

Act No. 299
Public Acts of 1998
Approved by the Governor
July 28, 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators McManus, Schuette, Gast and Byrum

ENROLLED SENATE BILL No. 1093

AN ACT to amend 1982 PA 239, entitled "An act to license and regulate animal food manufacturing plants, transfer stations, dead animal dealers, rendering plants, and certain vehicles; to regulate the disposal of dead animals and to provide for poultry composting; to prescribe the powers and duties of certain state departments; to impose fees; to prescribe penalties; and to repeal certain acts and parts of acts," by amending the title and sections 3, 15, 19, 21, 23, and 29 (MCL 287.653, 287.665, 287.669, 287.671, 287.673, and 287.679), the title and sections 3, 15, 19, 23, and 29 as amended by 1993 PA 228 and section 21 as amended by 1996 PA 65, and by adding section 28.

The People of the State of Michigan enact:

TITLE

An act to license and regulate animal food manufacturing plants, transfer stations, dead animal dealers, rendering plants, and certain vehicles; to regulate the disposal of dead animals and to provide for poultry and livestock composting; to prescribe powers and duties of certain state departments; to impose fees; to provide for remedies and to prescribe penalties; and to repeal acts and parts of acts.

Sec. 3. (1) "Animal" means mollusks, crustaceans, and vertebrates other than human beings.

(2) "Animal food manufacturing plant" means an establishment at which animal or pet food is produced through the slaughtering, boning, grinding, cooking, canning, or freezing of dead animals.

(3) "Composting structure" means a structure designed and built for the sole purpose of composting organic material and dead livestock and not poultry.

(4) "Dead animals" means restaurant grease and the bodies, any part of the bodies, or any material produced from the bodies of animals which have been slaughtered or have died from any other cause and are not intended for human food. Dead animals do not include a finished product which has been processed by an approved method.

(5) "Dead animal dealer" means a person that procures and transports dead animals to or from a facility licensed under this act.

(6) "Decharacterize" means a procedure that renders dead animals unfit for human consumption.

(7) "Denature" means a procedure that will impart a distinctive color, odor, or taste to dead animals so that the bodies are unfit for human consumption or cannot be used for animal or pet food unless properly rendered.

(8) "Department" means the department of agriculture.

(9) "Director" means the director of the department of agriculture or his or her authorized representative.

(10) "Facility" means any of the following:

(a) An animal food manufacturing plant.

(b) A rendering plant.

(c) A transfer station.

(11) "Livestock" means any species of animal used for human food or fiber or those species used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, bison, captive cervidae, ratites, swine, equine, aquaculture species, and rabbits.

Sec. 15. (1) Until rules are promulgated under subsection (2), a composting structure shall follow the standards contained in Michigan state university extension staff paper ANS-MIMEO #369, File No. 19.42, dated March 1998, which is incorporated by reference.

(2) The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the construction and operation of a facility licensed under this act, poultry composting structures, composting structures, and vehicles used for the transportation of dead animals. When the rules required under this subsection are promulgated, subsection (1) does not apply.

Sec. 19. (1) The director may inspect each facility and vehicle licensed under this act, and each poultry composting structure and composting structure provided for under this act as often as may be necessary to maintain the standards adopted in this act or in the rules promulgated under this act.

(2) The director may suspend or revoke a license issued under this act if a licensee violates this act or the rules promulgated under this act. The director shall conduct suspension or revocation proceedings pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The director may authorize alternative methods of composting livestock or poultry for emergency, commercial, research, or other applications.

(4) Carcasses resulting from mortality intrinsic to a livestock and poultry operation under common ownership or management may be composted in a structure together provided such structure meets the requirements of this act relative to both a composting structure and poultry composting structure and all rules applicable to each as promulgated under this act.

(5) A composting structure shall be used to compost only the normal and natural daily mortality associated with a livestock production unit under common ownership or management. Any increase in mortality, due to any cause known or unknown, shall be reported to the director immediately. No carcasses resulting from such an increase in mortality shall be added to the composting structure without permission of the director.

