

HOUSE BILL No. 4862

September 10, 2015, Introduced by Reps. Chatfield, Kelly and Moss and referred to the Committee on Local Government.

A bill to regulate local ordinances controlling the placement, appearance, or operation of bins for the collection of certain reusable or recyclable materials; to provide for permits and fees; to prescribe the powers and duties of certain state agencies and local units of government; and to provide for civil sanctions and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "textile recycling bin act".

3 Sec. 3. As used in this act:

4 (a) "Charitable organization" means an organization that is
5 exempt from taxation pursuant to section 501(c)(3) of the internal
6 revenue code of 1986, 26 USC 501(c)(3).

1 (b) "Local unit of government" or "local unit" means a county,
2 city, village, or township.

3 (c) "Permittee" means a person that receives a permit to
4 operate a textile recycling bin pursuant to this act.

5 (d) "Person" means an individual, partnership, corporation,
6 association, governmental entity, or other legal entity.

7 (e) "Person in lawful possession of the property" means a
8 person that leases property from the property owner, or a person
9 that represents the lessee and has authority from the lessee over
10 the property, such as a store manager, regional manager, or
11 superintendent.

12 (f) "Place a textile recycling bin" or "place a bin" means to
13 put the bin in a location where it is intended to be operated for
14 solicitation purposes.

15 (g) "Professional fund-raiser" means a professional fund
16 raiser as that term is defined in section 2 of the charitable
17 organizations and solicitations act, 1975 PA 169, MCL 400.272.

18 (h) "Property owner" means the person having legal title to
19 property.

20 (i) "Property owner's agent" means a person that has express
21 oral or written authority, implied authority through employment or
22 by contract, or apparent authority to enter a contract on behalf of
23 the property owner.

24 (j) "Solicitation" means solicitation of donations of
25 salvageable personal property or household items for the purpose of
26 reuse or recycling.

27 (k) "Textile recycling bin" or "bin" means an unattended,

1 closed receptacle or container made of metal, wood, or plastic or a
2 combination of metal, wood, or plastic and designed and intended
3 for the collection from the public of donations of used clothing,
4 shoes, textiles, household items, books, magazines, other
5 salvageable personal property, or wastepaper, for the purpose of
6 reuse or recycling. Textile recycling bin does not include a
7 receptacle or container used to collect recyclable metal, plastic,
8 or glass or a household curbside recycling container or other
9 container used to receive recyclables from a specific person or
10 persons.

11 Sec. 5. (1) Except as provided in this act, a local unit of
12 government shall not enact or enforce an ordinance prohibiting or
13 regulating the placement, appearance, or operation of textile
14 recycling bins located outdoors.

15 (2) This act does not prohibit a local unit of government from
16 adopting or enforcing a zoning ordinance that does any of the
17 following:

18 (a) Prohibiting bins in certain zoning districts, subject to
19 section 207 of the Michigan zoning enabling act, 2006 PA 110, MCL
20 125.3207.

21 (b) Limiting the number of bins that may be placed on a lot or
22 parcel.

23 (c) Requiring bins to be set back specified distances from
24 structures such as roads, driveways, sidewalks, buildings, utility
25 poles, or traffic signs.

26 Sec. 7. (1) A local unit of government may adopt an ordinance
27 prohibiting a person from placing or operating a textile recycling

1 bin outdoors unless the person obtains a permit from the local unit
2 as provided under this section.

3 (2) To obtain a permit under an ordinance adopted under
4 subsection (1), a person shall file an application with the local
5 unit of government. A separate permit is required for each bin.
6 However, a single application may seek permits for up to 10 textile
7 recycling bins. There is no limit on the number of bins for which
8 applications may be filed and permits may be issued.

9 (3) A permit application under subsection (2) shall include
10 all of the following:

11 (a) The applicant's name, address, telephone number,
12 electronic mail address, website address, if any, and fax number,
13 if any. The information provided under this subdivision shall be
14 for the applicant's registered office under section 241 of the
15 business corporation act, 1972 PA 284, MCL 450.1241, or section 241
16 of the nonprofit corporation act, 1982 PA 162, MCL 450.2241, if the
17 applicant is incorporated under 1 of those acts.

18 (b) The name and contact information of the applicant's
19 resident agent under section 241 of the business corporation act,
20 1972 PA 284, MCL 450.1241, or section 241 of the nonprofit
21 corporation act, 1982 PA 162, MCL 450.2241, if the applicant is
22 incorporated under 1 of those acts.

23 (c) A certificate of good standing with this state under
24 section 922 of the business corporation act, 1972 PA 284, MCL
25 450.1922, or section 922 of the nonprofit corporation act, 1982 PA
26 162, MCL 450.2922, issued within the past 90 days, if the applicant
27 is incorporated under 1 of those acts.

1 (d) The manner in which any clothing or other donations
2 collected are expected to be used, sold, or distributed.

3 (e) The name and telephone number of any entity that will
4 receive some or all of the donations collected in the textile
5 recycling bins or the proceeds thereof, if the applicant is a for-
6 profit business.

7 (f) The address and, as precisely as possible, location where
8 each bin will be placed, and the name of any business at the
9 location.

