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House Bill 4207 (Substitute H-2 as passed by the House)

Sponsor: Representative Kenneth Kurtz

House Committee: Natural Resources, Tourism, and Outdoor Recreation

Senate Committee: Natural Resources, Environment and Great Lakes

Date Completed: 2-15-12

CONTENT

The bill would amend Parts 55 (Air Pollution Control) and 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act to do the following:

- **Prohibit the open burning of certain household waste materials.**
- **Preclude the Department of Environmental Quality (DEQ) from promulgating or enforcing a rule that extended the open burning prohibition to materials not listed in the bill.**
- **Provide that Parts 55 and 115 would not prohibit the open burning of wooden fruit or vegetable storage bins, under certain circumstances.**

Section 5512 of the Act requires the DEQ to promulgate air quality rules, including rules to control or prohibit air pollution and comply with the Federal Clean Air Act. The bill would amend this section to provide that Section 11522 would apply to open burning.

Section 11522 prohibits the open burning of grass clippings and/or leaves in any municipality with a population of at least 7,500, unless specifically authorized by a local ordinance. A county or municipality may not authorize open burning of grass clippings and/or leaves by an ordinance that would otherwise be prohibited under Part 55 or rules promulgated under that part.

Beginning 180 days after the bill's effective date, Section 11522 also would prohibit a person from conducting open burning of household waste that contained plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials. Notwithstanding Section 5512, the DEQ could not promulgate or enforce a rule that extended the prohibition to other materials.

The bill provides that Part 55 or 115, or rules promulgated under either part, would not prohibit a person from conducting open burning of wooden fruit or vegetable storage bins constructed from untreated lumber if the burning were conducted for disease or pest control and not conducted at any of the following locations:

- In a city or village.
- Within 1,400 feet outside the boundary of a city or village.
- Within a priority I area as listed in Table 33 or a priority II area as listed in Table 34 of R 336.1310 of the Michigan Administrative Code.

(Tables 33 and 34 designate specific areas in a number of Michigan counties as priority I or priority II areas.)

The provisions prohibiting the DEQ from extending the open burning prohibition to other materials and allowing the open burning of fruit and vegetable storage bins would not authorize open burning that was prohibited by a local ordinance.

The bill would repeal Section 5514 of the Act, which provides that a congressionally chartered patriotic organization that disposes of an unserviceable U.S. flag is not subject to regulation or penalty for violation a State law or local ordinance pertaining to open burning of materials or substances. The bill would reenact identical language in Part 115.

MCL 324.5512 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.