Sec. 21. (1) Dead animals, except if contained in a drum, barrel, or similar container, shall be transferred from 1 vehicle to another only at a licensed facility.

(2) All dead animals, except as provided in subsection (3), shall be disposed of within 24 hours after death by any of the following methods:

(a) Burial not less than 2 feet below the natural surface of the ground according to rules promulgated under this act.

(b) Burning in a location that will not annoy or constitute a nuisance to the public in compliance with part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to 324.5542. Residue from the burning process shall be disposed of by burial as provided in subdivision (a) or in a manner approved by the director.

(c) Processing at a poultry composting structure.

(d) Processing at a composting structure.

(e) Procuring the services of a licensed dead animal dealer.

(f) Procuring the services of a licensed rendering plant.

(g) Procuring the services of a licensed animal food manufacturing plant.

(3) The following dead animals are not subject to the requirements of subsection (2):

(a) Carcasses of small mammals, deer, and birds taken under the authority of a damage and nuisance animal control permit issued by the Michigan department of natural resources pursuant to part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(b) Small mammals, cervidae, and birds, that are road kill.

(c) Dead animals kept in secured temporary cold storage of 4.5 degrees Celsius, 40 degrees Fahrenheit, or below for a maximum of 7 days or frozen and securely stored at minus 11 degrees Celsius, 0 degrees Fahrenheit, or below for a maximum of 30 days.

(d) Restaurant grease.

(e) Dead animals used as specimens at educational institutions.

Sec. 23. (1) Except when transported in a vehicle meeting the requirements of rules promulgated under section 15, dead animals transported from a licensed facility to another licensed facility for production into animal or pet food shall be decharacterized or denatured and the facility shall label the container as inedible. The label also shall state both of the following:

(a) In letters not less than 3 inches high, that the material is not intended for human consumption.

(b) The name and address of the licensee.

(2) A license holder shall take all reasonable precautions to prevent the dead animals from being diverted for use as human food.

(3) Unless licensed under this act, a person shall not advertise involvement or participation in the business of transporting and disposing of dead animals.

Sec. 28. (1) A person aggrieved by an order issued by the department under this act may request an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) After notice and an opportunity for a hearing and upon a finding that a person has violated a provision of this act, the director may impose an administrative fine of not more than \$1,000.00 for each violation. If the director finds that a violation occurred despite the exercise of due care or if the violation did not result in significant harm to human health or to the environment, the director may issue a warning rather than an administrative fine.

Sec. 29. (1) A person who violates this act or a rule promulgated under this act is guilty of a misdemeanor punishable by a fine of not less than \$300.00 or imprisonment of not less than 30 days, or both.

(2) A person who is convicted of violating this act or a rule promulgated under this act 3 or more times is guilty of a felony punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(3) Any person authorized by the director to enforce the animal health laws of the state may issue an appearance ticket, as described and authorized by sections 9a to 9g of chapter 4 of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g, for any violation of this act.

(4) Notwithstanding the provisions of this act, the department may bring an action in a court of competent jurisdiction to do 1 or both of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act or a rule promulgated under this act.

(b) Obtain an injunction against a person who is engaging in, or is about to engage in, a method, act, or practice that violates this act or a rule promulgated under this act. Venue in an action brought under this subdivision is the county in which the person is engaging in, or is about to engage in, the method, act, or practice.

(5) In addition to the other actions provided for in this act, the director may bring a civil action in a court of competent jurisdiction through the department of the attorney general for the violation of this act or a rule promulgated under this act. If the court determines that a violation has occurred, the court may impose a civil fine of not more than \$5,000.00 for each violation.

(6) The director shall advise the department of the attorney general of the failure of a person to pay an administrative or civil fine imposed under this act. The department of the attorney general shall bring a civil action in a court of competent jurisdiction to recover this fine.

(7) In addition to any other defense available under law, a person may present as a defense to an administrative or civil action brought under this section and section 28 evidence that at the time of the alleged violation he or she was in compliance with this act and rules promulgated under this act.

(8) Applicable provisions of the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, apply to civil actions brought under this act.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary Beaulieu

Clerk of the House of Representatives.

Approved _____

Governor.