

STATE OF MICHIGAN



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NATURAL RESOURCES COMMISSION

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**DEPARTMENT OF NATURAL RESOURCES**  
STEVENS T. MASON BUILDING, BOX 30028, LANSING, MICHIGAN 48909  
HOWARD A. TANNER, Director

September 7, 1978

Mr. Bernard Newman, M.P.P.  
Windsor-Walkerville  
Queen's Park  
Toronto, Ontario  
Canada

Dear Mr. Newman:

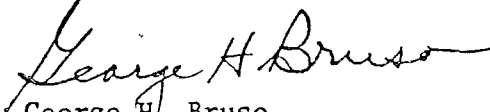
I have been instructed by Director Tanner to respond to your request for a copy of House Bill No. 4804, relating to toxic wastes.

House Bill No. 4804 is before the House Committee on Public Health in "substitute" form.

The original bill merely amended the statute on liquid industrial waste haulers and did not address itself to toxic waste disposal facilities or the emergency fund. The substitute bill does not amend the liquid industrial waste haulers act but rather replaces it with a much more comprehensive statute.

If I can be of further service to you please let me know.

Sincerely,

  
George H. Bruso  
Bureau of Enforcement

GHB:bs  
Encl.



R1026 10/78

August 1975

from our readers

## Michigan can bottle up poison risks

I WAS PLEASSED by the degree of support and insight displayed in your editorial entitled, "Toxic Waste: Giving DNR more authority may help prevent future crises" (Free Press, July 29).

We fully support your position that caution and responsibility are necessary to insure safe handling of the thousands of tons of toxic wastes generated annually in Michigan. As demonstrated in your article, problems associated with toxic wastes that are currently stored in Michigan cannot be legally disposed of and Michigan's capability to dispose of toxic wastes has steadily declined.

Environmentally sound landfills and incinerators, capable of burning large volumes of toxic materials at required high temperatures, are scarce and are currently being used to capacity. Illegally disposed of wastes find their way into our water, air and land, and enter the chain of life, which may eventually result in human impacts. In addition, due to the complex nature of these compounds, it is extremely time consuming and expensive to identify them and their potential human impacts.

House Bill 4804, currently before the Michigan Legislature, would assist greatly in the state's attempts to respond to toxic waste problems. If enacted, HB 4804 would authorize construction of a state-controlled

toxic waste disposal facility, provide closer control over industrial waste haulers, create an emergency fund to deal with incidents related to toxicants, establish new toxic waste reporting and tracking systems and impose stiffer penalties for violations.

We need to improve public awareness and understanding of hazardous-waste disposal problems and acquire support for designing a hazard-free disposal facility that is unimpeachable from the perspective of citizens as well as from the standpoint of our most highly trained technical experts. Locational considerations of such a facility, including transportation, proximity to industry, available land and geological conditions must be fully evaluated and be subject to public scrutiny to attain the highest degree of openness and credibility possible in our attempts to resolve our pressing toxic waste disposal problems.

HOWARD A. TANNER  
Director  
Department of Natural  
Resources  
Lansing

*write for copy of*

*House Bill 4804*

*Adm.*

**SUBSTITUTE FOR  
HOUSE BILL No. 4804**

A bill to license and regulate persons engaged in removing and disposing of hazardous waste; to provide for disposal facilities for hazardous wastes; to provide for the inspection and licensing of equipment; to prescribe the powers and duties of certain agencies; to develop a program which provides for the safe disposal of hazardous wastes; to regulate the operation of privately owned disposal facilities; to establish a list of hazardous wastes requiring storage and disposal at approved facilities; to establish a manifest system to track hazardous wastes; to establish a hazardous waste emergency fund; to consider waste disposal needs of the state; to provide an expiration date; to prescribe penalties; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the "state hazardous  
2 waste control act".

1        Sec. 2. For the purposes of this act the words and phrases defined in  
2 sections 3 to 5 have the meanings ascribed to them in those sections.

