

Act No. 10
Public Acts of 1979
Approved by Governor
MAY // 1979

STATE OF MICHIGAN
80TH LEGISLATURE
REGULAR SESSION OF 1979

Introduced by Senators Engler, Mowat, Irwin, VanderLaan, DeSana and Arthurhultz

ENROLLED SENATE BILL No. 250

AN ACT to amend sections 22, 25, 30, 31, and 33 of Act No. 641 of the Public Acts of 1978, entitled "An act to protect the public health and the environment; to provide for the regulation and management of solid wastes; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe penalties; to make an appropriation; and to repeal certain acts and parts of acts," being sections 299.422, 299.425, 299.430, 299.431, and 299.433 of the Compiled Laws of 1970; to add sections 20a and 21a; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 22, 25, 30, 31, and 33 of Act No. 641 of the Public Acts of 1978, being sections 299.422, 299.425, 299.430, 299.431, and 299.433 of the Compiled Laws of 1970, are amended and sections 20a and 21a are added to read as follows:

Sec. 20a. The director, a health officer, or a law enforcement officer of competent jurisdiction may inspect a solid waste transporting unit that is being used to transport solid waste along a public road to determine if the solid waste transporting unit is designed, maintained, and operated in a manner to prevent littering or to determine if the owner or operator of the solid waste transporting unit is performing in compliance with this act and the rules promulgated pursuant to this act.

Sec. 21a. A solid waste hauler transporting solid waste over a public road in this state shall deliver all waste to a disposal area or solid waste transfer facility licensed under this act and shall use only a vehicle or container that does not contribute to littering and that conforms to the rules promulgated by the director.

A solid waste hauler who violates this act or a rule promulgated pursuant to this act, or is responsible for a vehicle that has in part contributed to a violation of this act or a rule promulgated pursuant to this act is subject to a penalty as provided in section 36.

Sec. 22. (1) A solid waste transporting unit used for garbage, industrial or domestic sludges, or other moisture laden materials not specifically covered by Act No. 136 of the Public Acts of 1969, being sections 323.271 to 323.280 of the Michigan Compiled Laws, shall be watertight and constructed, maintained, and operated to prevent littering. Solid waste transporting units used for hauling other solid waste shall be designed and operated to prevent littering or any other nuisance.

(2) A solid waste hauler who violates this act shall be subject to the penalties provided in this act. After proper notice and hearing, a license issued under this act may be revoked by the director.

(3) The director, a health officer, or a law enforcement officer may order a solid waste transporting unit out of service if the unit does not satisfy the requirements of this act or the rules promulgated under this act. Continued use of a solid waste transporting unit ordered out of service is a violation of this act.

Sec. 25. (1) Each solid waste management plan shall include an enforceable program and process to assure that the nonhazardous solid waste generated or to be generated in the planning area for a 20-year period is collected and recovered, processed, or disposed of at facilities which comply with state law and rules promulgated by the department governing location, design, and operation of the facilities.

(2) A solid waste management plan shall be prepared and approved under this section and shall be submitted to the director within 2 years after the effective date of the rules promulgated pursuant to section 30(1). The plan shall be prepared for a 20-year period and shall be reviewed and updated every 5 years. An amendment to an existing plan shall follow the procedures outlined in this act for the development of a solid waste management plan. The solid waste management plan shall encompass all municipalities within the county. The plan shall at a minimum comply with the requirements of section 30. The solid waste management plan shall take into consideration solid waste management plans in contiguous counties and existing local approved solid waste management plans as they relate to the county's needs. At a minimum, a county preparing a solid waste management plan shall consult with the regional planning agency from the beginning to the completion of the plan.

(3) Not later than 4 months after the effective date of this act, or 4 months after the rules promulgated pursuant to section 30 or 31 take effect whichever is later, each county shall file with the director and with each municipality within the county on a form provided by the director, a notice of intent, indicating the county's intent to prepare a county solid waste management plan or to upgrade an existing plan. The notice shall identify the designated agency which shall be responsible for preparing the county plan.

(4) If the county fails to file a notice of intent with the director within the prescribed time, the director immediately shall notify each municipality within the county and shall request those municipalities to prepare the county solid waste management plan and shall convene a meeting to discuss the plan preparation. Within 4 months following notification by the director, the municipalities shall decide by a majority vote of the municipalities in the county whether or not to file a notice of intent to prepare the county solid waste management plan. Each municipality in the county shall have 1 vote. If a majority does not agree, then a notice of intent shall not be filed. The notice shall identify the designated agency which shall be responsible for preparing the county plan.

(5) If the municipalities fail to file a notice of intent to prepare a county solid waste management plan with the director within the prescribed time, the director shall request the appropriate regional solid waste management planning agency to prepare the county solid waste management plan. The regional solid waste management planning agency shall respond within 90 days after the date of the request.

(6) If the regional solid waste management planning agency declines to prepare a county plan the director shall prepare the plan for the county and that plan shall be final.

(7) A solid waste management planning agency, upon request of the director, shall submit a progress report in preparing its solid waste management plan.

