

# SENATE BILL No. 902

November 8, 2007, Introduced by Senators GEORGE, RICHARDVILLE, KAHN, BIRKHOLZ, BROWN, PAPPAGEORGE, GLEASON, JANSEN and HARDIMAN and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11507a, 11526a, 11549, and 11550 (MCL 324.11507a, 324.11526a, 324.11549, and 324.11550), section 11507a as amended by 2004 PA 39, section 11526a as added by 2004 PA 40, section 11549 as amended by 2006 PA 58, and section 11550 as amended by 2003 PA 153.

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

1           Sec. 11507a. (1) The owner or operator of a landfill **OR A**  
 2 **MATERIAL RECOVERY FACILITY, TRANSFER STATION, OR OTHER FACILITY**  
 3 **THAT PROCESSES WASTE UNDER SECTION 11526A(2)(B)** shall annually  
 4 submit a report to the state and the county and municipality in  
 5 which the landfill **OR OTHER FACILITY** is located that contains  
 6 information on the amount of solid waste received ~~by the landfill~~

1 during the year itemized, to the extent possible, by county, state,  
2 or country of origin. ~~and~~ **A REPORT SUBMITTED BY A LANDFILL UNDER**  
3 **THIS SUBSECTION SHALL ALSO INCLUDE** the amount of remaining disposal  
4 capacity at the landfill. Remaining disposal capacity shall be  
5 calculated as the permitted capacity less waste in place for any  
6 area that has been constructed and is not yet closed plus the  
7 permitted capacity for each area that has a permit for construction  
8 under this part but has not yet been constructed. The report shall  
9 be submitted on a form provided by the department within 45 days  
10 following the end of each state fiscal year.

11 (2) By January 31 of each year, the department shall submit to  
12 the legislature a report summarizing the information obtained under  
13 subsection (1).

14 Sec. 11526a. (1) ~~Beginning October 1, 2004, in order to~~  
15 ~~protect the public health, safety, and welfare and the environment~~  
16 ~~of this state from the improper disposal of waste that is~~  
17 ~~prohibited from disposal in a landfill, and in recognition that the~~  
18 **THE** nature of solid waste collection and transport limits the  
19 ability of the state to conduct cost effective inspections to  
20 ensure compliance with state law. ~~the~~ **THE PURPOSE OF THIS SECTION**  
21 **IS TO DO ALL OF THE FOLLOWING:**

22 (A) **PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE AND THE**  
23 **ENVIRONMENT OF THIS STATE FROM THE IMPROPER DISPOSAL OF WASTE THAT**  
24 **IS PROHIBITED FROM DISPOSAL IN A LANDFILL.**

25 (B) **FACILITATE THE INSPECTION OF SOLID WASTE THAT, UNLIKE**  
26 **SOLID WASTE GENERATED IN THIS STATE OR JURISDICTIONS DESCRIBED IN**  
27 **SUBSECTION (2) (B), CANNOT BE PRESUMED TO MEET THE REQUIREMENTS FOR**

1 DISPOSAL IN A LANDFILL UNDER SECTION 11514.

2 (C) PROMOTE RECYCLING.

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

7 (a) The solid waste is composed of a uniform type of item,  
8 material, or substance, other than municipal solid waste  
9 incinerator ash, that meets the requirements for disposal in a  
10 landfill ~~under this part and the rules promulgated under this part~~  
11 SECTION 11514 AND THE PERSON TRANSPORTING THE SOLID WASTE PROVIDES  
12 THE OWNER OR OPERATOR OF THE LANDFILL WITH A CERTIFICATE TO THAT  
13 EFFECT. THE CERTIFICATE SHALL BE ON A FORM APPROVED BY THE  
14 DEPARTMENT AND SHALL BE SIGNED BY AN AUTHORIZED AGENT OF THE  
15 GENERATOR. THE OWNER OR OPERATOR OF THE LANDFILL SHALL CERTIFY ON  
16 THE FORM ITS RECEIPT OF THE SOLID WASTE AND MAINTAIN A COPY OF THE  
17 FORM AVAILABLE FOR INSPECTION BY THE DEPARTMENT FOR 6 YEARS.