10 (g) Written consent from the property owner, property owner's
11 agent, or person in lawful possession of the property to place the
12 bin on the property identified in subdivision (f). This subdivision
13 does not apply if the applicant is the property owner, property
14 owner's agent, or person in lawful possession of the property.

15 (4) A local unit of government shall not grant an application
16 for a permit to place and operate a textile recycling bin if the
17 application is not complete or if the local unit determines that
18 the operation, display, or placement of the bin will violate any
19 state law or any ordinance provision described in section 5(2).

20 (5) A local unit of government may impose a fee for processing
21 an application for a permit. The fee shall not exceed the lesser of
22 the following:

23 (a) \$75.00, regardless of the number of textile recycling bins
24 covered by the application.

25 (b) The actual reasonable costs of processing an application.

26 (6) A permit under this section is valid for 1 year.

27 (7) A local unit of government shall provide a permittee with

1 1 permit sticker for each approved permit. The sticker shall
2 display the local unit's seal, a permit number, and an expiration
3 date. The size of the sticker shall be 4 inches by 4 inches. The
4 color of the sticker shall be the same color that the department of
5 state uses for motor vehicle registration decals for that year. The
6 permittee shall place the sticker in a conspicuous place on the
7 front panel of the textile recycling bin. On request of the
8 permittee, the local unit shall provide a replacement sticker for a
9 fee of \$10.00 if the original sticker is damaged or lost.

10 (8) An expiring permit for a textile recycling bin may be
11 renewed. Subsection (2) and subsections (4) to (7) apply to the
12 renewal application and permit. The application for a renewal
13 permit shall include all of the following:

14 (a) The permit number.

15 (b) The information required under subsection (3)(f).

16 (c) Any change in the information required under subsection
17 (3)(a) or (b).

18 Sec. 9. A local unit of government may adopt an ordinance
19 prohibiting a person from placing or operating a textile recycling
20 bin outdoors unless the person does all of the following:

21 (a) Provides proof to the clerk of the local unit of
22 government of a certificate of liability insurance of at least
23 \$1,000,000.00 for all permitted bins.

24 (b) Maintains the appearance of the bin, including fresh
25 paint, readable signage, and general upkeep.

26 (c) Maintains a telephone number to receive complaints about
27 the bin that is answered live during the hours of 9 a.m. to 5 p.m.

1 (d) Provides the property owner, property owner's agent, or
2 person in lawful possession of the property with the telephone
3 number under subdivision (c).

4 (e) Removes graffiti and trash from the bin and trash from
5 outside the bin within a reasonable time after receiving
6 notification of its presence.

7 (f) Repairs, replaces, or removes a damaged bin within 5
8 business days after receiving notification of its condition or
9 within a reasonable amount of time, whichever is less.

10 (g) Ensures that the front of the bin conspicuously displays
11 all of the following:

12 (i) The person's name, address, telephone number under
13 subdivision (c), and website address, if any.

14 (ii) A statement, in at least 2-inch type, that reads either
15 "This recycling bin is owned and operated by a nonprofit
16 organization." or "This recycling bin is owned and operated by a
17 for-profit business.", as applicable.

18 (iii) If the bin is owned by a nonprofit organization, the
19 front of the bin shall also conspicuously display a statement
20 describing the charitable cause that will benefit from donations.

21 (iv) If the bin is owned by a for-profit business, the front of
22 the bin shall conspicuously display a statement that reads "A
23 donation to this bin is not tax deductible."

24 (v) If the bin is owned and operated by a professional fund-
25 raiser, the professional fund-raiser shall not post notice of
26 donations to a charitable organization except on the sides of the
27 bin. Such a notice shall not contain larger type size or cover an

1 area larger than the professional fund-raiser's name and address
2 that is posted on the front of the recycling bin. The notice shall
3 not constitute more than 25% of the total space occupied by
4 information on the bin required under this act.

5 Sec. 11. (1) A textile recycling bin that is in violation of
6 an ordinance adopted under this act is a public nuisance. The
7 attorney for the local unit of government may bring an action to
8 abate the nuisance.

9 (2) A person who violates an ordinance adopted under this act
10 is responsible for a municipal civil infraction and may be ordered
11 to pay a civil fine of not more than \$500.00 per textile recycling
12 bin in violation of the ordinance.

13 (3) A person who perpetrates a fraud regarding the operation
14 or use of a textile recycling bin is responsible for a municipal
15 civil infraction and shall be ordered to pay a civil fine of not
16 less than \$500.00 or more than \$1,000.00 per recycling bin. In
17 addition, the court shall do both of the following:

18 (a) Authorize the local unit of government at its discretion
19 to revoke all permits issued to the defendant by the local unit
20 under section 7.

21 (b) Authorize the local unit at its discretion to remove all
22 bins placed by the defendant and store the bins in a secure
23 location until the bins are retrieved by the defendant. The bins
24 shall be released to the defendant upon payment of all reasonable
25 costs incurred by the local unit for removal and storage.

26 (4) A violation of an ordinance adopted under this act may be
27 prosecuted by the prosecutor for the local unit of government where

1 the violation occurred. A fine collected for a violation of this
2 act shall be deposited in the general fund of the local unit of
3 government.

4 Enacting section 1. This act takes effect 90 days after the
5 date it is enacted into law.