



SENATE BILL No. 313

February 21, 1995, Introduced by Senators A. SMITH, PETERS and YOUNG and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to provide for the regulation and management of certain compostable materials; to prescribe the powers and duties of certain state and local agencies and officials; to authorize certain fees; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "yard clippings management act".

3 Sec. 2. As used in this act, the words and phrases defined
4 in sections 3 and 4 have the meanings ascribed to them in those
5 sections.

6 Sec. 3. (1) "Aerobic" means an environment where the bio-
7 logical decomposition of organic materials is freely exposed to
8 oxygen and little offensive odor is produced.

9 (2) "Agronomic rate" means application of yard clippings or
10 compost materials in a manner that provides the nitrogen or other

1 nutrient needs of a crop, but does not overload the soil with
2 nutrients or metals that may eventually leach, limit crop growth,
3 or adversely impact soil quality, and is consistent with the
4 "generally accepted agricultural and management practices for
5 nutrient utilization" as reviewed annually by the commission of
6 agriculture and revised as necessary pursuant to the Michigan
7 right to farm act, Act No. 93 of the Public Acts of 1981, being
8 sections 286.471 to 286.474 of the Michigan Compiled Laws.

9 (3) "Anaerobic" means an environment where the biological
10 decomposition of organic materials is not freely exposed to
11 oxygen, and hydrogen sulfide, ammonia-like compounds, and other
12 compounds with offensive odors may be produced.

13 (4) "Bond" means a surety bond from a surety company autho-
14 rized to transact business in this state, a certificate of depos-
15 it, a cash bond, or an irrevocable letter of credit.

16 (5) "Carbonaceous yard clippings" means that portion of the
17 yard clipping stream that has high carbon content, including, but
18 not limited to, leaves, straw, hay, wood chips, sawdust, corn-
19 stalks, or unpainted Christmas trees.

20 (6) "Closure" means the permanent termination or abandonment
21 of all composting or other related activities on the site of a
22 compost facility.

23 (7) "Compost facility" or "facility" means a yard clipping
24 management area that has on location or is processing 1,500 cubic
25 yards or more annually of yard clippings where the yard clippings
26 are processed using aerobic composting technology that may

1 include physical turning, windrowing, aeration, static piles, or
2 other mechanical handling of organic matter.

3 (8) "Composting" means the process by which biological
4 decomposing of organic solid matter is carried out under con-
5 trolled aerobic conditions and which stabilizes the organic frac-
6 tion into a material that can easily and safely be stored, han-
7 dled, and used in an environmentally acceptable manner.

8 Composting may include the presence of limited anaerobic zones
9 within the material.

10 (9) "Curing" means the last stage of composting that occurs
11 after much of the readily metabolized material has decomposed.
12 Curing provides for additional stabilization by soil-dwelling
13 microorganisms.

14 (10) "Department" means the department of natural
15 resources.

16 (11) "Farm" means land, buildings, and machinery used in the
17 production of farm products.

18 (12) "High volume compost facility" means a location that
19 receives 50,000 or more cubic yards of yard clippings annually.

20 Sec. 4. (1) "Leachate" from compost means the liquid that
21 has come in contact with or percolated through yard clippings and
22 contains extracted, dissolved, or suspended material.

23 (2) "Local unit of government" means a county, city, town-
24 ship, or village.

25 (3) "Low volume compost facility" means a location that
26 receives between 1,500 cubic yards and 10,000 cubic yards of yard
27 clippings annually.

1 (4) "Medium volume compost facility" means a location that
2 receives between 10,001 and 50,000 cubic yards of yard clippings
3 annually.

4 (5) "Nitrogenous yard clippings" means that portion of the
5 yard clippings stream that has high nitrogen content including,
6 but not limited to, grass clippings or other typically green
7 material.

8 (6) "Operator" means the person responsible for the opera-
9 tion or management of a compost facility.

10 (7) "Owner" means a person who holds an ownership interest
11 in the property on which composting occurs.

12 (8) "Permit" means a permit issued by the department or a
13 local unit of government authorized to issue permits under this
14 act to construct or operate a medium or high volume compost
15 facility.

16 (9) "Permitting authority" means the department or a local
17 unit of government authorized to issue permits under this act.

18 (10) "Person" means an individual, partnership, corporation,
19 association, governmental entity, or other entity.

20 (11) "Windrow" means the arrangement of compostables in rows
21 to facilitate and maximize the process of aerobic composting.