18 (b) The solid waste was received through a material recovery  
19 facility, a transfer station, or other facility **LOCATED IN THIS**  
20 **STATE** ~~that has documented that it has~~ removed from the solid waste  
21 being delivered to the landfill those items that are prohibited  
22 from disposal in a landfill **UNDER SECTION 11514 AND THE PERSON**  
23 **TRANSPORTING THE SOLID WASTE PROVIDES THE OWNER OR OPERATOR OF THE**  
24 **LANDFILL WITH A CERTIFICATE TO THAT EFFECT. THE CERTIFICATE SHALL**  
25 **BE ON A FORM APPROVED BY THE DEPARTMENT AND SHALL BE SIGNED BY AN**  
26 **AUTHORIZED AGENT OF THE MATERIAL RECOVERY FACILITY, TRANSFER**  
27 **STATION, OR OTHER FACILITY. THE OWNER OR OPERATOR OF THE LANDFILL**

1 SHALL CERTIFY ON THE FORM ITS RECEIPT OF THE SOLID WASTE AND  
2 MAINTAIN A COPY OF THE FORM AVAILABLE FOR INSPECTION BY THE  
3 DEPARTMENT FOR 6 YEARS. PREPARING A FALSE DOCUMENT UNDER THIS  
4 SUBDIVISION KNOWING THAT IT IS FALSE IS A VIOLATION OF THIS PART.

5 (c) The country, state, province, or local jurisdiction in  
6 which the solid waste was generated is approved by the department  
7 for inclusion on the list compiled by the department under section  
8 11526b.

9 (3) THE DEPARTMENT SHALL INSPECT EACH FACILITY DESCRIBED IN  
10 SUBSECTION (2) (B) THAT RECEIVES SOLID WASTE GENERATED OUTSIDE OF  
11 THIS STATE AS FREQUENTLY AS PRACTICAL TO ENSURE COMPLIANCE WITH  
12 THIS PART AND THE RULES PROMULGATED UNDER THIS PART. THE INSPECTION  
13 SHALL INCLUDE SOLID WASTE GENERATED OUTSIDE OF THIS STATE AND  
14 PRESENT AT THE FACILITY. IF SOLID WASTE DOES NOT MEET THE  
15 REQUIREMENTS OF THIS PART AFTER BEING PROCESSED AT SUCH A FACILITY,  
16 THE DEPARTMENT SHALL ORDER THAT THE WASTE BE REPROCESSED OR  
17 RETURNED TO THE STATE OR COUNTRY IN WHICH IT WAS GENERATED, AT THE  
18 EXPENSE OF THE PERSON TRANSPORTING THE SOLID WASTE.

19 (4) A PROCESSING INSPECTION FEE OF \$5.00 PER TON OR \$1.67 PER  
20 CUBIC YARD OF SOLID WASTE GENERATED OUTSIDE OF THIS STATE AND  
21 PROCESSED AT THE FACILITY IS IMPOSED ON EACH FACILITY DESCRIBED IN  
22 SUBSECTION (2) (B). WITHIN 30 DAYS AFTER THE END OF EACH STATE  
23 FISCAL QUARTER, A FACILITY DESCRIBED IN SUBSECTION (2) (B) SHALL PAY  
24 THE DEPARTMENT ANY PROCESSING INSPECTION FEE OWED. THE DEPARTMENT  
25 SHALL FORWARD PROCESSING INSPECTION FEES COLLECTED UNDER THIS  
26 SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE PROCESSING  
27 INSPECTION ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND ESTABLISHED

1 IN SECTION 11550. THE PROCESSING INSPECTION FEE IS IN ADDITION TO  
2 ANY OTHER FEE REQUIRED BY THIS PART.

3 (5) ~~(2)~~—Notwithstanding section 11538 or any other provision  
4 of this part, if there is sufficient disposal capacity for a  
5 county's disposal needs in or within 150 miles of the county, all  
6 of the following apply:

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

9 (b) An interim siting mechanism shall not become operative in  
10 the county unless the county board of commissioners determines  
11 otherwise.

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

14 Sec. 11549. (1) A person who violates this part, a rule  
15 promulgated under this part, or a condition of a permit, license,  
16 or final order issued pursuant to this part is guilty of a  
17 misdemeanor punishable by a fine of not more than \$1,000.00 for  
18 each violation and costs of prosecution and, if in default of  
19 payment of fine and costs, imprisonment for not more than 6 months.

