

# HOUSE BILL No. 4399

February 24, 2005, Introduced by Reps. Spade, Sheltroun, Polidori and Vagnozzi and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11526, 11526a, and 11546 (MCL 324.11526, 324.11526a, and 324.11546), section 11526 as amended by 2004 PA 43, section 11526a as added by 2004 PA 40, and section 11546 as amended by 2004 PA 41, and by adding section 11546a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11526. (1) The department, a health officer, or a law  
2 enforcement officer of competent jurisdiction may inspect a solid  
3 waste transporting unit that is being used to transport solid waste  
4 along a public road to determine if the solid waste transporting  
5 unit is designed, maintained, and operated in a manner to prevent  
6 littering or to determine if the owner or operator of the solid

1 waste transporting unit is performing in compliance with this part  
2 and the rules promulgated under this part.

3 (2) In order to protect the public health, safety, and welfare  
4 and the environment of this state from items and substances being  
5 illegally disposed of in landfills in this state, the department,  
6 in conjunction with the department of state police, shall  
7 administer this part so as to do all of the following:

8 (a) Ensure that all disposal areas are in full compliance with  
9 this part and the rules promulgated under this part.

10 (b) Provide for the inspection of each solid waste disposal  
11 area for compliance with this part and the rules promulgated under  
12 this part at least 4 times per year.

13 (c) Ensure that all persons disposing of solid waste are doing  
14 so in compliance with this part and the rules promulgated under  
15 this part.

16 (3) The department and the department of state police may  
17 conduct regular, random inspections of waste being transported **OR**  
18 **PROPOSED TO BE TRANSPORTED** for disposal at disposal areas in this  
19 state. Inspections under this subsection may be conducted **AT THE**  
20 **POINT OF ORIGIN OF WASTE SHIPMENTS, WHETHER WITHIN OR OUTSIDE OF**  
21 **THIS STATE OR** at disposal areas at the end ~~original~~ destination.

22 Sec. 11526a. (1) ~~Beginning October 1, 2004, in order to~~ **TO**  
23 protect the public health, safety, and welfare and the environment  
24 of this state from the improper disposal of waste that is  
25 prohibited from disposal in a landfill, and in recognition that the  
26 nature of solid waste collection and transport limits the ability  
27 of the state to conduct cost effective inspections to ensure

1 compliance with state law, the owner or operator of a landfill  
2 shall not accept for disposal in this state solid waste, including,  
3 but not limited to, municipal solid waste incinerator ash, that was  
4 generated outside of this state unless 1 or more of the following  
5 **REQUIREMENTS** are met:

6 ~~(a) The solid waste is composed of a uniform type of item,~~  
7 ~~material, or substance, other than municipal solid waste~~  
8 ~~incinerator ash, that meets the requirements for disposal in a~~  
9 ~~landfill under this part and the rules promulgated under this part.~~

10 (A) ~~(b)~~ The solid waste was received through a material  
11 recovery facility, a transfer station, or other facility that has  
12 documented that it has removed from the solid waste being delivered  
13 to the landfill those items that are prohibited from disposal in a  
14 landfill.

15 (B) ALL OF THE FOLLOWING REQUIREMENTS HAVE BEEN MET:

16 (i) THE SOLID WASTE WAS INSPECTED AT THE POINT OR ORIGIN OF THE  
17 SOLID WASTE SHIPMENT AND THE PERSON PERFORMING THE INSPECTION HAS  
18 CERTIFIED THAT THOSE ITEMS THAT ARE PROHIBITED FROM DISPOSAL IN A  
19 LANDFILL IN THIS STATE, AS WELL AS ANY WEAPONS OR COMPONENTS OR  
20 INGREDIENTS OF WEAPONS, HAVE BEEN REMOVED FROM THE SOLID WASTE.

