

HOUSE BILL No. 4265

February 16, 2011, Introduced by Reps. Opsommer and Horn and referred to the Committee on Energy and Technology.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 11504 (MCL 324.11504), as amended by 1996 PA 359, and by adding section 11512b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11504. (1) "Health officer" means a full-time
2 administrative officer of a certified city, county, or district
3 department of health.

4 (2) "Inert material" means a substance that will not
5 decompose, dissolve, or in any other way form a contaminated
6 leachate upon contact with water, or other liquids determined by
7 the department as likely to be found at the disposal area,
8 percolating through the substance.

9 (3) "Insurance" means insurance that conforms to the

1 requirements of 40 ~~C.F.R.~~ **CFR** 258.74(d) provided by an insurer who
 2 has a certificate of authority from the Michigan commissioner of
 3 insurance to sell this line of coverage. An applicant for an
 4 operating license shall submit evidence of the required coverage by
 5 submitting both of the following to the department:

6 (a) A certificate of insurance that uses wording approved by
 7 the department.

8 (b) A certified true and complete copy of the insurance
 9 policy.

10 (4) "Landfill" means a disposal area that is a sanitary
 11 landfill.

12 (5) **"LANDFILL ENERGY PRODUCTION FACILITY" MEANS A LANDFILL**
 13 **DESIGNATED AS A LANDFILL ENERGY PRODUCTION FACILITY IN ITS**
 14 **OPERATING LICENSE PURSUANT TO SECTION 11512B.**

15 (6) ~~(5)~~-"Letter of credit" means an irrevocable letter of
 16 credit that complies with 40 ~~C.F.R.~~ **CFR** 258.74(c).

17 (7) ~~(6)~~-"Medical waste" means that term as it is defined in
 18 ~~part 138~~ **SECTION 13805** of the public health code, ~~Act No. 378 of~~
 19 ~~the Public Acts of 1978, being sections 333.13801 to 333.13831 of~~
 20 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.13805.~~

21 (8) ~~(7)~~-"Municipal solid waste incinerator" means an
 22 incinerator that is owned or operated by any person, and meets all
 23 of the following requirements:

24 (a) The incinerator receives ~~solid waste~~ from off site and
 25 burns only household **SOLID** waste from single and multiple
 26 dwellings, hotels, motels, and other residential sources, or ~~this~~
 27 **SUCH** household waste together with solid waste from commercial,

1 institutional, municipal, county, or industrial sources that, if
2 **OTHERWISE** disposed of, would not be required to be placed in a
3 disposal facility licensed under part 111.

4 (b) The **OWNER OF THE** incinerator has established contractual
5 requirements or other notification or inspection procedures
6 sufficient to ~~assure~~**ENSURE** that the incinerator receives and burns
7 only waste referred to in subdivision (a).

8 (c) The incinerator meets the requirements of this part and
9 the rules promulgated under this part.

10 (d) The incinerator is not an industrial furnace as defined in
11 40 ~~C.F.R.~~**CFR** 260.10.

12 (e) The incinerator is not an incinerator that receives and
13 burns only medical waste or only waste produced at 1 or more
14 hospitals.

15 (9) ~~(8)~~—"Municipal solid waste incinerator ash" means the
16 substances remaining after combustion in a municipal solid waste
17 incinerator.

18 (10) ~~(9)~~—"Perpetual care fund" means a perpetual care fund
19 provided for in section 11525.

20 (11) ~~(10)~~—"Trust fund" means a trust fund held by a trustee
21 ~~which~~**THAT** has the authority to act as a trustee and whose trust
22 operations are regulated and examined by a federal or state agency.
23 A trust fund shall comply with section 11523b.

24 **SEC. 11512B. (1) SUBJECT TO SUBSECTION (5), IF A LANDFILL**
25 **OPERATING LICENSE DESIGNATES THE LANDFILL AS A LANDFILL ENERGY**
26 **PRODUCTION FACILITY, YARD CLIPPINGS MAY BE DISPOSED OF AT THE**
27 **LANDFILL IN LANDFILL CELLS SERVED BY A LANDFILL GAS COLLECTION**

1 SYSTEM.

2 (2) A LANDFILL OPERATING LICENSE SHALL DESIGNATE THE LANDFILL
3 AS A LANDFILL ENERGY PRODUCTION FACILITY IF THE LANDFILL MEETS ALL
4 OF THE FOLLOWING REQUIREMENTS:

5 (A) THE LANDFILL HAS A LANDFILL GAS COLLECTION SYSTEM
6 INSTALLATION OF WHICH IS DOCUMENTED IN THE LANDFILL'S OPERATING
7 RECORD.

8 (B) SUBJECT TO SUBSECTION (4), THE LANDFILL ENERGY PRODUCTION
9 FACILITY IS CAPABLE OF RECOVERING AND UTILIZING AT LEAST 70% OF THE
10 ANNUAL GAS PRODUCTION FROM THE LANDFILL CELLS SERVED BY THE
11 LANDFILL GAS COLLECTION SYSTEM, AS A SOURCE OF ENERGY FOR 1 OR MORE
12 OF THE FOLLOWING:

13 (i) GENERATION OF ELECTRICITY, A DIRECT FUEL USE, OR ANY OTHER
14 USE AS A SUBSTITUTE FOR CONVENTIONAL FUELS.

