



HOUSE BILL No. 5545

January 31, 1996, Introduced by Reps. Curtis and Nye and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 8328 of Act No. 451 of the Public Acts of 1994, entitled

"Natural resources and environmental protection act,"

being section 324.8328 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8328 of Act No. 451 of the Public Acts
2 of 1994, being section 324.8328 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 8328. (1) Except as otherwise provided in this sec-
5 tion, it is the express legislative intent that this part preempt
6 any local ordinance, regulation, or resolution that purports to
7 duplicate, extend, or revise in any manner the provisions of this
8 part. Except as otherwise provided for in this section, a local
9 unit of government shall not enact, maintain, or enforce an

1 ordinance, regulation, or resolution that contradicts or
2 conflicts in any manner with this part.

3 (2) If a local unit of government is under contract with the
4 department to act as its agent or the local unit of government
5 has received prior written authorization from the department,
6 then that local unit of government may pass an ordinance that is
7 identical to this part and rules promulgated under this part,
8 except as prohibited in subsection (7). The local unit of
9 government's enforcement response for a violation of the ordi-
10 nance that involves the use of a pesticide is limited to issuing
11 a cease and desist order as prescribed in section 8327.

12 (3) A local unit of government may enact an ordinance iden-
13 tical to this part and rules promulgated under this part regard-
14 ing the posting and notification of the application of a
15 pesticide. Subject to subsection (8), enforcement of such an
16 ordinance may occur without prior authorization from the depart-
17 ment and without a contract with the department for the enforce-
18 ment of this part and rules promulgated under this part. The
19 local unit of government shall immediately notify the department
20 upon enactment of such an ordinance and shall immediately notify
21 the department of any citations for a violation of that
22 ordinance. ~~Violations of~~ A PERSON WHO VIOLATES an ordinance
23 enacted under this subsection ~~are limited to a~~ IS RESPONSIBLE
24 FOR A STATE civil infraction AND MAY BE ORDERED TO PAY A CIVIL
25 FINE of not more than \$500.00.

26 (4) A local unit of government may enact an ordinance
27 prescribing standards different from those contained in this part

1 and rules promulgated under this part and which regulates the
2 distribution, sale, storage, handling, use, application, trans-
3 portation, or disposal of pesticides under either or both of the
4 following circumstances:

5 (a) Unreasonable adverse effects on the environment or
6 public health will exist within the local unit of government.
7 The determination that unreasonable adverse effects on the envi-
8 ronment or public health will exist shall take into consideration
9 specific populations whose health may be adversely affected
10 within that local unit of government.

11 (b) The local unit of government has determined that the use
12 of a pesticide within that unit of government has resulted or
13 will result in the violation of other existing state laws or fed-
14 eral laws.

15 (5) An ordinance enacted pursuant to subsections (2), (3),
16 and (4) shall not conflict with existing state laws or federal
17 laws. An ordinance enacted pursuant to subsection (4) shall not
18 be enforced by a local unit of government until approved by the
19 commission of agriculture. If the commission of agriculture
20 denies an ordinance enacted pursuant to subsection (4), the com-
21 mission of agriculture shall provide a detailed explanation of
22 the basis of the denial within 60 days.

23 (6) Upon identification of unreasonable adverse effects on
24 the environment or public health by a local unit of government as
25 evidenced by a resolution submitted to the department, the
26 department shall hold a local public meeting within 60 days after
27 the submission of the resolution to determine the nature and

1 extent of unreasonable adverse effects on the environment or
2 public health due to the use of pesticides. Within 30 days after
3 the local public meeting, the department shall issue a detailed
4 opinion regarding the existence of unreasonable adverse effects
5 on the environment or public health as identified by the resolu-
6 tion of the local unit of government.

7 (7) The director may contract with a local unit of govern-
8 ment to act as its agent for the purpose of enforcing this part
9 and the rules promulgated pursuant to this part. The department
10 shall have sole authority to assess fees, register and certify
11 pesticide applicators, license commercial applicators and
12 restricted use pesticide dealer firms, register pesticide prod-
13 ucts, cancel or suspend pesticide registrations, and regulate and
14 enforce all provisions of this part pertaining to the application
15 and use of a pesticide to an agricultural commodity or for the
16 purpose of producing an agricultural commodity.

17 (8) For any ordinance enacted pursuant to this section, the
18 local unit of government shall provide that persons enforcing the
19 ordinance comply with the training and enforcement requirements
20 as determined by the director. A local unit of government shall
21 reimburse the department for actual costs incurred in training
22 local government personnel.