21 (ii) IF REQUESTED BY THE DEPARTMENT, THE PERSON GENERATING THE  
22 SOLID WASTE ALLOWED THE DEPARTMENT TO SUPERVISE THE INSPECTION  
23 UNDER SUBPARAGRAPH (i) OR TO CONDUCT AN INDEPENDENT INSPECTION OF  
24 THE SOLID WASTE AT ITS POINT OF ORIGIN. THE PERSON GENERATING THE  
25 SOLID WASTE SHALL REIMBURSE THE DEPARTMENT FOR THE COST OF THE  
26 SUPERVISION OR INDEPENDENT INSPECTION.

27 (iii) THE CERTIFICATE OF INSPECTION UNDER SUBPARAGRAPH (i) WAS

1 ELECTRONICALLY TRANSMITTED TO THE DEPARTMENT IMMEDIATELY AFTER THE  
2 INSPECTION AND IS PRESENTED TO THE OWNER OR OPERATOR OF THE  
3 LANDFILL.

4 (iv) ~~(e)~~ The country, state, province, or local jurisdiction  
5 in which the solid waste was generated is approved by the  
6 department for inclusion on the list compiled by the department  
7 under section 11526b.

8 (2) Notwithstanding section 11538 or any other provision of  
9 this part, if there is sufficient disposal capacity for a county's  
10 disposal needs in or within 150 miles of the county, all of the  
11 following apply:

12 (a) The county is not required to identify a site for a new  
13 landfill in its solid waste management plan.

14 (b) An interim siting mechanism shall not become operative in  
15 the county unless the county board of commissioners determines  
16 otherwise.

17 (c) The department is not required to issue a construction  
18 permit for a new landfill in the county.

19 Sec. 11546. (1) The department or a health officer may request  
20 that the attorney general bring an action in the name of the people  
21 of the state, or a municipality or county may bring an action based  
22 on facts arising within its boundaries, for any appropriate relief,  
23 including injunctive relief, for a violation of this part or rules  
24 promulgated under this part. **THE COURT MAY PROHIBIT A PERSON FROM**  
25 **DISPOSING OF WASTE IN THIS STATE IF THE PERSON DOES ANY OF THE**  
26 **FOLLOWING:**

27 (A) FAILS TO PROCESS WASTE AS REQUIRED BY SECTION

1 11526A(1)(A).

2 (B) FAILS TO INSPECT WASTE AS REQUIRED BY SECTION  
3 11526A(1)(B).

4 (C) REFUSES TO SUBMIT TO THE DEPARTMENT'S WASTE INSPECTION OR  
5 SUPERVISION OF A WASTE INSPECTION UNDER SECTION 11526A(1)(B).

6 (2) In addition to any other relief provided by this section,  
7 the court may impose on any person who violates ~~any provision of~~  
8 this part or rules promulgated under this part or who fails to  
9 comply with any permit, license, or final order issued pursuant to  
10 this part a civil fine as follows:

11 (a) Except as provided in subdivision (b), a civil fine of not  
12 more than \$10,000.00 for each day of violation.

13 (b) For a second or subsequent violation, a civil fine of not  
14 more than \$25,000.00 for each day of violation.

15 (3) In addition to any other relief provided by this section,  
16 the court may order a person violating this part or the rules  
17 promulgated under this part either to restore or to pay to the  
18 state an amount equal to the cost of restoring the natural  
19 resources of this state affected by the violation to their original  
20 condition before the violation, and to pay to the state the costs  
21 of surveillance and enforcement incurred by the state as a result  
22 of the violation.

23 (4) This part does not preclude any person from commencing a  
24 civil action based on facts that may also constitute a violation of  
25 this part or the rules promulgated under this part.

26 **SEC. 11546A. THE DEPARTMENT, AFTER PROVIDING AN OPPORTUNITY**  
27 **FOR AN ADMINISTRATIVE HEARING UNDER THE ADMINISTRATIVE PROCEDURES**

1 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, MAY SUSPEND,  
2 MODIFY, OR REVOKE THE LICENSE OF A LANDFILL WHOSE OWNER OR OPERATOR  
3 VIOLATES THIS PART OR A RULE PROMULGATED OR PERMIT, LICENSE, OR  
4 ORDER ISSUED UNDER THIS PART.