

SUBSTITUTE FOR
SENATE BILL NO. 503

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 86 AGRICULTURE

2 SEC. 8601. AS USED IN THIS PART:

3 (A) "AFO" MEANS AN ANIMAL FEEDING OPERATION AS DEFINED IN
4 SECTION 3101.

5 (B) "COMMERCIAL MANURE HANDLER" MEANS A PERSON WHO, FOR HIRE,
6 HANDLES OR DISPOSES OF OR OFFERS TO HANDLE OR DISPOSE OF MANURE,
7 PRODUCTION AREA WASTE, OR PROCESS WASTEWATER FROM AN ANIMAL FEEDING
8 OPERATION OWNED OR OPERATED BY ANOTHER PERSON.

9 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

1 (D) "FARM" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
2 MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

3 (E) "FARM OPERATION" MEANS THAT TERM AS DEFINED IN SECTION 2
4 OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

5 (F) "LAND APPLICATION AREA" MEANS LAND UNDER THE CONTROL OF AN
6 AFO OWNER OR OPERATOR, WHETHER IT IS OWNED, RENTED, LEASED, OR
7 SUBJECT TO AN ACCESS AGREEMENT, TO WHICH PRODUCTION AREA WASTE OR
8 PROCESS WASTEWATER IS OR MAY BE APPLIED. LAND APPLICATION AREA
9 INCLUDES LAND NOT OWNED BY THE AFO OWNER OR OPERATOR BUT ON WHICH
10 THE AFO OWNER OR OPERATOR HAS CONTROL OF THE LAND APPLICATION OF
11 PRODUCTION AREA WASTE OR AFO PROCESS WASTEWATER.

12 (G) "MANURE" INCLUDES MANURE, BEDDING, COMPOST, AND RAW
13 MATERIALS OR OTHER MATERIALS COMMINGLED WITH MANURE OR SET ASIDE
14 FOR DISPOSAL.

15 (H) "PROCESS WASTEWATER" MEANS ANY OF THE FOLLOWING:

16 (i) SPILLAGE OR OVERFLOW OF WATER USED FOR AFO ANIMAL OR
17 POULTRY WATERING SYSTEMS.

18 (ii) WATER DIRECTLY OR INDIRECTLY USED AT AN AFO FOR WASHING,
19 CLEANING, OR FLUSHING PENS, BARNs, MANURE PITS, OR OTHER
20 FACILITIES; FOR DIRECT CONTACT SWIMMING, WASHING, OR SPRAY COOLING
21 OF ANIMALS; OR FOR DUST CONTROL.

22 (iii) ANY WATER THAT COMES INTO CONTACT WITH, OR IS A
23 CONSTITUENT OF, ANY AFO RAW MATERIALS, PRODUCTS, OR BYPRODUCTS,
24 INCLUDING MANURE, LITTER, FEED, MILK, EGGS, OR BEDDING.

25 (I) "PRODUCTION AREA" MEANS THAT PART OF AN AFO THAT INCLUDES
26 ANIMAL CONFINEMENT AREAS, MANURE STORAGE AREAS, RAW MATERIALS
27 STORAGE AREAS, WASTE CONTAINMENT AREAS, ANY EGG WASHING OR EGG

1 PROCESSING FACILITY, AND ANY AREA USED IN THE STORAGE, HANDLING,
2 TREATMENT, OR DISPOSAL OF MORTALITIES. AS USED IN THIS SUBDIVISION:

3 (i) "ANIMAL CONFINEMENT AREA" INCLUDES OPEN LOTS, HOUSED LOTS,
4 FEEDLOTS, CONFINEMENT HOUSES, STALL BARNS, FREE STALL BARNS, MILK
5 ROOMS, MILKING CENTERS, COWYARDS, BARNYARDS, MEDICATION PENS,
6 WALKERS, ANIMAL WALKWAYS, AND STABLES.

7 (ii) "MANURE STORAGE AREA" INCLUDES LAGOONS, RUNOFF PONDS,
8 STORAGE SHEDS, STOCKPILES, UNDERHOUSE OR PIT STORAGES, LIQUID
9 IMPOUNDMENTS, STATIC PILES, AND COMPOSTING PILES.

