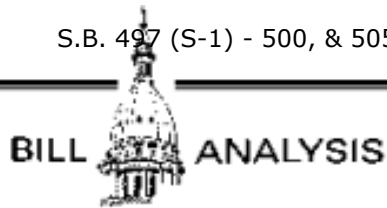




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 497 (Substitute S-1)
Senate Bill 498 (Substitute S-1)
Senate Bill 499 (Substitute S-1)
Senate Bill 500 (as introduced 5-15-03)
Senate Bill 505 (Substitute S-2)
Sponsor: Senator Buzz Thomas (Senate Bill 497)
Senator Patricia L. Birkholz (Senate Bill 498)
Senator Alan Sanborn (Senate Bill 499)
Senator Dennis Olshove (Senate Bill 500)
Senator Bruce Patterson (Senate Bill 505)
Committee: Natural Resources and Environmental Affairs

Date Completed: 9-30-03

CONTENT

The bills would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Prohibit the disposal in a landfill of beverage containers, whole tires, used oil, lead acid batteries, hazardous waste, yard clippings (unless diseased or infested), sewage, and other items.**
- Require the State to develop policies and practices that would promote recycling and reuse, and minimize the use of landfills.**
- Require the Department of Environmental Quality (DEQ), in conjunction with the State Police, to establish a statewide inspection program that would include the inspection of each solid waste disposal area at least four times per year.**
- Require solid waste haulers to notify their customers of items prohibited from landfill disposal and appropriate disposal options.**
- Increase civil fines for repeat violations of Part 115.**
- Require nondedicated civil fine revenue to be deposited in the solid waste staff account within the Solid Waste Management Fund.**

The bills are described in more detail below.

Senate Bill 497 (S-1)

The bill would define "beverage container" as an airtight metal, glass, paper, or plastic container, or a container composed of a combination of those materials, that, at the time of sale, contains one gallon or less of any of the following:

- A soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink.
- A beer, ale, or other malt drink of "whatever" alcoholic content.
- A mixed wine drink or a mixed spirit drink.

The bill is tie-barred to Senate Bill 498.

Senate Bill 498 (S-1)

Section 11514 of NREPA prohibits a person from knowingly disposing of medical waste in a landfill, and prohibits an owner or operator of a landfill from knowingly allowing the disposal of medical waste, unless it has been decontaminated or is not required to be decontaminated but is packaged as required under the Public Health Code.

The bill would amend Section 11514 to prohibit a person from knowingly delivering to a landfill for disposal, and to prohibit a landfill owner or operator from knowingly permitting the disposal in a landfill, of any of the following:

- Medical waste (as currently prohibited).
- A beverage container.
- A whole motor vehicle tire.
- Used oil.
- A lead acid battery.
- Low-level radioactive waste as defined in the Low-Level Radioactive Waste Authority Act.
- Hazardous waste that is required to be disposed of in a hazardous waste treatment, storage, or disposal facility under Part 111 of NREPA.
- Yard clippings, unless diseased or infested.
- Liquid waste as prohibited by R 299.4432(2)(c) of the Michigan Administrative Code.
- Sewage.
- PCBs as defined in Federal regulations.
- Asbestos waste unless the landfill complies with Federal regulations.
- Empty drums, unless crushed to eliminate voids.
- Materials that would adversely affect the liner or leachate collection and removal system.

(Under the Administrative Code, "liquid waste" refers to waste that contains free liquids as defined by the paint filter liquids test.)

The bill also would delete a provision that prohibits the owner or operator of a landfill or municipal solid waste incinerator from accepting solid waste if the owner or operator knows or should know that the solid waste includes yard clippings that are generated and/or collected on land that is owned by a county, municipality, or State facility.

The bill would require the State to develop policies and practices that would promote recycling and reuse of materials and, to the extent practical, minimize the use of landfilling as a method for disposal of its waste. The bill includes the following legislative declaration: "[T]hat optimizing recycling opportunities and the reuse of materials shall be a principal objective of the state's solid waste management plan and further that recycling and reuse of materials are in the best interest of promoting the public health and safety."

The bill is tie-barred to Senate Bill 497.

Senate Bill 499 (S-1)

The bill would amend Section 11526 to require the DEQ, in conjunction with the Department of State Police, to establish a statewide inspection program in order to protect the public health, safety, and welfare and the environment of this State from the illegal disposal of items and substances in landfills in Michigan. The program would have to do all of the following:

- Assure that all disposal areas were in full compliance with Part 115 and the rules promulgated under it.
- Provide for the inspection, at least four times per year, of each solid waste disposal area for compliance with Part 115 and the rules.

