR OBTAINS FROM THE DEPARTMENT OF AGRICULTURE A
6 DETERMINATION OF CONFORMANCE WITH THE GENERALLY ACCEPTED
7 AGRICULTURAL AND MANAGEMENT PRACTICES FOR SITE SELECTION AND ODOR
8 CONTROLS AT NEW AND EXPANDING ANIMAL LIVESTOCK FACILITIES.

9 (C) NOT LESS THAN 30 DAYS BEFORE POPULATING THE LIVESTOCK
10 PRODUCTION FACILITY, THE OWNER OR OPERATOR SUBMITS TO THE
11 DEPARTMENT OF AGRICULTURE A WRITTEN REQUEST FOR VERIFICATION OF THE
12 LIVESTOCK PRODUCTION FACILITY UNDER THE LIVESTOCK SYSTEM OF THE
13 MAEAP.

14 (4) SUBJECT TO SUBSECTION (5), A LIVESTOCK PRODUCTION FACILITY
15 REGISTERED UNDER SUBSECTION (1) IS NOT REQUIRED TO HAVE A PERMIT
16 UNDER PART 31.

17 (5) IF EITHER OF THE FOLLOWING APPLIES TO A LIVESTOCK
18 PRODUCTION FACILITY REGISTERED UNDER SUBSECTION (1), THE DEPARTMENT
19 OF AGRICULTURE SHALL PROMPTLY REMOVE THE LIVESTOCK PRODUCTION
20 FACILITY FROM THE REGISTRY:

21 (A) THE DEPARTMENT HAS DETERMINED THAT THE LIVESTOCK
22 PRODUCTION FACILITY HAS HAD A DISCHARGE OF WASTE OR WASTE EFFLUENT
23 INTO THE WATERS OF THIS STATE, OTHER THAN AN AGRICULTURAL STORM
24 WATER DISCHARGE, AND HAS NOTIFIED THE DEPARTMENT OF AGRICULTURE OF
25 THE DETERMINATION. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT
26 OF AGRICULTURE BEFORE MAKING SUCH A DETERMINATION.

27 (B) THE FARM OR FARM OPERATION WAS REGISTERED PURSUANT TO

1 SUBSECTION (3) AND THE FARM OR FARM OPERATION WAS NOT VERIFIED
2 UNDER THE LIVESTOCK SYSTEM OF THE MAEAP WITHIN 1 YEAR OF BEING
3 POPULATED. THE DEPARTMENT OF AGRICULTURE MAY PROVIDE AN EXTENSION
4 OF THE 1-YEAR DEADLINE UNDER THIS SUBDIVISION IF THE LIVESTOCK
5 PRODUCTION FACILITY SHOWS PROGRESS TOWARD VERIFICATION.

6 (6) WITHIN 30 DAYS AFTER A LIVESTOCK PRODUCTION FACILITY IS
7 REMOVED FROM THE REGISTRY, THE OWNER OR OPERATOR OF THE LIVESTOCK
8 PRODUCTION FACILITY SHALL APPLY FOR A PERMIT UNDER PART 31.

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 93rd Legislature are
11 enacted into law:

12 (a) Senate Bill No.____ or House Bill No. 5711(request no.
13 05471'05 *).

14 (b) Senate Bill No.____ or House Bill No. 5713(request no.
15 05472'05).

16 (c) Senate Bill No.____ or House Bill No. 5714(request no.
17 05473'05 *).

18 (d) Senate Bill No.____ or House Bill No. 5715(request no.
19 05474'05 *).

20 (e) Senate Bill No.____ or House Bill No. 5716(request no.
21 05814'06).