10 (iii) "RAW MATERIALS STORAGE AREA" INCLUDES FEED SILOS, SILAGE
11 BUNKERS, AND BEDDING MATERIALS.

12 (iv) "WASTE CONTAINMENT AREA" INCLUDES SETTLING BASINS AND
13 AREAS WITHIN BERMS AND DIVERSIONS THAT SEPARATE UNCONTAMINATED
14 STORM WATER.

15 (J) "PRODUCTION AREA WASTE" MEANS MANURE OR ANY WASTE FROM THE
16 PRODUCTION AREA AND ANY PRECIPITATION, INCLUDING, BUT NOT LIMITED
17 TO, RAIN OR SNOW, THAT COMES INTO CONTACT WITH, OR IS CONTAMINATED
18 BY, MANURE OR ANY OF THE COMPONENTS LISTED IN THE DEFINITION OF
19 PRODUCTION AREA. PRODUCTION AREA WASTE DOES NOT INCLUDE WATER FROM
20 LAND APPLICATION AREAS.

21 SEC. 8602. (1) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF
22 THE RULES PROMULGATED UNDER SUBSECTION (2), A COMMERCIAL MANURE
23 HANDLER SHALL NOT HANDLE MANURE, PRODUCTION AREA WASTE, OR PROCESS
24 WASTEWATER AT AN AFO UNLESS THE PERSON OBTAINS A LICENSE OR
25 CERTIFICATION UNDER THIS SECTION.

26 (2) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
27 ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL PROMULGATE RULES

1 FOR THE LICENSING OR CERTIFICATION OF COMMERCIAL MANURE HANDLERS.
2 THE RULES SHALL PROVIDE FOR ALL OF THE FOLLOWING:

3 (A) LICENSE OR CERTIFICATION TERMS OF NOT LESS THAN 3 YEARS.

4 (B) TRAINING AND EDUCATION STANDARDS FOR INITIAL LICENSING OR
5 CERTIFICATION FOR COMMERCIAL MANURE HANDLERS AND CONTINUED
6 EDUCATION OR CONTINUED COMPETENCY TRAINING FOR RENEWAL LICENSING
7 AND CERTIFICATION. THE DEPARTMENT MAY PROVIDE BY RULE FOR A WAIVER
8 OF THE EDUCATION AND TRAINING REQUIREMENTS FOR PERSONS WHO, ON THE
9 EFFECTIVE DATE OF THE RULES, ARE ENGAGED IN HANDLING MANURE AT AN
10 AFO AND CAN DEMONSTRATE A COMBINATION OF TRAINING, EDUCATION, AND
11 EXPERIENCE SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS IMPOSED
12 UNDER THE RULES.

13 (C) A PROCESS FOR PHASING IN THE LICENSING AND CERTIFICATION
14 REQUIREMENTS FOR PERSONS OPERATING AS COMMERCIAL MANURE HANDLERS ON
15 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.
16 THE PHASE-IN PERIOD SHALL CONCLUDE NOT EARLIER THAN 1 YEAR AFTER
17 THE EFFECTIVE DATE OF RULES PROMULGATED UNDER THIS SECTION.

18 (3) UPON REQUEST, THE DEPARTMENT MAY REVIEW THE STANDARDS FOR
19 CERTIFICATION GRANTED BY THE MICHIGAN CUSTOM MANURE APPLICATORS
20 ASSOCIATION AND IF THE DEPARTMENT DETERMINES THAT THOSE STANDARDS
21 ARE CONSISTENT WITH THE RULES PROMULGATED UNDER THIS SECTION, A
22 PERSON WHO IS CERTIFIED BY THE MICHIGAN CUSTOM MANURE APPLICATORS
23 ASSOCIATION SHALL BE CONSIDERED TO HAVE MET THE CERTIFICATION
24 REQUIREMENTS OF THIS SECTION.