15 (ii) FLARING BECAUSE OF TESTING, MAINTENANCE, MALFUNCTION, OR
16 PLANNED OR UNPLANNED INTERRUPTION OF THE LANDFILL GAS COLLECTION
17 SYSTEM OR OF AN ON-SITE OR OFF-SITE ENERGY USE; FOR PLANNING,
18 CONSTRUCTION, OR PROVING CAPACITY FOR AN INTENDED ON-SITE OR OFF-
19 SITE ENERGY USE; OR FOR A SIMILAR REASON. FLARING FOR EACH
20 PARTICULAR REASON UNDER THIS SUBPARAGRAPH SHALL NOT BE UTILIZED
21 LATER THAN 2 YEARS AFTER THE FLARING FIRST COMMENCED. HOWEVER, A
22 REQUEST TO EXTEND FLARING SHALL BE APPROVED BY THE DEPARTMENT IF
23 THE LANDFILL OWNER OR OPERATOR SUBMITS A SCHEDULE FOR THE USE OF
24 LANDFILL GAS FOR THE GENERATION OF ELECTRICITY, A DIRECT FUEL USE,
25 OR ANY OTHER USE AS A SUBSTITUTE FOR CONVENTIONAL FUELS.

26 (3) IF A LANDFILL IS DESIGNATED AS A LANDFILL ENERGY
27 PRODUCTION FACILITY UNDER SUBSECTION (2), YARD CLIPPINGS MAY BE

1 DISPOSED OF AT THE LANDFILL IN LANDFILL CELLS SERVED BY A LANDFILL
2 GAS COLLECTION SYSTEM IF THE YARD CLIPPINGS ARE INITIALLY COLLECTED
3 IN RESIDENTIAL SOLID WASTE COLLECTION TRUCKS REGISTERED UNDER THE
4 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923, AND THE
5 YARD CLIPPINGS WHEN INITIALLY COLLECTED ARE COMMINGLED WITH OTHER
6 SOLID WASTE. IF THE YARD CLIPPINGS ARE SOURCE SEPARATED AND
7 GENERATED IN A MUNICIPALITY WITH A SINGLE-HAULER SOLID WASTE
8 COLLECTION AND DISPOSAL CONTRACT, THE LEGISLATIVE BODY OF THE
9 MUNICIPALITY SHALL NOT AUTHORIZE THE COMMINGLED COLLECTION OF YARD
10 CLIPPINGS FOR DELIVERY TO A LANDFILL ENERGY PRODUCTION FACILITY
11 UNLESS THE LEGISLATIVE BODY HAS HELD A PUBLIC HEARING ON THE ISSUE.

12 (4) THE PERCENTAGE OF LANDFILL GAS RECOVERED AND UTILIZED BY A
13 LANDFILL ENERGY PRODUCTION FACILITY SHALL BE CALCULATED AS FOLLOWS:

14 (A) DIVIDE THE AMOUNT OF GAS RECOVERED AND UTILIZED FOR 1 OR
15 MORE OF THE USES DESCRIBED IN SUBSECTION (2) BY THE TOTAL ANNUAL
16 LANDFILL ENERGY PRODUCTION FACILITY GAS GENERATION ESTIMATE. THE
17 GAS GENERATION ESTIMATE SHALL BE BASED ON 1 OF THE FOLLOWING:

18 (i) THE EPA LANDFILL GAS EMISSION MODEL (LANDGEM) USING CLEAN
19 AIR ACT DEFAULT VALUE $K=0.05$ YEAR⁻¹ FOR THE METHANE GENERATION RATE
20 AND $L_0=110M_3/MG$ (BASED ON AN INVENTORY VALUE OF $100 M^3/MG$, PLUS 10
21 M^3/MG TO ACCOUNT FOR ADDITION OF YARD CLIPPINGS) FOR THE POTENTIAL
22 METHANE GENERATION CAPACITY.

23 (ii) A SITE-SPECIFIC GAS GENERATION ESTIMATION PROPOSED BY THE
24 LANDFILL OWNER OR OPERATOR AND APPROVED BY THE MICHIGAN PUBLIC
25 SERVICE COMMISSION.

26 (B) MULTIPLY THE QUOTIENT UNDER SUBDIVISION (A) BY 100.

27 (5) IF A DESIGNATED LANDFILL ENERGY PRODUCTION FACILITY FAILS

1 TO RECOVER AND UTILIZE ANNUAL GAS PRODUCTION AS REQUIRED IN
2 SUBSECTION (2), IN ADDITION TO OTHER SANCTIONS FOR VIOLATION OF
3 THIS PART, THE MICHIGAN PUBLIC SERVICE COMMISSION, AFTER NOTICE AND
4 OPPORTUNITY FOR AN EVIDENTIARY HEARING, MAY REVOKE, SUSPEND, OR
5 MODIFY THE LANDFILL'S DESIGNATION AS A LANDFILL ENERGY PRODUCTION
6 FACILITY.

7 (6) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
8 1969 PA 306, MCL 24.201 TO 24.328, THE MICHIGAN PUBLIC SERVICE
9 COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS PART.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. ____ or House Bill No. 4266 (request no.
12 01035'11 *) of the 96th Legislature is enacted into law.