



**House
Legislative
Analysis
Section**

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USE OF NATURAL FERTILIZERS

**House Bill 4297 as enrolled
Public Act 117 of 1995
Sponsor: Rep. Carl F. Gnodtke**

**House Bill 4318 as enrolled
Public Act 65 of 1995
Sponsor: Rep. Alvin H. Kukuk**

**House Committee: Agriculture & Forestry
Senate Committee: Agriculture & Forestry**

Second Analysis (7-17-95)

THE APPARENT PROBLEM:

Last summer, decaying masses of aquatic vegetation were strewn along the shorelines of Lake St. Clair in Harrison Township and St. Clair Shores, causing the beaches to be closed for some time. The buildup of organic matter is believed to have been caused by an influx of zebra mussels, which cleared the lake of algae that helped diffuse and reduce the amount of sunlight penetrating the lake. The additional sunlight stimulated the growth of seaweed and aquatic plants, which eventually were loosened from the lake floor and were washed ashore. Some people believe that this kind of organic material could have agricultural uses, and that persons using aquatic plants in this manner should not have to obtain a solid waste management plan, permit, or license.

In addition, Public Act 102 of 1993 amended the Solid Waste Management Act to permit by-products from fruit, vegetable, and sugar beet processing to be applied on farmland or used as animal feed without a management plan, permit, or license, if this use complies with generally accepted agricultural and management practices under the Michigan Right to Farm Act. Some people believe that these provisions, and other language clarifying the Department of Agriculture's role in responding to certain agriculture-related releases into the environment, should be included in the Natural Resources and Environmental Protection Act, which is a recodification of various state environmental laws including the Solid Waste Management Act.

THE CONTENT OF THE BILLS:

The Natural Resources and Environmental Protection Act defines the terms "hazardous substance" and "solid waste" and regulates their uses and how they are to be disposed of. The act also defines what constitutes a "release" [of a hazardous substance]. The bills would amend different sections of the act to do the following:

* House Bill 4297 would amend the act (MCL 324.20101) to exclude from the definition of "hazardous substance" fruit, vegetable, or field crop residuals or processing by-products, or aquatic plants, that were applied to the land for an agricultural use or for use as an animal feed, if the use were consistent with generally accepted agricultural and management practices developed pursuant to the Michigan Right to Farm Act. In addition, the application of fruit, vegetable, or field crop residuals or processing by-products, or aquatic plants would not be considered a "release" under the act if they were applied according to label directions and generally accepted agricultural and management practices. The bill also specifies that a release would not include fruits, vegetables, field crop processing by-products, or aquatic weeds that were applied to the land for an agricultural use or for use as an animal feed, if the use were consistent with generally accepted agricultural and management practices developed pursuant to the Michigan Right to Farm Act.

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In addition, the act currently requires the Department of Natural Resources, upon confirming a release or threat of a release of a substance regulated by the Department of Agriculture, to notify that department. The bill would add a provision to the act (MCL 324.20115) clarifying that it would be the agriculture department's responsibility to undertake or ensure the initiation of the necessary response activity to immediately stop or prevent further releases at the site, and that the department could consult with the DNR on its response activities. The bill further provides that response activities would have to be consistent with requirements of another section of the act governing the agriculture department's responsibility to respond to agriculture-related hazardous releases into ground water or fresh water.

* House Bill 4318 would amend the act (MCL 324.11506) to permit the application on farmland, or the use as animal feed, of aquatic plants as well as a residual from fruits, vegetables, sugar beets, or field crops without a solid waste management plan, permit, or license. The application of crop residuals, aquatic plants, and lime from kraft (paper) pulping processes generated prior to bleaching for an agricultural or silvicultural purpose, or use as animal feed, would have to occur in a manner that prevented losses from runoff and leaching, and if applied to the land, the land application would have to be at an agronomic rate consistent with generally accepted agricultural and management practices under the Michigan Right to Farm Act.

FISCAL IMPLICATIONS:

The Department of Agriculture says neither bill would affect local budget expenditures and that House Bill 4318 would have no state fiscal implications. The department, however, says House Bill 4297 could have minimal fiscal implications for the department depending on any increased reporting of agriculture-related hazardous releases to the department--rather than the DNR--under the bill, which might require an adjustment in staff levels. (7-11-95)

ARGUMENTS:

For:

Certain crop by-products as well as aquatic plants, which have uses that could benefit agriculture, are not used regularly because they are subject to solid

waste management regulations. The bills would permit fruit, vegetable, or field crop residuals or processing by-products and aquatic plants to be used for agricultural purposes or animal feed without the persons' using these materials having to obtain a management plan, permit or license as long as these uses complied with generally accepted agricultural and management practices under the Michigan Right to Farm Act. Thus, seaweed that washed up on the shores of Lake St. Clair last summer, for example, could be used as an agricultural fertilizer, instead of merely being disposed of in a landfill.

For:

The Senate added language to House Bill 4297 specifying that a "release" would not include the application of the various substances (e.g., fruits, vegetables, and the like) that could be applied as fertilizer or used as feed under the bill, as long as the substance in question was applied according to generally accepted agricultural and management practices. This would simply offer farmers assurances that they could use the substances specified, and in the manner spelled out in the bills, without being held liable for an illegal release into the environment. Also, language was added to the bill similar to that found in another section of the act to clarify that it would be the Department of Agriculture's responsibility (rather than the DNR's) to respond to the release of substances that it regulates, and that its response activity would have to be consistent with activities it is currently authorized to perform relative to the release of agricultural substances into ground water and fresh water.