-- Assure that all people disposing of solid waste were doing so in compliance with Part 115 and the rules.

As part of the inspection program, the DEQ and State Police could conduct regular, random inspections of waste being transported for disposal at disposal areas in Michigan. These inspections could be conducted at disposal areas.

(Part 115 defines "disposal area" as one or more of the following at a location defined by the boundary identified in its construction permit or engineering plans approved by the DEQ: solid waste transfer facility; incinerator; sanitary landfill; processing plant; or other solid waste handling or disposal facility used in the disposal of solid waste.)

Section 11526 presently allows the DEQ, a health officer, or a law enforcement officer to inspect a solid waste transporting unit to determine if it is operated in a manner to prevent littering or to determine if the owner or operator of the unit is performing in compliance with Part 115. The bill would retain this provision.

Senate Bill 500

Under Section 11546, the DEQ or a health officer may request the Attorney General to bring an action on behalf of the State, and a municipality or county may bring an action based on facts within its jurisdiction, for any appropriate relief, including injunctive relief, for a violation of Part 115 or the rules promulgated under it. In addition to any other relief provided for in this section, the court may impose a civil fine on a person who violates Part 115 or the rules, or fails to comply with any permit, license, or final order issued under Part 115. Currently, the maximum amount of the fine is \$10,000 for each day of violation. Under the bill, for a second or subsequent violation, the maximum fine would be \$25,000 per day of violation.

Section 2505 requires that 25% of all civil fines collected under several parts of the Act, including Part 115, be appropriated to the Environmental Education Fund, but not more than \$150,000 in any fiscal year. The bill provides that, other than fines dedicated under Section 2505, all civil fines collected under Part 115 would have to be forwarded to the State Treasurer for deposit into the solid waste staff account within the Solid Waste Management Fund. (Currently, the portion of fines not dedicated to the Environmental Education Fund is deposited in the DEQ's settlement fund.)

(Under the Act, money in the staff account may be spent only for specified purposes, which include reviewing and acting upon permit and license applications, running the permit and license program, implementing and enforcing the conditions of any permit or license, and inspecting licensed disposal areas and open dumps.)

The bill is tie-barred to Senate Bills 497, 498, and 499.

Senate Bill 505 (S-2)

The bill would require a solid waste hauler who disposes of solid waste in a landfill to give each of his or her customers notice of the items prohibited from disposal in a landfill under Section 11514 and options for appropriate disposal of those items. A solid waste hauler would have to give this notice annually.

The bill is tie-barred to Senate Bill 498.

MCL 324.11502 (S.B. 497)
MCL 324.11514 & 11521 (S.B. 498)
MCL 324.11526 (S.B. 499)
MCL 324.11546 (S.B. 500)
Proposed MCL 324.11527 (S.B. 505)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 499 (S-1) would create a new statewide inspection program to ensure compliance with the provisions of Part 115 (Solid Waste Management) of NREPA. The DEQ currently inspects landfills and disposal areas up to four times a year. The bill would require at least four inspections a year and authorize random inspections of solid waste in transit. Combined with the additional prohibited items proposed in Senate Bill 498 (S-1), this bill would require more complex inspections conducted more frequently. The DEQ would require additional funding for inspection staff, support staff, and travel expenses. In FY 2003-04, the solid waste program received an appropriation of \$3,846,800 for all permit and license application reviews, development of solid waste management plans, reporting, conducting inspections, and compliance activities. Some investigative and law enforcement processes are carried out in the Criminal Investigation unit. The primary responsibility for the inspection program would be held by the Department of Environmental Quality. The Department of State Police would be involved at the request of the DEQ for certain enforcement activities.

Senate Bill 500 would result in an indeterminate amount of revenue to the State. It would create a higher civil fine for a second or subsequent violation of Part 115. The proposed per-day maximum civil fine would be \$25,000, an increase of \$15,000 over the current maximum civil fine of \$10,000 per day. It is unknown how many fines are imposed annually; however, less than \$400,000 is collected in civil fines for violations of Part 115 on an annual basis. In some cases, the individual or facility is ordered to restore the natural resources disturbed in lieu of paying a civil fine. The bill would direct the fine revenue to the staff account within the Solid Waste Management Account, instead of to the Settlement Funds Account where it is currently deposited.

There would be no direct fiscal impact on State or local government as a result of Senate Bills 497 (S-1), 498 (S-1), or 505 (S-2).

Fiscal Analyst: Jessica Runnels

S0304\497sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.