3        Sec. 3. (1) "Department" means the department of natural resources.

4        (2) "Director" means the director of the department.

5  
6        (3) "Disposal facility" means a facility in the state developed under  
7 this act, approved by the director, with storage, treatment, dewatering, refin-  
8 ing, incineration, reclamation, disposal, or other processes where hazardous  
9 wastes can be safely stored, destroyed, or recycled. Disposal facility does  
10 not include a municipal or industrial waste water treatment facility.

11       Sec. 4. (1) "Generator" means a person who generates hazardous wastes.

12       (2) "Hazardous waste" means a waste material or mixture of waste materials  
13 which because of its quantity, <sup>(1)</sup> concentration, <sup>(2)</sup> or <sup>(3)</sup> chemical characteristics is <sup>(4) physical</sup>  
14 toxic, corrosive, flammable, or an irritant which may cause substantial damage  
15 or injury to humans, animals, or the environment as a proximate result of a  
16 disposal of the waste or mixture of wastes. Hazardous waste includes waste  
17 oils, salt brines, chemicals, or other liquids used for road oiling or dust  
18 control.

19       (3) "List" means the hazardous materials mandatory treatment list estab-  
20 lished in section 17.

21       (4) "Manifest" means a department approved or developed form which  
22 accompanies hazardous waste from point of generation, through transport, to  
23 final disposition.

24       Sec. 5. (1) "Operator" means a person operating a disposal facility with  
25 the approval of the director either by contract or permit.

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1 (2) "Person" means an individual, sole proprietorship, partnership,  
2 firm, association, corporation, the state or an agency of the state, a political  
3 subdivision of the state, or a business registered under an assumed name.

4 (3) "Resident" means a person who has resided in the state for 6 consecu-  
5 tive months immediately preceding the date of application for a license.  
6 Ownership of property in this state shall not constitute qualification for  
7 residency.

8 Sec. 6. A person shall not engage in or carry on the business of removing  
9 hazardous waste from the premises of others, unless that person is licensed  
10 under this act. A person shall not engage, employ, or contract with a person  
11 who is not a licensee under this act to remove hazardous waste from the  
12 premises.

13 Sec. 7. (1) An application for a license shall be made on forms provided  
14 by the department.

15 (2) An application for a hazardous waste hauler license shall be accom-  
16 panied by:

17 (a) A business license fee of \$100.00.

18 (b) A vehicle license fee of \$200.00 for each vehicle used by the licensee  
19 to transport or carry hazardous waste.

20 (c) Evidence of an inspection certification as may be required by the  
21 state fire marshal pursuant to Act No. 207 of the Public Acts of 1941, as  
22 amended, being sections 29.1 to 29.25 of the Michigan Compiled Laws.

23 (3) License fees shall be made payable to the state and the fees  
24 collected shall be deposited in the hazardous waste emergency fund created in  
25 section 25.

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1        Sec. 8. Upon submission of the application, the department shall assure  
2 that the application is complete and accompanied by those items required by  
3 section 7 and may conduct an investigation to verify that the equipment,  
4 location, and methods of the applicant are adequate to effectuate service  
5 within the law and rules. Upon approval of the application, the director shall  
6 issue a business license and a vehicle license for each vehicle associated with  
7 the service. A business or vehicle license is not transferable from 1 business  
8 or vehicle to another.

9        Sec. 9. (1) A license issued pursuant to this act shall expire on  
10 June 30 each year. Application for renewal of a license may be made after  
11 April 1 each year. The fee for renewal shall be the same as for an original  
12 license.

13        (2) A person licensed under former Act No. 136 of the Public Acts of 1969,  
14 as of the effective date of this act shall be considered to be in compliance  
15 with this act until the date of expiration set forth in subsection (1).