25 (4) IN ESTABLISHING STANDARDS UNDER SUBSECTION (2), THE
26 DEPARTMENT MAY INCORPORATE BY REFERENCE EXISTING STANDARDS ADOPTED
27 BY THE FEDERAL GOVERNMENT OR EXISTING STANDARDS ADOPTED BY TRADE OR

1 INDUSTRY GROUPS.

2 (5) AS A CONDITION OF LICENSURE OR CERTIFICATION UNDER THIS
3 SECTION, A PERSON SHALL MAINTAIN A BOND IN AN AMOUNT NOT LESS THAN
4 \$25,000.00. THE BOND SHALL BE EXECUTED BY THE PERSON AS PRINCIPAL
5 AND ISSUED BY A CORPORATION QUALIFIED UNDER THE LAWS OF THIS STATE
6 AS SURETY, PAYABLE TO THE STATE OF MICHIGAN, AND CONDITIONED UPON
7 COMPLIANCE WITH STATE AND FEDERAL LAWS, RULES, AND REGULATIONS
8 APPLICABLE TO THE LICENSEE OR CERTIFICATION.

9 (6) THE FEE FOR A COMMERCIAL MANURE HANDLER LICENSE OR
10 CERTIFICATION IS \$100.00 PER YEAR. IF AN ANNUAL FEE IS PAID FOR A
11 COMMERCIAL MANURE HANDLER LICENSE OR CERTIFICATION, BUT THE
12 APPLICATION FOR THE LICENSE OR CERTIFICATION IS DENIED, THE
13 DEPARTMENT SHALL PROMPTLY REFUND THE FEE. FOR EACH STATE FISCAL
14 YEAR, A PERSON POSSESSING A COMMERCIAL MANURE HANDLER LICENSE OR
15 CERTIFICATION AS OF JANUARY 1 OF THAT FISCAL YEAR SHALL BE ASSESSED
16 THE \$100.00 ANNUAL FEE. THE DEPARTMENT SHALL NOTIFY THOSE PERSONS
17 OF THEIR FEE ASSESSMENTS BY FEBRUARY 1 OF THAT FISCAL YEAR. PAYMENT
18 SHALL BE POSTMARKED BY MARCH 15 OF THAT FISCAL YEAR.

19 (7) THE DEPARTMENT SHALL ASSESS INTEREST ON ALL COMMERCIAL
20 MANURE HANDLER LICENSE AND CERTIFICATION FEE PAYMENTS RECEIVED
21 AFTER THE DUE DATE. THE AMOUNT OF INTEREST SHALL EQUAL 0.75% OF THE
22 PAYMENT DUE, FOR EACH MONTH OR PORTION OF A MONTH THE PAYMENT
23 REMAINS PAST DUE. THE FAILURE BY A PERSON TO TIMELY PAY A FEE
24 IMPOSED BY THIS SECTION IS A VIOLATION OF THIS PART.

25 (8) IF A PERSON FAILS TO PAY A FEE REQUIRED UNDER THIS SECTION
26 IN FULL, PLUS ANY INTEREST ACCRUED, BY OCTOBER 1 OF THE YEAR
27 FOLLOWING THE DATE OF NOTIFICATION OF THE FEE ASSESSMENT, THE

1 DEPARTMENT MAY ISSUE AN ORDER THAT REVOKES THE PERSON'S COMMERCIAL
2 MANURE HANDLER LICENSE OR CERTIFICATION. FEES AND INTEREST
3 COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED INTO THE
4 AGRICULTURE POLLUTION PREVENTION FUND CREATED IN SECTION 8206.

5 (9) THE DEPARTMENT MAY SUSPEND OR REVOKE A COMMERCIAL MANURE
6 HANDLER LICENSE OR CERTIFICATION IF THE DEPARTMENT, AFTER NOTICE
7 AND OPPORTUNITY FOR AN ADMINISTRATIVE HEARING, DETERMINES THAT THE
8 PERSON VIOLATED THIS PART OR RULES PROMULGATED UNDER THIS PART.

9 (10) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
10 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR
11 A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

12 SEC. 8603. THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE
13 SHALL PROMOTE COMPOSTING, WASTEWATER TREATMENT, AND OTHER
14 ALTERNATIVE TECHNOLOGIES TO ENCOURAGE THE BENEFICIAL USE OF MANURE,
15 PROCESS WASTEWATER, AND PRODUCTION AREA WASTE AND SHALL ASSIST AFO
16 OWNERS AND OPERATORS TO EMPLOY THESE METHODS.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 504 of the 94th Legislature is enacted into
19 law.