22 (12) "Wood" or "wood chips" means wood and wooden products
23 that have not been painted, treated, stained, contaminated, or
24 finished in any way, including, but not limited to, pallets and
25 lumber.

26 (13) "Yard clippings" means leaves, grass clippings,
27 vegetable or other garden debris, shrubbery, brush or tree

1 trimmings less than 4 feet in length and 2 inches in diameter, or
2 woodchips that can be converted to compost humus. Yard clippings
3 do not include stumps, agricultural wastes, animal waste, roots,
4 sewage sludge, or garbage.

5 Sec. 5. (1) The department is responsible for implementing
6 this act but may delegate all or any portion of its authority to
7 a local unit of government that applies for authority to imple-
8 ment the permitting, regulatory, and enforcement provisions of
9 this act within the boundaries of the local unit of government.

10 (2) A local unit of government shall not pass an ordinance
11 or otherwise manage compost facilities within its jurisdiction in
12 a manner that is more restrictive than provided in this act.

13 Sec. 6. (1) Except as otherwise provided in this section,
14 yard clippings shall be processed in a compost facility estab-
15 lished pursuant to this act.

16 (2) The requirement of subsection (1) does not apply to any
17 of the following that do not cause a nuisance:

18 (a) A location that receives less than 1,500 cubic yards of
19 yard clippings annually, of which not more than 30% are nitroge-
20 nous yard clippings by volume.

21 (b) A location where yard clippings are directly applied to
22 agricultural lands at agronomic rates.

23 (c) A farm or commercial or residential location where only
24 yard clippings generated at that location are managed within the
25 boundaries of that location.

26 (d) A composting pilot project conducted for scientific
27 research with an accredited university or college.

1 Sec. 7. (1) A person shall not construct or operate a
2 medium or high volume compost facility in this state unless the
3 compost facility applies for and obtains a permit from a permit-
4 ting authority issued pursuant to this act. A person shall not
5 construct or operate a low volume compost facility unless the
6 person complies with section 10 and all other applicable sections
7 of this act.

8 (2) The application for a permit shall contain the name and
9 residence of the applicant, the property owner, the operator, and
10 the location of the proposed or existing compost facility.

11 (3) In addition to the requirements of subsection (2), an
12 application for a high or medium volume compost facility shall,
13 at a minimum, include all of the following:

14 (a) A design plan that includes all of the following:

15 (i) A vicinity map at a scale of not less than 1:1,200 with
16 the proposed facility centered in and depicting an area of not
17 less than 1 mile from the facility boundaries, clearly indicating
18 the zoning and land uses.

19 (ii) A complete set of engineering plans that indicate ini-
20 tial and permanent roads; buildings and equipment to be
21 installed; fences, gates, and berms; landscaping; and sewer and
22 water lines, including the location of fire hydrants.

23 (iii) Topographic map detail with maximum 2-foot contour
24 intervals, a written legal description, and a site boundary map.

25 (iv) Details of a permanent method of runoff collection and
26 detention basin storage including drainage patterns, ditching,
27 and basin design calculations.

1 (v) Site plan showing dimensions and details of the proposed
2 receiving, processing, production, curing, and storage areas.

3 (b) An operations plan that includes the following:

4 (i) A description of the anticipated quantity and variation
5 throughout the year in which yard clippings are received with
6 contractual commitments if available; including documentation
7 that carbonaceous yard clippings are on site prior to later
8 introduction of nitrogenous yard clippings; a description of how
9 yard clippings will be processed, for example, tilled into the
10 ground or formed into windrows; description of how material that
11 will be removed from bags or other containers, if applicable; and
12 what monitoring will be performed and at what frequency.

13 (ii) Methods for weighing or measuring, or both, the volume
14 of incoming material and a statement of the expected
15 carbon-to-nitrogen ratios.

16 (iii) Methods to control the types of material received,
17 such as inspection procedures.

18 (iv) Methods for removing and recovering for recycling or
19 disposing of noncompostable wastes from the incoming yard
20 clippings.

21 (v) Methods to control traffic and to expedite unloading.

22 (vi) Methods to minimize, manage, and monitor odors.

23 (vii) Leachate and storm water control measures.

24 (viii) Vector, dust, and litter control measures.

25 (ix) Plans for marketing the finished compost.

26 (c) A contingency abatement plan as described in section 8.

1 (d) Proof of compliance with all local requirements.

2 (e) A 1-time nonrefundable application fee of \$3,500.00 for
3 a high volume facility and \$2,500.00 for a medium volume
4 facility. To expand from a low to a medium volume facility, or
5 from a medium to a high volume facility, a new permit must first
6 be obtained from the department, subject to the requirements set
7 forth herein.

