

HOUSE BILL No. 5599

February 7, 2002, Introduced by Reps. Kowall, Bishop, Mortimer, Raczkowski, Patterson, Howell, Hager, Stewart, Mead, Meyer, Pappageorge, Shackleton, George, Woodward, Julian, Vear, Voorhees and Kuipers and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 11526 (MCL 324.11526) and by adding sections 11526a and 11526b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11526. ~~The~~ SUBJECT TO SECTION 11526A, THE depart-

2 ment, a health officer, or a law enforcement officer of competent

3 jurisdiction may inspect a solid waste transporting unit that is

4 being used to transport solid waste along a public road to deter-

5 mine if the solid waste transporting unit is designed, main-

6 tained, and operated in a manner to prevent littering or to

7 determine if the owner or operator of the solid waste transport-

8 ing unit is performing in compliance with this part and the rules

9 promulgated under this part.

1 SEC. 11526A. (1) THE DEPARTMENT SHALL INSPECT AT THE
2 MICHIGAN BORDER EACH SOLID WASTE TRANSPORTING UNIT THAT IS BEING
3 USED TO TRANSPORT SOLID WASTE FROM CANADA ALONG A PUBLIC ROAD TO
4 DETERMINE ALL OF THE FOLLOWING:

5 (A) IF THE SOLID WASTE TRANSPORTING UNIT IS DESIGNED, MAIN-
6 TAINED, AND OPERATED IN A MANNER TO PREVENT LITTERING.

7 (B) IF THE OWNER OR OPERATOR OF THE SOLID WASTE TRANSPORTING
8 UNIT IS PERFORMING IN COMPLIANCE WITH THIS PART AND THE RULES
9 PROMULGATED UNDER THIS PART.

10 (C) IF THE SOLID WASTE OR ANY COMPONENT OF THE SOLID WASTE
11 POSES A THREAT TO THE HEALTH OR SAFETY OF THE PEOPLE OF THIS
12 STATE.

13 (2) THE DEPARTMENT SHALL CHARGE A UNIFORM FEE BASED ON THE
14 VOLUME OF THE SOLID WASTE INSPECTED UNDER SUBSECTION (1) AND SUFF-
15 FICIENT TO PAY THE REASONABLE COSTS OF INSPECTIONS UNDER THIS
16 SUBSECTION. IF THE WASTE IS MUNICIPAL SOLID WASTE, THE FEE SHALL
17 BE CHARGED TO THE MUNICIPALITY WHOSE RESIDENTS GENERATED THE
18 WASTE. IF THE WASTE IS NOT MUNICIPAL SOLID WASTE, THE FEE SHALL
19 BE CHARGED TO THE PERSON THAT GENERATED THE WASTE.

20 (3) WITHIN 90 DAYS AFTER THE END OF EACH MONTH, THE DEPART-
21 MENT SHALL NOTIFY EACH PERSON LIABLE FOR PAYMENT OF A FEE UNDER
22 SUBSECTION (2) OF THE AMOUNT OF THE FEE OWED FOR THAT MONTH.
23 PAYMENT IS DUE WITHIN 90 DAYS OF THE MAILING DATE OF THE FEE
24 NOTIFICATION. IF AN ASSESSED FEE IS CHALLENGED UNDER
25 SUBSECTION (4), PAYMENT IS DUE WITHIN 90 DAYS OF THE MAILING DATE
26 OF THE FEE NOTIFICATION OR WITHIN 30 DAYS OF RECEIPT OF A REVISED
27 FEE OR STATEMENT SUPPORTING THE ORIGINAL FEE, WHICHEVER IS

1 LATER. THE DEPARTMENT SHALL DEPOSIT ALL FEES COLLECTED UNDER
2 THIS SECTION TO THE CREDIT OF THE SOLID WASTE INSPECTION FUND
3 ESTABLISHED UNDER SECTION 11526B.

4 (4) IF A PERSON CHARGED A FEE UNDER SUBSECTION (2) FAILS TO
5 SUBMIT THE AMOUNT DUE WITHIN THE TIME PERIOD SPECIFIED IN
6 SUBSECTION (3), THE DEPARTMENT SHALL ASSESS THE PERSON A PENALTY
7 OF 5% OF THE AMOUNT OF THE UNPAID FEE FOR EACH MONTH THAT THE
8 PAYMENT IS OVERDUE UP TO A MAXIMUM PENALTY OF 25% OF THE TOTAL
9 FEE OWED.

10 (5) IF A PERSON CHARGED A FEE UNDER SUBSECTION (2) DESIRES
11 TO CHALLENGE THE FEE, THE PERSON SHALL SUBMIT THE CHALLENGE IN
12 WRITING TO THE DEPARTMENT. THE DEPARTMENT SHALL NOT PROCESS THE
13 CHALLENGE UNLESS IT IS RECEIVED BY THE DEPARTMENT WITHIN 45 DAYS
14 OF THE MAILING DATE OF THE FEE NOTIFICATION DESCRIBED IN
15 SUBSECTION (3). A CHALLENGE SHALL STATE THE GROUNDS UPON WHICH
16 THE CHALLENGE IS BASED. WITHIN 30 CALENDAR DAYS OF RECEIPT OF
17 THE CHALLENGE, THE DEPARTMENT SHALL DETERMINE THE VALIDITY OF THE
18 CHALLENGE AND PROVIDE THE PERSON WITH NOTIFICATION OF A REVISED
19 FEE OR A STATEMENT SETTING FORTH THE REASON OR REASONS WHY THE
20 FEE WAS NOT REVISED. PAYMENT OF THE CHALLENGED OR REVISED FEE IS
21 DUE WITHIN THE TIME FRAME DESCRIBED IN SUBSECTION (3). IF A
22 PERSON DESIRES TO FURTHER CHALLENGE ITS ASSESSED FEE, THE PERSON
23 HAS AN OPPORTUNITY FOR A CONTESTED CASE HEARING AS PROVIDED FOR
24 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
25 24.201 TO 24.328.

26 (6) IF A FEE IS MORE THAN 5 MONTHS OVERDUE, THE DEPARTMENT
27 SHALL REQUEST THE ATTORNEY GENERAL TO BRING AN ACTION FOR RELIEF

1 UNDER SECTION 11546. UPON FINDING THAT A FEE IS MORE THAN 5
2 MONTHS OVERDUE, THE COURT SHALL ENJOIN THE TRANSPORTATION INTO
3 THIS STATE OF SOLID WASTE FROM THE PERSON THAT OWES THE FEE.

4 SEC. 11526B. (1) THE SOLID WASTE INSPECTION FUND IS CREATED
5 WITHIN THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY
6 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
7 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER
8 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
9 INVESTMENTS.

10 (2) MONEY IN THE SOLID WASTE INSPECTION FUND AT THE CLOSE OF
11 THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO
12 THE GENERAL FUND.

13 (3) MONEY SHALL BE EXPENDED FROM THE SOLID WASTE INSPECTION
14 FUND, UPON APPROPRIATION, ONLY TO PAY FOR INSPECTIONS REQUIRED BY
15 SECTION 11526A.

16 Enacting section 1. This amendatory act does not take
17 effect unless Senate Bill No. _____ or House Bill No. 5598
18 (request no. 06642'02) of the 91st Legislature is enacted into
19 law.