20 (2) A person who knowingly violates section 11526e is guilty  
21 of a felony punishable by imprisonment for not more than 2 years or  
22 a fine of not more than \$5,000.00, or both.

23 (3) Each day upon which a violation described in this section  
24 occurs is a separate offense.

25 (4) **PREPARING A FALSE DOCUMENT UNDER THIS PART, KNOWING THAT**  
26 **IT IS FALSE, IS A VIOLATION OF THIS PART.**

27 Sec. 11550. (1) The solid waste management fund is created

1 within the state treasury. The state treasurer may receive money  
2 from any source for deposit into the fund. The state treasurer  
3 shall direct the investment of the fund. The state treasurer shall  
4 credit to the fund interest and earnings from fund investments.

5 (2) Money in the solid waste management fund at the close of  
6 the fiscal year shall remain in the fund and shall not lapse to the  
7 general fund.

8 (3) The state treasurer shall establish, within the solid  
9 waste management fund, a solid waste staff account, ~~and a perpetual~~  
10 care account, **AND A PROCESSING INSPECTION ACCOUNT.**

11 (4) **THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE SOLID**  
12 **WASTE MANAGEMENT FUND FOR AUDITING PURPOSES.**

13 (5) ~~(4)~~ Money shall be expended from the solid waste staff  
14 account, upon appropriation, only for the following purposes:

15 (a) Preparing generally applicable guidance regarding the  
16 solid waste permit and license program or its implementation or  
17 enforcement.

18 (b) Reviewing and acting on any application for a permit or  
19 license, permit or license revision, or permit or license renewal,  
20 including the cost of public notice and public hearings.

21 (c) Performing an advisory analysis under section 11510(1).

22 (d) General administrative costs of running the permit and  
23 license program, including permit and license tracking and data  
24 entry.

25 (e) Inspection of licensed disposal areas and open dumps.

26 (f) Implementing and enforcing the conditions of any permit or  
27 license.

1 (g) Groundwater monitoring audits at disposal areas ~~which~~**THAT**  
2 are or have been licensed under this part.

3 (h) Reviewing and acting upon corrective action plans for  
4 disposal areas ~~which~~**THAT** are or have been licensed under this  
5 part.

6 (i) Review of certifications of closure.

7 (j) Postclosure maintenance and monitoring inspections and  
8 review.

9 (k) Review of bonds and financial assurance documentation at  
10 disposal areas ~~which~~**THAT** are or have been licensed under this  
11 part.

12 (6) ~~(5)~~ Money shall be expended from the perpetual care  
13 account, **UPON APPROPRIATION**, only for the purpose of conducting the  
14 following activities at disposal areas ~~which~~**THAT** are or have been  
15 licensed under this part:

16 (a) Postclosure maintenance and monitoring at a disposal area  
17 ~~where~~**IF** the owner or operator is no longer required to do so.

18 (b) To conduct closure, or postclosure maintenance and  
19 monitoring and corrective action if necessary, at a disposal area  
20 ~~where~~**IF** the owner or operator has failed to do so. Money shall be  
21 expended from the account only after funds from any perpetual care  
22 fund or other financial assurance mechanisms held by the owner or  
23 operator have been expended and the department has ~~used~~**MADE**  
24 reasonable efforts to obtain funding from other sources.

25 (7) **MONEY SHALL BE EXPENDED FROM THE PROCESSING INSPECTION**  
26 **ACCOUNT, UPON APPROPRIATION, ONLY FOR SOLID WASTE INSPECTIONS UNDER**  
27 **SECTION 11526A(3) AND ENFORCEMENT ACTIONS RESULTING FROM THE**

1 **INSPECTIONS.**

2 (8) ~~(6)~~—By March 1 annually, the department shall prepare and  
3 submit to the governor, the legislature, the chairs of the standing  
4 committees of the senate and house of representatives with primary  
5 responsibility for issues related to natural resources and the  
6 environment, and the chairs of the subcommittees of the senate and  
7 house appropriations committees with primary responsibility for  
8 appropriations to the department a report that details the  
9 activities of the previous fiscal year funded by the staff account  
10 **OR THE PROCESSING INSPECTION ACCOUNT** of the solid waste management  
11 fund established in this section. ~~This report~~

12 (9) **AS TO ACTIVITIES FUNDED BY THE STAFF ACCOUNT OF THE SOLID**  
13 **WASTE MANAGEMENT FUND, THE REPORT UNDER SUBSECTION (8)** shall  
14 include, at a minimum, ~~all~~**EACH** of the following as it relates to  
15 the department:

16 (a) The number of full-time equated positions performing solid  
17 waste management permitting, compliance, and enforcement  
18 activities.