8 (4) A permitting authority shall make a final decision as to
9 whether to issue a permit for a compost facility within 90 days
10 after the permitting authority receives an administratively com-
11 plete application. If the permitting authority fails to make a
12 final decision within 90 days, the permit shall be considered
13 issued.

14 (5) A permitting authority may provide for renewable
15 permits. A renewable permit shall be issued for a period of at
16 least 5 years. A permitting authority may revoke a permit or
17 deny a renewal permit application after providing the permit
18 holder with due notice if the facility has failed to abate a
19 nuisance.

20 (6) The permitting authority may require the posting of a
21 performance bond or other financial mechanism adequate to address
22 potential remediation expenses and closure costs. The bond or
23 other financial mechanism may be waived after a period of contin-
24 uous operation without significant complaints.

25 Sec. 8. In addition to the requirements of section 7, prior
26 to commencement of the operation of a compost facility, the
27 operator shall develop a written contingency abatement plan to

1 provide for corrections of any operational deficiencies that may
2 occur at the facility. The plan shall, at a minimum, specify all
3 of the following:

4 (a) Identification of supervisory personnel responsible for
5 putting the abatement plan into effect and the method by which
6 supervisory personnel may be contacted. This information shall
7 be posted on the site.

8 (b) Method by which incoming material will be halted, han-
9 dled, or directed to an alternate facility.

10 (c) Mechanisms by which offending odors, contaminated runoff
11 or other leachate, or other operational deficiencies will be
12 eliminated, including all of the following:

13 (i) Correcting available carbon-to-nitrogen ratio.

14 (ii) Adjusting moisture content.

15 (iii) Increasing oxygen concentration.

16 (iv) Maintaining sufficient temperature during active
17 composting.

18 (v) Maintaining a proper pH balance.

19 (d) Criteria and method by which routine operations will
20 recommence.

21 Sec. 9. (1) Any composting facility operating pursuant to
22 this act shall assess a tipping fee of 25 cents per yard of yard
23 clippings received at the facility. This fee shall be forwarded
24 to the department for deposit in the composting education fund.

25 (2) The department shall deposit money received pursuant to
26 subsection (1) in the composting education fund, which is hereby
27 created within the department of treasury. The state treasurer

1 shall direct the investment of the fund. The state treasurer
2 shall credit to the fund interest and earnings from fund
3 investments. Money in the fund shall remain in the fund at the
4 close of the fiscal year and shall not revert to the general
5 fund. The composting education fund shall consist of payments
6 pursuant to subsection (1) and any other funds appropriated by
7 the legislature. The department shall expend money from the fund
8 to provide public education about composting and technical
9 assistance to composting facility operators and for the adminis-
10 tration of this act and to reimburse local units of government
11 that serve as permitting authorities within their jurisdiction.

12 Sec. 10. A low volume compost facility shall file all of
13 the following with the department:

14 (a) Proof of compliance with all relevant local
15 requirements.

16 (b) All of the information required under section 7(2) and
17 (3)(a)(i). However, plans required under section 7(3)(ii) do not
18 need to be prepared by an engineer.

19 (c) A certification by the owner or operator that the facil-
20 ity will operate in full compliance with this act.

21 Sec. 11. (1) A compost facility shall comply with all of
22 the following isolation distances:

23 (a) The materials storage, curing, processing, and compost-
24 ing areas of a compost facility shall not be located within any
25 of the following:

26 (i) A 100-year floodplain.

1 (ii) 100 feet of a flowing or intermittent creek, stream, or
2 lake.

3 (iii) 100 feet of a private water supply well or noncommu-
4 nity water supply well.

5 (iv) 200 feet of a community water supply well.

6 (v) 100 feet of a wetland.

7 (vi) An area with the highest seasonal water table within 4
8 feet of final grade unless the facility utilizes an impermeable
9 pad.

10 (b) The materials storage, curing, processing, and compost-
11 ing areas of all compost facilities shall be located in compli-
12 ance with wellhead protection area provisions provided for in the
13 safe drinking water act, Act No. 399 of the Public Acts of 1976,
14 being sections 325.1001 to 325.1023 of the Michigan Compiled
15 Laws.

16 (c) Composting, storage, transfer, or loading activities at
17 a compost facility shall be located in compliance with the
18 following:

19 (i) A high volume compost facility shall maintain an isola-
20 tion distance of at least 800 feet from the nearest property line
21 of each residence, school, hospital, or nursing home.

