

HOUSE BILL No. 4825

August 18, 2015, Introduced by Rep. Lucido and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11521 and 11546 (MCL 324.11521 and 324.11546),
section 11521 as added by 2007 PA 212 and section 11546 as amended
by 2006 PA 56.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11521. (1) Yard clippings shall be managed by 1 of the
2 following means:

3 (a) Composted on the property where the yard clippings are
4 generated.

5 (b) Temporarily accumulated under subsection (2).

6 (c) Composted at a composting facility containing not more
7 than 200 cubic yards of yard clippings if decomposition occurs
8 without creating a nuisance.

9 (d) Composted on a farm as described by subsection (3).

1 (e) Composted at **A** site that qualifies as a registered
2 composting facility under subsection (4). **THE REQUIREMENTS FOR A**
3 **REGISTERED COMPOSTING FACILITY UNDER SUBSECTION (4) ARE MINIMUM**
4 **STANDARDS, AND ANY MUNICIPALITY, BY ORDINANCE, MAY IMPOSE STRICTER**
5 **REQUIREMENTS.**

6 (f) Decomposed in a controlled manner using a closed container
7 to create and maintain anaerobic conditions if in compliance with
8 part 55 and otherwise approved by the director under this part.

9 (g) Composted and used as part of normal operations by a
10 municipal solid waste landfill if the composting and use meet all
11 of the following requirements:

12 (i) Take place on property described in the landfill
13 construction permit.

14 (ii) Are described in and consistent with the landfill
15 operation plans.

16 (iii) Are otherwise in compliance with this act.

17 (h) Processed at a processing plant in accordance with this
18 part and the rules promulgated under this part.

19 (i) Disposed of in a landfill or an incinerator, but only if
20 the yard clippings are diseased or infested or are composed of
21 invasive plants, such as garlic mustard, purple loosestrife, or
22 spotted knapweed, that were collected through an eradication or
23 control program, include no more than a de minimis amount of other
24 yard clippings, and are inappropriate to compost.

25 (2) A person may temporarily accumulate yard clippings at a
26 site not designed for composting if all of the following
27 requirements are met:

1 (a) The accumulation does not create a nuisance or otherwise
2 result in a violation of this act.

3 (b) The yard clippings are not mixed with other compostable
4 materials.

5 (c) No more than 1,000 cubic yards are placed on site unless a
6 greater volume is approved by the department.

7 (d) Yard clippings placed on site on or after April 1 but
8 before December 1 are moved to another location and managed as
9 provided in subsection (1) within 30 days after being placed on
10 site. The director may approve a longer time period based on a
11 demonstration that additional time is necessary.

12 (e) Yard clippings placed on site on or after December 1 but
13 before the next April 1 are moved to another location and managed
14 as provided in subsection (1) by the next April 10 after the yard
15 clippings are placed on site.

16 (f) The owner or operator of the site maintains and makes
17 available to the department records necessary to demonstrate that
18 the requirements of this subsection are met.

19 (3) A person may compost yard clippings on a farm if
20 composting does not otherwise result in a violation of this act and
21 is done in accordance with generally accepted agricultural and
22 management practices under the Michigan right to farm act, 1981 PA
23 93, MCL 286.471 to 286.474, and if 1 or more of the following
24 apply:

25 (a) Only yard clippings generated on the farm are composted.

26 (b) There are not more than 5,000 cubic yards of yard
27 clippings on the farm.

1 (c) If there are more than 5,000 cubic yards of yard clippings
2 on the farm at any time, all of the following requirements are met:

3 (i) The farm operation accepts yard clippings generated at a
4 location other than the farm only to assist in management of waste
5 material generated by the farm operation.

6 (ii) The farm operation does not accept yard clippings
7 generated at a location other than the farm for monetary or other
8 valuable consideration.

9 (iii) The owner or operator of the farm registers with the
10 department of agriculture **AND RURAL DEVELOPMENT** on a form provided
11 by the department of agriculture **AND RURAL DEVELOPMENT** and
12 certifies that the farm operation meets and will continue to meet
13 the requirements of subparagraphs (i) and (ii).

14 (4) A site qualifies as a registered composting facility if
15 all of the following requirements are met:

16 (a) The owner or operator of the site registers as a
17 composting facility with the department and reports to the
18 department within 30 days after the end of each state fiscal year
19 the amount of yard clippings and other compostable material
20 composted in the previous state fiscal year. The registration and
21 reporting shall be done on forms provided by the department. The
22 registration shall be accompanied by a fee of \$600.00. The
23 registration is for a term of 3 years. Registration fees collected
24 under this subdivision shall be forwarded to the state treasurer
25 for deposit in the solid waste staff account of the solid waste
26 management fund established in section 11550.

27 (b) The site is operated in compliance with the following

1 location restrictions:

2 (i) If the site is in operation on December 1, 2007, the
3 management or storage of yard clippings, compost, and residuals
4 does not expand from its location on that date to an area that is
5 within the following distances from any of the following features:

6 (A) 50 feet from a property line.

