

HOUSE BILL No. 6369

August 11, 2010, Introduced by Rep. Daley and referred to the Committee on Agriculture.

A bill to regulate certain pallets and persons performing activities related to those pallets; to provide for certain powers and duties for certain state and local governmental agencies and officers; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "food
2 safety transportation act".

3 Sec. 3. As used in this act:

4 (a) "Chemically contaminated wood" means treated lumber,
5 treated wood pallets, treated wood pallet components, or composite
6 wood materials that have been chemically treated with a pesticide
7 to resist wood-boring insects; contain glue or resins composed in
8 whole or in part of formaldehyde; or have been coated with paint, a

1 preservative, or a sealant product.

2 (b) "Composite wood products" means hardwood plywood,
3 particleboard, and medium density fiberboard.

4 (c) "Department" means the Michigan department of agriculture.

5 (d) "Pallet" means an object consisting of a flat or
6 horizontal deck or platform with a forklift entry supported by
7 structural components that is used as a base for storing or
8 transporting objects, wares, goods, or commodities.

9 (e) "Person" means any individual, corporation, partnership,
10 limited liability company, or other legal entity.

11 (f) "Wood pallet" means a pallet composed in whole or in part
12 of wood or composite wood products.

13 Sec. 5. (1) A person shall not sell, offer for sale, rent,
14 distribute, or otherwise supply pallets to another person in this
15 state for use in storing or transporting raw agricultural
16 commodities or raw, processed, or packaged food in commerce, unless
17 the supplying person ensures that any pallets, when so provided for
18 those uses, comply with the following:

19 (a) Are clean and dry.

20 (b) Have been kept by the supplier in appropriate hygienic
21 zones that are well separated from potential contaminants.

22 (c) Have a moisture content below 20%.

23 (d) Do not have any protruding nails, screws, or broken or
24 damaged parts that can penetrate into any commodities or food
25 shipped or stored thereon or that can damage their packaging.

26 (2) A person shall not sell, offer for sale, rent, distribute,
27 or otherwise supply wood pallets to another person in this state

1 for use in storing or transporting raw agricultural commodities or
2 raw, processed, or packaged food in commerce, unless the supplying
3 person ensures that the wood pallets are cleansed and sanitized by
4 1 of the following methods:

5 (a) High-temperature treatment.

6 (b) Kiln drying.

7 (c) Steam-heating.

8 (d) High-pressure water in combination with a food-contact-
9 suitable sanitizing agent.

10 (e) Electrothermic bacteriolysis process.

11 (f) Radiation.

12 (g) Microwave technology.

13 (3) A person in this state shall not manufacture, sell, offer
14 for sale, rent, distribute, or otherwise supply any pallet made in
15 whole or in part from combustible materials, regardless of its
16 composition, unless that pallet meets the requirements to be listed
17 under underwriters laboratories, incorporated, standards for safety
18 -- UL 2335, "Standard for Fire Tests of Storage Pallets", as in
19 effect on December 31, 2009.

20 (4) A person shall not sell, offer for sale, rent, distribute,
21 or otherwise supply a pallet composed of chemically contaminated
22 wood or containing formaldehyde, including formaldehyde found in
23 pallets made in whole or in part from composite wood products, to
24 any person in this state for handling, sorting, storing, shipping,
25 or transporting goods.

26 Sec. 7. (1) A person shall not knowingly dispose of wood
27 pallets or pieces of wood pallets in any landfill located in this

1 state except that any pallet that does not contain chemically
2 contaminated wood may be disposed of in a landfill that is
3 permitted to accept construction and demolition debris. Wood
4 pallets or any pieces of wood pallets may be recycled if otherwise
5 allowed by law.

6 (2) A person that sells, offers for sale, rents, distributes,
7 or otherwise supplies wood pallets to a wholesaler, retailer, or
8 other end-user in this state shall remove those wood pallets or
9 pieces of such wood pallets from the wholesaler, retailer, or end-
10 user within 10 business days after receiving a request for their
11 removal.

12 (3) A local unit of government may petition the department for
13 a waiver from the prohibition on disposal of wood pallets in a
14 landfill based on a showing that prohibiting the disposal of the
15 material would constitute an economic hardship.

16 Sec. 11. (1) The department shall promulgate rules under the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328, to do the following:

19 (a) Evaluate methods for limiting the transport of invasive
20 pests in or on wood pallets, which evaluation and methodology shall
21 include an assessment of the costs and benefits of using
22 commercially available treatments for mitigating and preventing
23 reinfestation of wood pallets.

24 (b) Establish standards to ensure wood pallets used to store
25 or transport goods within this state are free of infestations by
26 invasive pests.

27 (2) The rules promulgated under subsection (1), to the extent

1 necessary to meet the objectives of this act, shall require routine
2 inspection and certification by the department of wood pallets used
3 in this state.

4 (3) Annually, the department shall report to the legislature
5 on the findings of the evaluation under the rules promulgated under
6 subsection (1) and make recommendations for limiting the transport
7 of invasive pests in wood pallets.

8 Sec. 13. (1) A person that violates section 5, or the rules
9 promulgated pursuant to section 11(1)(a) and (b), is responsible
10 for a state civil infraction and may be ordered to pay a civil fine
11 of not more than \$1,000.00 for each violation. A separate violation
12 occurs for each pallet involved in the violation. The maximum
13 penalty for a related series of violations is \$5,000,000.00.

14 (2) A person that violates section 7(1) or (2) is responsible
15 for a state civil infraction and may be ordered to pay a civil fine
16 of not more than \$25,000.00 for each violation. A separate
17 violation occurs for each prohibited act or each failure or refusal
18 to allow or perform a required act. The maximum penalty for a
19 related series of violations is \$10,000,000.00.

20 (3) In addition to any other remedy provided by law, the
21 attorney general may file an action for injunctive relief to enjoin
22 violations of this act or rules promulgated under this act and may
23 recover any costs or damages suffered by the state because of a
24 violation of this act, including enforcement costs relating to the
25 specific violation and attorney fees.

26 (4) The remedies under this act are cumulative, and a
27 violation of this act does not prevent the bringing of an

1 administrative, civil, or criminal action otherwise allowed by
2 state or federal law or an ordinance enacted by a local unit of
3 government.