22 (ii) A medium volume compost facility shall maintain an iso-
23 lation distance of at least 600 feet from the nearest property
24 line of each residence, school, hospital, or nursing home.

25 (iii) A low volume compost facility shall maintain an isola-
26 tion distance of at least 450 feet from the nearest property line
27 of each residence, school, hospital, or nursing home.

1 (d) For conventional open windrow composting, a compost
2 facility shall include at a minimum 1 acre of composting or
3 curing pad land for every 5,000 cubic yards of material on site.

4 (e) A compost facility shall retain wooded vegetation strips
5 on its perimeters to visually isolate the facility from residen-
6 tial and commercial sites and dissipate any impact of odors.

7 (f) All site access roads for vehicles bringing compostables
8 to a compost facility shall be approved by the county road com-
9 mission for the county in which the facility is located.

10 (2) Upon receipt of a site-specific request, a local zoning
11 authority may reduce isolation distances depending upon the
12 volume and carbon-to-nitrogen ratio of material to be processed,
13 and procedures and composting technology utilized.

14 (3) The owner or operator of a compost facility shall test
15 the final product of the facility at least annually for heavy
16 metals and organic chemicals to ensure it is suitable for its
17 intended purpose.

18 (4) The department shall develop guidelines for grades of
19 finished compost materials.

20 Sec. 13. A compost facility shall meet all of the following
21 accessibility and surface condition specifications, and facility
22 operation requirements or the equivalents to these
23 specifications:

24 (a) Year-round accessibility to all storage, curing, pro-
25 cessing, and composting areas of a compost facility with a sur-
26 face capable of supporting rescue equipment, emergency vehicles,

1 and equipment necessary for the operation of the facility in
2 accordance with this act.

3 (b) Unless soils are sufficiently permeable not to allow
4 standing water, the site of composting activities shall be
5 located to provide all weather access and positive site
6 drainage. Access roads, windrow pads, curing pads, and other
7 weight bearing surfaces shall be capable of supporting proposed
8 facility equipment under both wet and dry conditions without
9 developing penetration allowing water accumulation. At a mini-
10 mum, the surface shall be prepared to include at least a 2% slope
11 in 1 direction and an engineered pad surface consisting of a min-
12 imum of 4 inches of compacted gravel over a compacted base
13 material.

14 (c) The site of all composting activities shall be con-
15 structed in a manner consistent with the requirements of the
16 county or local soil erosion and sedimentation control agency.

17 Sec. 14. (1) A compost facility shall operate in compliance
18 with all of the following:

19 (a) Only yard clippings and other source separated materials
20 as provided in subdivision (b) may be received, processed, com-
21 posted, cured, or stored by a facility.

22 (b) Only yard clippings shall be received in a compost
23 facility. The department may approve other source separated
24 materials to be composted at a compost facility in an aggregate
25 amount as necessary to balance the carbon and nitrogen rates, if
26 chemical, physical, or biological features do not compromise the
27 composting process or the resulting product.

1 (c) Objectionable odors are not evident for residences,
2 commercial facilities, or industrial facilities.

3 (d) Federal and state environmental protection standards and
4 criteria including, but not limited to, air and water quality
5 standards.

6 (e) The operator of a compost facility shall not allow com-
7 posted materials to accumulate for more than 3 years before being
8 removed from the site unless a longer period is approved by the
9 permitting authority or the director of the department of natural
10 resources or the director of the department of agriculture.

11 (f) An operator shall not allow debris or litter on a public
12 right-of-way or off site.

13 (g) The operator of a compost facility shall not do either
14 of the following:

15 (i) Beginning 18 months after the effective date of this
16 act, accept grass in plastic bags.

17 (ii) Beginning 3 years after the effective date of this act,
18 accept leaves in plastic bags.

19 (h) Any exterior lighting at the compost facility shall be
20 shielded or capped to minimize off-site lighting.

21 (i) Operation of the proposed compost facility shall not
22 result in noise exceeding the following levels for specified
23 adjacent land uses when measured at the common property line
24 nearest the active work area:

25	<u>Adjacent Land Use</u>	<u>Maximum Sound Level</u>
26	Residential	75 dba

1 Commercial 85 dba

2 Industrial 90 dba

3 (j) Objectionable noises due to intermittence, beat, fre-
4 quency, or shrillness shall be muffled so as not to become a nui-
5 sance to adjacent land uses.