16        (3) Notwithstanding any other provision of this act, a hazardous waste  
17 hauler license issued under this act, shall be revoked if the holder of the  
18 license uses a facility or vehicle to store or transport hazardous waste which  
19 is required to be certified by the state fire marshal and certification is not  
20 obtained pursuant to Act No. 207 of the Public Acts of 1941, as amended.

21        Sec. 10. A person who is licensed pursuant to this act and the rules  
22 promulgated under this act shall comply with the applicable provisions of  
23 Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to  
24 323.13 of the Michigan Compiled Laws, and the rules promulgated under that  
25 act by the water resources commission, the department, or both.

26        Sec. 11. The department shall develop a program for safe management of  
27 hazardous wastes in the state. The department may design and construct or

1 otherwise obtain disposal facilities, and acquire adequate sites. Under this  
2 program the director shall develop site specifications for disposal facilities;  
3 designate all disposal facility sites to be located on state owned land or  
4 approved privately owned alternative sites; develop alternatives for operation  
5 of disposal facilities located on state owned land; and develop a system for  
6 permitting the operation of privately owned disposal facilities.

7       Sec. 12. In the development of a program for safe management of hazardous  
8 wastes the director shall consider other waste management needs of the state.  
9 These other needs may include disposal of excess quantities of municipal waste  
10 water sludges.

11       Sec. 13. All costs incurred in the acquisition, development, design,  
12 construction, operation, and postclosure care of a state owned disposal facility  
13 shall be recovered wholly through the assessment of users' fees. A state owned  
14 disposal facility shall recover from users a fee which fairly covers the  
15 capital and operating costs of the disposal service which is provided. The fees  
16 shall be established by the department and shall be based on the type and  
17 relative toxicity of the waste, the ease of handling and disposal, the total  
18 amount of waste processed, and other factors the director considers appropriate.  
19 The department shall operate or contract the operations of a state owned  
20 disposal facility.

21       Sec. 14. A state owned disposal facility shall not be subject to local  
22 permit requirements or ordinances and shall be operated either by the department  
23 or other person approved by the director. Before the development of a state  
24 owned disposal facility the department shall conduct hearings in the area  
25 affected and receive comments and recommendations relating to the protection  
26 of the public health, safety, and welfare, and the environment. A state owned  
27 disposal facility shall be subject to all applicable state and federal laws,

1 rules, and regulations.

2       Sec. 15. The director shall approve, by permit, the operation of a  
3 privately owned hazardous waste disposal facility if the director determines  
4 that operation of a permitted facility adequately provides for the protection  
5 of the public health, safety, and welfare, and the environment. The depart-  
6 ment shall promulgate rules for the issuance of permits in accordance with  
7 Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to  
8 24.315 of the Michigan Compiled Laws. Hazardous materials stored at a  
9 disposal facility which is found to be in violation of a permit or contract  
10 condition shall be safely disposed of by order of the director. Operation of  
11 a disposal facility permitted by the director shall comply with this act.  
12 Except for a state owned disposal facility, this act shall not prevent the  
13 adoption or enforcement of local permit requirements or ordinances regulating  
14 the development or operation of a privately owned hazardous waste disposal  
15 facility. Local permit requirements or ordinances shall meet the minimum  
16 requirements of this act.

17       Sec. 16. (1) As a condition to the operation of a state approved dis-  
18 posal facility, a contractor or permittee shall tender a surety bond or other  
19 suitable instrument, with the department, the content and amount to be based  
20 upon the probable type and volume of hazardous wastes in inventory or to be  
21 handled. Failure to maintain surety bond coverage shall constitute immediate  
22 expiration of the contract or permit. The bond shall remain in effect 5 years  
23 beyond the termination of the contract or permit and may be released before  
24 that time only with the consent of the director. The contractor's or  
25 permittee's liability for damages to the public health or the environment  
26 shall extend for the life of the bond.