Sec. 30. (1) Not later than September 11, 1979, the director shall promulgate rules for the development, form, and submission of solid waste management plans. The rules shall require all of the following:

(a) The establishment of goals and objectives for prevention of adverse effects on the public health and on the environment resulting from improper solid waste collection, processing, or disposal including protection of surface and groundwater quality, air quality, and the land.

(b) An evaluation of waste problems by type and volume, including residential and commercial solid waste, hazardous waste, industrial sludges, pretreatment residues, municipal sewage sludge, air pollution control residue, and other wastes from industrial or municipal sources.

(c) An evaluation and selection of technically and economically feasible solid waste management options, which may include sanitary landfill, resource recovery systems, resource conservation, or a combination of options.

(d) An inventory and description of all existing facilities where solid waste is being treated, processed, or disposed of, including a summary of the deficiencies, if any, of the facilities in meeting current solid waste management needs.

(e) The encouragement and documentation as part of the plan, of all opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector.

(f) That the plan contain enforceable mechanisms for implementing the plan, including identification of the municipalities within the county responsible for the enforcement. This subdivision does not preclude the private sector's participation in providing solid waste management services consistent with the county plan.

(g) Current and projected population densities of each county and identification of population centers and centers of solid waste generation, including industrial wastes.

(h) That the plan area has, and will have during the plan period, access to a sufficient amount of available and suitable land, accessible to transportation media, to accommodate the development and operation of solid waste disposal areas, or resource recovery facilities provided for in the plan.

(i) That the solid waste disposal areas or resource recovery facilities provided for in the plan are capable of being developed and operated in compliance with state law and rules of the department pertaining to protection of the public health and the environment, considering the available land in the plan area, and the technical feasibility of, and economic costs associated with, the facilities.

(j) A timetable or schedule for implementing the county solid waste management plan.

(2) A person shall not dispose of refuse at any place except a disposal area licensed as provided in this act unless exempted under section 18(2).

(3) The director shall not issue a license for the development or operation of a new solid waste disposal area or resource recovery facility in a plan area unless the facility complies with and is consistent with an approved solid waste management plan.

(4) Following approval by the director of a county solid waste management plan and after July 1, 1981, an ordinance, law, rule, regulation, policy, or practice of a municipality, county, or governmental authority created by statute which prohibits or regulates the location or development of a solid waste disposal area, which is not part of or consistent with the approved solid waste management plan for the county, shall be considered in conflict with this act and shall not be enforceable.

(5) Upon receipt of an application the director or health officer or their representatives shall inspect the proposed site and determine whether the proposed operation complies with this act and the rules promulgated under this act. After October 1, 1977, a sanitary landfill shall not be constructed within 10,000 feet of a runway of an airport licensed and regulated by the Michigan aeronautics commission unless the construction, location, and operation of the sanitary landfill are reviewed by the resource recovery commission. The resource recovery commission shall review for hazards to the safety of aircraft as affected by the construction, location, and operation of the sanitary landfill. If the resource recovery commission, after preliminary review, decides to consider the request formally, it shall set a date for a hearing and give reasonable notice to all affected parties who the resource recovery commission has reason to believe are interested in the project. In the hearing all affected or interested parties shall be given a reasonable opportunity to be heard and to submit additional data to the resource recovery commission within a reasonable time following the hearing. After the hearing the resource recovery commission shall by resolution set forth its findings and shall recommend action to the director of the department of natural resources on the issuance or denial of the application. The resource recovery commission shall set forth its reasons for the recommendation in the resolution to the director.

Sec. 31. Not later than September 11, 1979, the director shall submit to the legislature pursuant to Act No. 306 of the Public Acts of 1969, as amended, rules which contain sanitary design and operational standards for solid waste transporting units and disposal areas and otherwise implement this act. The rules shall include standards for hydrogeologic investigations; monitoring; liner materials; leachate collection and treatment, if applicable; groundwater separation distances; environmental assessments; methane gas control; soil erosion; sedimentation control; groundwater and surface water quality; noise and air pollution; and the use of floodplains and wetlands.

Sec. 33. In addition to any other remedy available at law, the director or a health officer may request that the attorney general bring an action in the name of the people of the state, or a municipality may bring an action in its own name within its municipal boundaries, for an injunction or other process against a person, county, municipality, or an agency of a person, county, or municipality to restrain or prevent the establishment, management, maintenance, or operation of a solid waste disposal area, solid waste facility, solid waste processing plant, or a solid waste hauling business or solid waste transporting unit that does not possess a license or seal required under under this act, or that does not meet the requirements of this act or rules promulgated pursuant to this act, or for any other violation of this act.

Section 2. Effective March 1 of the year following the first appropriation by the legislature to provide financial assistance to a certified health department pursuant to section 34(2), sections 20 and 21 of Act No. 641 of the Public Acts of 1978, being sections 299.420 and 299.421 of the Compiled Laws of 1970, are repealed.

Section 3. Sections 20a and 21a shall take effect on March 1 of the year following the first appropriation by the legislature to provide financial assistance to a certified health department pursuant to section 34(2).

This act is ordered to take immediate effect.

Billie D. Farnum

Secretary of the Senate.

Thomas Thatcher

Clerk of the House of Representatives.

Approved _____

Governor.