6 (k) Access to the compost facility including delivery and
7 transfer of material shall be limited to operating hours when
8 operating personnel are on site.

9 (2) The department may promulgate rules pursuant to the
10 administrative procedures act of 1969, Act No. 306 of the Public
11 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
12 Compiled Laws.

13 Sec. 15. (1) The operator of a compost facility shall main-
14 tain and keep at 1 location business records to assist the per-
15 mitting authority in enforcing this act and protecting the public
16 health, safety, welfare, and the environment.

17 (2) The department, an agent of the department, or an agent
18 of a local unit of government that is the permitting authority in
19 the local unit of government in which a facility is located may
20 enter and inspect a location where composting is occurring or
21 where there is a reasonable belief that composting is occurring
22 anytime to determine compliance with this act or an ordinance
23 passed pursuant to this act. This right of inspection includes
24 the right to review the business records of the compost facility
25 or any other person or entity which the governmental unit reason-
26 ably believes may be operating a compost facility.

1 (3) Except in an emergency, the department or governmental
2 unit shall provide 24-hour notice prior to examination of any
3 business records.

4 (4) The compost facility operator and owner including their
5 agents and employees shall cooperate fully with the governmental
6 unit with respect to any such inspection.

7 Sec. 16. (1) At least 90 days prior to the date of planned
8 closure of any compost facility, the owner or operator shall
9 submit to the permitting authority a site closure plan that
10 includes a detailed plan as to when and how the following will be
11 accomplished:

12 (a) Removal and cleaning of all facility grounds, retention
13 ponds, and drainage areas of all compost materials, construction
14 scrap, and other material related to the operation.

15 (b) Cleaning, removal, or securing of storage of all vehi-
16 cles, equipment, and machinery.

17 (c) Cleaning of remaining structures of compost materials,
18 dust, or other residues related to the compost facility.

19 (2) Within 45 days of receiving the plan, the local unit of
20 government shall approve or disapprove the closure plan. If the
21 plan is disapproved, the permitting authority shall specifically
22 detail which portions of the plan are unacceptable, and the
23 reason it is unacceptable. If the permitting authority does not
24 approve or disapprove the plan, as required in this section, the
25 plan is approved.

1 (3) Upon completion of the closure plan, the owner and
2 operator of the compost facility shall inform the permitting
3 authority of its completion.

4 (4) Within 21 days of receiving notice of completion of the
5 closure plan, the permitting authority shall either release the
6 financial security or state the reason that the closure does not
7 comply with the approved plan.

8 Sec. 17. In addition to all of the requirements of this act
9 or an ordinance promulgated under this act, a compost facility
10 remains subject to all other requirements of federal, state, and
11 local and common law.

12 Sec. 19. A person who owns or operates a high volume or
13 medium volume compost facility that is subject to regulation
14 under this act or an ordinance promulgated pursuant to this act
15 has 18 months from the effective date of this act to meet the
16 operational requirements of this act and to submit a permit
17 application as required under section 7. A person who owns or
18 operates a low-volume compost facility shall comply with section
19 10 within 18 months of the effective date of this section.

20 Sec. 20. (1) A person may bring an action seeking injunc-
21 tive relief to compel compliance with this act after giving the
22 owner or operator of the compost facility due notice.

23 (2) In addition to any other relief provided by this sec-
24 tion, the attorney general or a local unit of government may
25 petition for the imposition of a civil fine for a knowing viola-
26 tion of this act that continues after due notice of the violation
27 as follows:

1 (a) For a low volume compost facility, \$500.00 per day of
2 violation.

3 (b) For a medium volume compost facility, \$2,500.00 per day
4 of violation.

5 (c) For a high volume compost facility, \$5,000.00 per day of
6 violation.

7 (3) In addition to any other relief provided by this sec-
8 tion, the court may order a person violating this act or the
9 rules promulgated under this act either to restore or to pay to
10 the state an amount equal to the cost of restoring the natural
11 resources of this state affected by the violation to their origi-
12 nal condition before the violation, and to pay to the state the
13 costs of surveillance and enforcement incurred by the state as a
14 result of the violation. The court also may order a facility to
15 stop receiving designated materials or categories of materials.

16 Sec. 21. The department shall establish a program to edu-
17 cate the public on the role of composting in solid waste
18 management. The program shall include specific initiatives to
19 promote reduction of yard clippings and instructional materials
20 regarding the backyard composting of yard clippings. The depart-
21 ment shall to the extent possible, utilize community groups or
22 local units of government to implement the public education
23 program.