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1 (2) Before permitting the operation of a landfill disposal site for  
2 hazardous waste, an instrument imposing a restrictive covenant upon the land  
3 involved shall be executed by all of the owners of the tract of land upon  
4 which the landfill is to be located, and by the director. The instrument im-  
5 posing the restrictive covenant shall be filed for record by the department  
6 in the office of the register of deeds of the county in which the facility is  
7 located. The covenant shall state that the land has been or will be used as a  
8 landfill for disposal of hazardous waste and that neither the property owners,  
9 their servants, agents, or employees, nor any of their heirs, successors,  
10 lessees, or assigns shall engage in filling, grading, excavating, drilling, or  
11 mining on the property, in perpetuity, following completion of the landfill  
12 without authorization of the director. In giving authorization, the director  
13 shall consider the original design, type of operation, hazardous waste  
14 deposited, and the stage of decomposition of the fill.

15 Sec. 17. The director shall establish a list of hazardous waste materials,  
16 which shall be called the hazardous materials mandatory treatment list, before  
17 March 1 of each year. The list shall be established and revised in accordance  
17a with  
18 section 42 of Act No. 306 of the Public Acts of 1969, as amended, being section  
19 24.242 of the Michigan Compiled Laws. The director may declare an emergency  
20 with respect to hazardous wastes and upon the declaration may amend the list  
21 in accordance with section 48 of Act No. 306 of the Public Acts of 1969, as  
22 amended, being section 24.248 of the Michigan Compiled Laws. The hazardous  
23 waste materials listed shall be stored or disposed of at a state approved dis-  
24 posal facility. The director shall allow the transportation of hazardous  
25 wastes to an out of state hazardous waste disposal facility if it is approved  
26 by the regulatory agency of that state.

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1        Sec. 18. A licensee shall keep detailed records of all hazardous waste  
2 removed from a person's premise. The records shall be made on forms provided  
3 by the department, and shall be prepared and submitted as required by the  
4 department. Trucks, road oiling vehicles, or other vehicles used to transport  
5 or carry hazardous waste shall carry a license of the department for inspection  
6 by the director, an authorized representative of the director, or a law  
7 enforcement agent.

8        Sec. 19. A person doing business within this state shall file an annual  
9 report on a form provided by the department setting the current inventory of  
10 any materials included on the list.

11        Sec. 20. (1) A hazardous waste generator shall provide a separate manifest  
12 to the transporter for each load of hazardous waste transported from the  
13 premises where it was generated. The generator shall specify the destination of  
14 the load on the manifest. The transporter shall deliver the hazardous wastes  
15 and the accompanying manifest only to the destination specified by the generator  
16 on the manifest. The specified destination shall be a disposal facility  
17 approved by the director. Disposal facility owners or operators shall accept  
18 delivery of hazardous wastes only if delivery is accompanied by a manifest  
19 properly completed by both generator and the transporter and their facility is  
20 the destination indicated on the manifest. The manner in which the manifest  
21 shall be completed, signed, and filed with the department and the hazardous  
22 wastes which require accompaniment by the manifest shall be established by the  
23 department.

24        (2) An authorized representative of the department may enter a disposal  
25 facility licensed under this act which is located in or upon private or public  
26 property, at all reasonable times, for the purpose of inspecting or investigat-  
27 ing conditions relating to the storage, processing, or disposal of hazardous

1 waste.

2 Sec. 21. A person shall not dispose of hazardous waste except at loca-  
3 tions approved by the director. Waste oil or salt brines may be  
4 spread upon roadways and earth surfaces for dust control or soil stabilization  
5 purposes if authorized in writing by the owner of the property and if done in  
6 a manner that precludes hazardous or nuisance conditions. Hazardous waste  
7 shall not be placed in a location where it is or could become injurious to  
8 the public health or the environment.

9 Sec. 22. (1) This act shall not be construed to prevent the removal of  
10 waste from the premises of another person by a municipal waste collection and  
11 treatment entity, nor to prevent a person from contracting or otherwise  
12 arranging with a municipal waste collection and treatment entity for the  
13 removal.

14 (2) For the purposes of this section, "waste" means any material for  
15 which use or reuse is not intended and which is to be discarded. It does not  
16 include hazardous waste as determined in section 17.

17 Sec. 23. If the director or a law enforcement official has probable cause  
18 to believe that a person is violating this act or a rule promulgated under this  
19 act, the director or law enforcement official may search a vehicle or equipment  
20 which may be possessed, used, or operated by that person without a warrant.  
21 The director or a law enforcement official may seize a vehicle, equipment, or  
22 other property used or operated in a manner or for a purpose contrary to this  
23 act or a rule promulgated under this act if the seizure is necessary to preserve  
24 evidence to prosecute an offense.

25 Sec. 24. The department shall promulgate rules pursuant to Act No. 306  
26 of the Public Acts of 1969, as amended,  
27 to implement and administer this act. The rules shall

1 pertain to equipment, licensing, handling and transportation, disposal, storage  
2 methods and location, reporting, identification of vehicles and equipment,  
3 confiscation, and administrative procedures relating to hazardous wastes.

4 Sec. 25. A hazardous waste emergency fund of \$1,000,000.00 shall be estab-  
5 lished to be financed by contributions, gifts, federal funds, license fees, or  
6 by appropriations. The director shall administer the fund. The department  
7 shall be reimbursed for any work related to an emergency in the handling, trans-  
8 portation, storage, and disposal of hazardous wastes. If the director deter-  
9 mines there is an urgent threat to public health or the environment caused  
10 by the improper storage, discharge, or disposal of hazardous wastes on or from  
11 private property, the director shall order the owner or occupant to take  
12 immediate corrective action. If the owner or occupant does not comply with  
13 the order, the director may cause correction of the problem and all expenses  
14 incurred by the corrective action shall be paid by the owner of the property..  
15 If the owner of the property refuses to pay expenses incurred, the expenses  
16 shall be assessed against the property and shall be collected and treated in  
17 the same manner as taxes assessed under the laws of the state. If the occupant  
18 or any other person causes or permits the problem, the person shall be liable  
19 to the owner of the property for any amount paid by the owner or assessed  
20 against the property which amount shall be recoverable in an action at law.

21 Sec. 26. (1) The department may request that the attorney general bring  
22 an action, or the attorney general or a person may bring an action against a  
23 person or public agency to compel compliance with this act.

24 (2) An action brought pursuant to this act may be brought in a circuit  
25 court having jurisdiction where the alleged violation occurred or is likely to  
26 occur, or in the circuit court for the county of Ingham.

1 (3) The court may grant relief as is necessary, including the issuance  
2 of a temporary or permanent restraining order against a person or a public  
3 agency in violation of this act.

4 (4) If the court has reasonable ground to doubt the solvency of the  
5 plaintiff or the plaintiff's ability to pay any cost or judgment which may be  
6 rendered against the plaintiff in an action brought under this act, the court  
7 may order the plaintiff to post a surety bond or cash of not more than \$500.00.

8 (5) The court, in issuing a final order in an action brought pursuant to  
9 this act, may award costs of litigation, including reasonable attorney and  
10 expert witness fees, to a party, if the court determines that the award is  
11 appropriate.

12 Sec. 27. A person who violates this act or a rule promulgated under this  
13 act is guilty of a misdemeanor and, upon first conviction, shall be fined  
14 not more than \$10,000.00, or imprisoned for not more than 6 months, or both;  
15 and upon any additional conviction, shall be fined not more than \$24,000.00,  
16 or imprisoned for not more than 1 year, or both. If the violation is of a con-  
17 tinuing nature, each day upon which a violation occurs shall be considered a  
18 separate offense.

19 Sec. 28. Act No. 136 of the Public Acts of 1969, being sections 323.271  
20 to 323.280 of the Compiled Laws of 1970, is repealed.

21 Sec. 29. This act shall expire 5 years after its effective date.

22 3554 '77 - Sub. (H-2)

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