19 (b) All of the following information related to the  
20 construction permit applications received under section 11509:

21 (i) The number of applications received by the department,  
22 reported as the number of applications determined to be  
23 administratively incomplete and the number determined to be  
24 administratively complete.

25 (ii) The number of applications determined to be  
26 administratively complete for which a final action was taken by the  
27 department. The number of final actions shall be reported as the



1 number of applications approved, the number of applications denied,  
2 and the number of applications withdrawn by the applicant.

3 (iii) The percentage and number of applications determined to be  
4 administratively complete for which a final decision was made  
5 within ~~120 days of receipt as required by section 11511~~ **THE**  
6 **PROCESSING PERIOD SPECIFIED IN SECTION 1301.**

7 (c) All of the following information related to the operating  
8 license applications received under section 11512:

9 (i) The number of applications received by the department,  
10 reported as the number of applications determined to be  
11 administratively incomplete and the number determined to be  
12 administratively complete.

13 (ii) The number of applications determined to be  
14 administratively complete for which a final action was taken by the  
15 department. The number of final actions shall be reported as the  
16 number of applications approved, the number of applications denied,  
17 and the number of applications withdrawn by the applicant.

18 (iii) The percentage and number of applications determined to be  
19 administratively complete for which a final decision was made  
20 within ~~90 days of receipt as required by section 11516~~ **THE**  
21 **PROCESSING PERIOD SPECIFIED IN SECTION 1301.**

22 (d) The number of inspections conducted at licensed disposal  
23 areas as required by section 11519.

24 (e) The number of letters of warning sent to licensed disposal  
25 areas.

26 (f) The number of contested case hearings and civil actions  
27 initiated and completed, the number of voluntary consent orders and

1 administrative orders entered or issued, and the amount of fines  
2 and penalties collected through such actions or orders.

3 (g) For each enforcement action that includes a penalty, a  
4 description of what corrective actions were required by the  
5 enforcement action.

6 (h) The number of solid waste complaints received,  
7 investigated, resolved, and not resolved by the department.

8 (i) The amount of revenue in the staff account of the solid  
9 waste management fund at the end of the fiscal year.

10 (10) AS TO ACTIVITIES FUNDED BY THE PROCESSING INSPECTION  
11 ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND, THE REPORT UNDER  
12 SUBSECTION (8) SHALL INCLUDE, AT A MINIMUM, EACH OF THE FOLLOWING  
13 AS IT RELATES TO THE DEPARTMENT:

14 (A) THE NUMBER OF INSPECTIONS CONDUCTED UNDER SECTION  
15 11526A(3).

16 (B) THE TOTAL AMOUNT OF WASTE INSPECTED UNDER SECTION  
17 11526A(3).

18 (C) THE NUMBER OF INSPECTIONS THAT IDENTIFIED ITEMS OR  
19 MATERIALS PROHIBITED FROM DISPOSAL IN A LANDFILL UNDER SECTION  
20 11514, THE ITEMS OR MATERIALS IDENTIFIED, THE APPROXIMATE NUMBER OR  
21 AMOUNT OF THOSE ITEMS OR MATERIALS, THE STATES OR PROVINCES WHERE  
22 THOSE MATERIALS WERE GENERATED, AND THE AMOUNT OF SOLID WASTE  
23 RETURNED TO THE STATE OR PROVINCE IN WHICH IT WAS GENERATED.

24 (D) THE NUMBER OF WARNING LETTERS SENT AS A RESULT OF  
25 INSPECTIONS UNDER SECTION 11526A(3).

26 (E) THE INFORMATION REQUIRED BY SUBSECTION (9)(F) AND (G).