7 (B) 200 feet from a residence.

8 (C) 100 feet from a body of surface water, including a lake,
9 stream, or wetland.

10 (ii) If the site begins operation after December 1, 2007, the
11 management or storage of yard clippings, compost, and residuals
12 occurs in an area that is not in the 100-year floodplain and is at
13 least the following distances from each of the following features:

14 (A) 50 feet from a property line.

15 (B) 200 feet from a residence.

16 (C) 100 feet from a body of surface water, including a lake,
17 stream, or wetland.

18 (D) 2,000 feet from a type I or type IIA water supply well.

19 (E) 800 feet from a type IIB or type III water supply well.

20 (F) 500 feet from a church or other house of worship,
21 hospital, nursing home, licensed day care center, or school, other
22 than a home school.

23 (G) 4 feet above groundwater.

24 (c) Composting and management of the site occurs in a manner
25 that meets all of the following requirements:

26 (i) Does not violate this act or create a facility as defined
27 in section 20101.

1 (ii) Unless approved by the department, does not result in more
2 than 5,000 cubic yards of yard clippings and other compostable
3 material, compost, and residuals present on any acre of property at
4 the site.

5 (iii) Does not result in an accumulation of yard clippings for a
6 period of over 3 years unless the site has the capacity to compost
7 the yard clippings and the owner or operator of the site can
8 demonstrate, beginning in the third year of operation and each year
9 thereafter, unless a longer time is approved by the director, that
10 the amount of yard clippings and compost that is transferred off-
11 site in a calendar year is not less than 75% by weight or volume,
12 accounting for natural volume reduction, of the amount of yard
13 clippings and compost that was on-site at the beginning of the
14 calendar year.

15 (iv) Results in finished compost with not more than 1%, by
16 weight, of foreign matter that will remain on a 4 millimeter
17 screen.

18 (v) If yard clippings are collected in bags other than paper
19 bags, debags the yard clippings by the end of each business day.

20 (vi) Prevents the pooling of water by maintaining proper slopes
21 and grades.

22 (vii) Properly manages storm water runoff.

23 (viii) Does not attract or harbor rodents or other vectors.

24 (d) The owner or operator maintains, and makes available to
25 the department, all of the following records:

26 (i) Records identifying the volume of yard clippings and other
27 compostable material accepted by the facility and the volume of

1 yard clippings and other compostable material and of compost
2 transferred off-site each month.

3 (ii) Records demonstrating that the composting operation is
4 being performed in a manner that prevents nuisances and minimizes
5 anaerobic conditions. Unless other records are approved by the
6 department, these records shall include records of carbon-to-
7 nitrogen ratios, the amount of leaves and the amount of grass in
8 tons or cubic yards, temperature readings, moisture content
9 readings, and lab analysis of finished products.

10 (5) A site at which yard clippings are managed in accordance
11 with this section, other than a site described in subsection
12 (1)(g), (h) or (i), is not a disposal area, notwithstanding section
13 11503(5).

14 (6) Except with respect to subsection (1)(h) and (i),
15 management of yard clippings in accordance with this section is not
16 considered disposal for purposes of section 11538(6).

17 Sec. 11546. (1) The department or a health officer may request
18 that the attorney general bring an action in the name of the people
19 of ~~the~~**THIS** state, or a municipality or county may bring an action
20 based on facts arising within its boundaries, for any appropriate
21 relief, including injunctive relief, for a violation of this part
22 or rules promulgated under this part. **THE COURT SHALL AWARD COURT**
23 **COSTS AND OTHER EXPENSES OF LITIGATION INCLUDING ATTORNEY FEES TO A**
24 **MUNICIPALITY THAT PREVAILS IN AN ACTION FOR INJUNCTIVE RELIEF**
25 **BROUGHT BY THE MUNICIPALITY UNDER THIS SUBSECTION.**

26 (2) In addition to any other relief provided by this section,
27 the court may impose on any person who violates ~~any provision of~~

1 this part or rules promulgated under this part or who fails to
2 comply with any permit, license, or final order issued pursuant to
3 this part a civil fine as follows:

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

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

8 (3) In addition to any other relief provided by this section,
9 the court may order a person who violates this part or the rules
10 promulgated under this part to restore, or to pay to ~~the~~**THIS** state
11 an amount equal to the cost of restoring, the natural resources of
12 this state affected by the violation to their original condition
13 before the violation, and to pay to ~~the~~**THIS** state the costs of
14 surveillance and enforcement incurred by ~~the~~**THIS** state as a result
15 of the violation.

16 (4) In addition to any other relief provided by this section,
17 the court shall order a person who violates section 11526e to
18 return, or to pay to ~~the~~**THIS** state an amount equal to the cost of
19 returning, the solid waste that is the subject of the violation to
20 the country in which that waste was generated.

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

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.