

Act No. 102  
Public Acts of 2012  
Approved by the Governor  
April 19, 2012  
Filed with the Secretary of State  
April 19, 2012  
EFFECTIVE DATE: April 19, 2012

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

Introduced by Reps. Kurtz, Wayne Schmidt, Damrow, Daley, Cotter, Farrington, Somerville and Agema

# **ENROLLED HOUSE BILL No. 4207**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 5512 and 11522 (MCL 324.5512 and 324.11522); and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 5512. (1) The department shall promulgate rules for purposes of doing all of the following:

(a) Controlling or prohibiting air pollution.

(b) Complying with the clean air act.

(c) Controlling any mode of transportation that is capable of causing or contributing to air pollution.

(d) Reviewing proposed locations of stationary emission sources.

(e) Reviewing modifications of existing emission sources.

(f) Prohibiting locations or modifications of emission sources that impair the state's ability to meet federal ambient air quality standards.

(g) Establishing suitable emission standards consistent with federal ambient air quality standards and factors including, but not limited to, conditions of the terrain, wind velocities and directions, land usage of the region, and the anticipated characteristics and quantities of potential air pollution sources. This part does not prohibit the department from denying or revoking a permit to operate a source, process, or process equipment that would adversely affect human health or other conditions important to the life of the community.

(h) Implementing sections 5505 and 5506.

(2) Unless otherwise provided in this part, each rule, permit, or administrative order promulgated or issued under this part prior to November 13, 1993 shall remain in effect according to its terms unless the rule or order is inconsistent with this part or is revised, amended, or repealed.

(3) Section 11522 applies to open burning.

Sec. 11522. (1) The open burning of grass clippings or leaves is prohibited in any municipality having a population of 7,500 or more, unless specifically authorized by local ordinance, which ordinance shall be reported to the department of natural resources within 30 days of enactment.

(2) Subsection (1) does not permit a county or municipality to authorize open burning of grass clippings or leaves by an ordinance that would otherwise be prohibited under part 55 or rules promulgated under that part.

(3) Beginning 180 days after the effective date of the amendatory act that added this subsection, a person shall not conduct open burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials.

(4) Sections 11546 and 11549 do not apply to an individual who violates subsection (3) by open burning of waste from that individual's household. Such an individual is responsible for a state civil infraction and is subject to the following:

- (a) For a first offense within a 3-year period, a warning by the judge or magistrate.
- (b) For a second offense within a 3-year period, a civil fine of not more than \$75.00.
- (c) For a third offense within a 3-year period, a civil fine of not more than \$150.00.
- (d) For a fourth or subsequent offense within a 3-year period, a civil fine of not more than \$300.00.

(5) Notwithstanding section 5512, the department shall not promulgate or enforce a rule that extends the prohibition under subsection (3) to materials not listed in subsection (3).

(6) This part, part 55, or rules promulgated under this part or part 55 do not prohibit a person from conducting open burning of wooden fruit or vegetable storage bins constructed from untreated lumber if all of the following requirements are met:

- (a) The burning is conducted for disease or pest control.
- (b) The burning is not conducted at any of the following locations:
  - (i) 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.
  - (ii) In a city or village.
  - (iii) Within 1,400 feet outside the boundary of a city or village.

(7) Subsections (5) and (6) do not authorize open burning that is prohibited by a local ordinance.

(8) A congressionally chartered patriotic organization that disposes of an unserviceable flag of the United States by burning that flag is not subject to regulation or penalty for violating a state law or local ordinance pertaining to open burning of materials or substances.

Enacting section 1. Section 5514 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5514, is repealed.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor