

HOUSE BILL No. 6613

November 6, 2008, Introduced by Rep. Bennett and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11135 and 11153 (MCL 324.11135 and 324.11153),
as amended by 2007 PA 75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11135. (1) A hazardous waste generator shall provide a
2 separate manifest to the transporter for each load of hazardous
3 waste transported to property that is not on the site where it was
4 generated. Until October 1, 2011, a person required to prepare a
5 manifest shall submit to the department a manifest processing user
6 charge of \$6.00 per manifest and his or her tax identification
7 number. Each calendar year, the department may adjust the manifest

1 processing user charge as necessary to ensure that the total
2 cumulative amount of the user charges assessed pursuant to this
3 section and sections 11153, 12103, 12109, and 12112 are consistent
4 with the target revenue projection for the hazardous waste and
5 liquid industrial waste users account as provided for in section
6 11130(5). However, the manifest processing user charge shall not
7 exceed \$8.00 per manifest. Money collected under this subsection
8 shall be forwarded to the state treasurer for deposit into the
9 environmental pollution prevention fund created in section 11130
10 and credited to the hazardous waste and liquid industrial waste
11 users account created in section 11130(5).

12 (2) Payment of the manifest processing user charges under
13 subsection (1) shall be made using a form provided by the
14 department. The department shall send a form to each person subject
15 to the manifest processing user charge by ~~February 28~~ **MARCH 30** of
16 each year. The form **FOR THE 2009 BILLING CYCLE SHALL SPECIFY THE**
17 **NUMBER OF MANIFESTS PREPARED BY THAT PERSON AND PROCESSED BY THE**
18 **DEPARTMENT DURING THE MONTHS OF OCTOBER, NOVEMBER, AND DECEMBER**
19 **2007 AND CALENDAR YEAR 2008. THE FORM FOR SUBSEQUENT BILLING CYCLES**
20 shall specify the number of manifests prepared by that person and
21 processed by the department during the previous ~~fiscal~~ **CALENDAR**
22 year. A person subject to the manifest processing user charge shall
23 return the completed form and the appropriate payment to the
24 department by April 30 of each year.

25 (3) A person who fails to provide timely and accurate
26 information, a complete form, or the appropriate manifest
27 processing user charge as provided for in this section is in

1 violation of this part and is subject to both of the following:

2 (a) Payment of the manifest processing user charge and an
3 administrative fine of 5% of the amount owed for each month that
4 the payment is delinquent. Any payments received after the 15th of
5 the month after the due date shall be considered delinquent for
6 that month. However, the administrative fine shall not exceed 25%
7 of the total amount owed.

8 (b) Beginning 5 months after the date payment of the manifest
9 user charge is due, but not paid, at the request of the department,
10 an action by the attorney general for the collection of the amount
11 owed under subdivision (a) and the actual cost to the department in
12 attempting to collect the amount owed under subdivision (a).

13 (4) Any amounts collected under subsection (3) for a violation
14 of this section shall be forwarded to the state treasurer and
15 deposited in the environmental pollution prevention fund created in
16 section 11130 and credited to the hazardous waste and liquid
17 industrial waste users account created in section 11130(5).

18 (5) The department shall maintain information regarding the
19 manifest processing user charges received under this section as
20 necessary to satisfy the reporting requirements of subsection (6).

21 (6) The department shall evaluate the effectiveness and
22 adequacy of the manifest processing user charges collected under
23 this section relative to the overall revenue needs of the state's
24 hazardous waste management program administered under this part.
25 Not later than April 1 of each even-numbered year, the department
26 shall summarize its findings under this subsection in a report and
27 shall provide that report to the legislature.

1 (7) A generator shall include on the manifest details as
2 specified by the department and shall at least include sufficient
3 qualitative and quantitative analysis and physical description to
4 evaluate toxicity and methods of transportation, storage, and
5 disposal. The manifest also shall include safety precautions as
6 necessary for each load of hazardous waste. The generator shall
7 submit to the department a copy of the manifest within a period of
8 10 days after the end of the month for each load of hazardous waste
9 transported within that month.

10 (8) The generator shall certify that the information contained
11 on the manifest is factual.

12 (9) The specified destination of each load of hazardous waste
13 identified on the manifest shall be a designated facility.

14 (10) ~~A-IF A~~ generator ~~who~~ does not receive a copy of the
15 manifest with the handwritten signature of the owner or operator of
16 the designated facility within 35 days ~~of~~ **AFTER** the date **ON WHICH**
17 the hazardous waste was accepted by the initial transporter, **THE**
18 **GENERATOR** shall contact the transporter to determine the status of
19 the hazardous waste. If the generator is unable to determine the
20 status of the hazardous waste upon contacting the transporter, the
21 generator shall contact the owner or operator of the designated
22 facility to which the hazardous waste was to be transported to
23 determine the status of the hazardous waste.

24 (11) A generator shall submit an exception report to the
25 department if the generator has not received a copy of the manifest
26 with the handwritten signature of the owner or operator of the
27 designated facility within 45 days ~~of~~ **AFTER** the date **ON WHICH** the

1 hazardous waste was accepted by the initial transporter. The
2 exception report shall include **ALL OF** the following:

3 (a) A legible copy of the manifest for which the generator
4 does not have confirmation of delivery.

5 (b) A cover letter signed by the generator or the generator's
6 authorized representative explaining the efforts taken to locate
7 the hazardous waste and the results of those efforts.

8 (12) A generator shall keep a copy of each manifest signed and
9 dated by the initial transporter for 3 years or until the generator
10 receives a signed and dated copy from the owner or operator of the
11 designated facility that received the hazardous waste. The
12 generator shall keep the copy of the manifest signed and dated by
13 the owner or operator of the designated facility for 3 years. The
14 retention periods required by this subsection shall be
15 automatically extended during the course of any unresolved
16 enforcement action regarding the regulated activity or as required
17 by the department.

18 Sec. 11153. (1) A generator, transporter, or treatment,
19 storage, or disposal facility shall obtain and utilize a site
20 identification number assigned by the United States environmental
21 protection agency or the department. Until October 1, 2011, the
22 department shall assess a site identification number user charge of
23 \$50.00 for each site identification number it issues. The
24 department shall not issue a site identification number under this
25 subsection unless the site identification number user charge and
26 the tax identification number for the person applying for the site
27 identification number have been received by the department.

1 (2) Until October 1, 2011, except as provided in subsection
2 (9), the department shall annually assess hazardous waste
3 management program user charges as follows:

4 (a) A generator shall pay a handler user charge that is the
5 highest of the following applicable fees:

6 (i) A generator who generates more than 100 kilograms but less
7 than 1,000 kilograms of hazardous waste in any month during ~~a~~**THE**
8 calendar year shall pay to the department an annual handler user
9 charge of \$100.00.

10 (ii) A generator who generates 1,000 kilograms or more of
11 hazardous waste in any month during the calendar year and who
12 generates less than 900,000 kilograms during the calendar year
13 shall pay to the department an annual handler user charge of
14 \$400.00.

15 (iii) A generator who generates 1,000 kilograms or more of
16 hazardous waste in any month during the calendar year and who
17 generates 900,000 kilograms or more of hazardous waste during the
18 calendar year shall pay to the department an annual handler user
19 charge of \$1,000.00.

20 (b) An owner or operator of a treatment, storage, or disposal
21 facility for which an operating license is required under section
22 11123 or for which an operating license has been issued under
23 section 11122 or 11125 shall pay to the department an annual
24 handler user charge of \$2,000.00.

25 (c) A used oil processor or rerefiner, a used oil burner, or a
26 used oil fuel marketer as defined in the rules promulgated under
27 this part shall pay to the department an annual handler user charge

1 of \$100.00.

2 (3) ~~The handler user charges shall be based on each of the~~
3 ~~activities engaged in by the handler during the previous calendar~~
4 ~~year.~~ A handler shall pay the handler user charge specified in
5 subsection (2)(a) to (c) for each of the activities conducted
6 during the previous calendar year.

7 (4) Payment of the handler user charges shall be made using a
8 form provided by the department. The handler shall certify that the
9 information on the form is accurate. The department shall send
10 forms to the handlers by ~~February 28~~ **MARCH 30** of each year unless
11 the handler user charges have been suspended as provided for in
12 subsection (9). A handler shall return the completed forms and the
13 appropriate payment to the department by April 30 of each year
14 unless the handler user charges have been suspended as provided for
15 in subsection (9).

16 (5) A handler who fails to provide timely and accurate
17 information, a complete form, or the appropriate handler user
18 charge is in violation of this part and is subject to both of the
19 following:

20 (a) Payment of the handler user charge and an administrative
21 fine of 5% of the amount owed for each month that the payment is
22 delinquent. Any payments received after the 15th of the month after
23 the due date shall be considered delinquent for that month.
24 However, the administrative fine shall not exceed 25% of the total
25 amount owed.

26 (b) Beginning 5 months after the date payment of the handler
27 user charge is due, but not paid, at the request of the department,

1 an action by the attorney general for the collection of the amount
2 owed under subdivision (a) and the actual cost to the department in
3 attempting to collect the amount owed under subdivision (a).

4 (6) The department shall maintain information regarding the
5 site identification number user charges under subsection (1) and
6 the handler user charges received under this section as necessary
7 to satisfy the reporting requirements of subsection (8).

8 (7) The site identification number user charges and the
9 handler user charges collected under this section and any amounts
10 collected under subsection (5) for a violation of this section
11 shall be forwarded to the state treasurer and deposited in the
12 environmental pollution prevention fund created in section 11130
13 and credited to the hazardous waste and liquid industrial waste
14 users account created in section 11130(5).

15 (8) The department shall evaluate the effectiveness and
16 adequacy of the site identification number user charges and the
17 handler user charges collected under this section relative to the
18 overall revenue needs of the state's hazardous waste management
19 program administered under this part. Not later than April 1 of
20 each even-numbered year, the department shall summarize its
21 findings under this subsection in a report and shall provide that
22 report to the legislature.

23 (9) Notwithstanding any other provision in this section, if
24 the balance of the hazardous waste and liquid industrial waste
25 users account created in section 11130(5), as of December 31 of any
26 year, exceeds \$3,200,000.00, the department shall suspend the
27 handler user charges until October of the following year.

1 (10) As used in this section:

2 (a) "Handler" means the person required to pay the handler
3 user charge.

4 (b) "Handler user charge" means the annual hazardous waste
5 management program user charge provided for in subsection (2).