

SENATE BILL No. 918

October 20, 2009, Introduced by Senator McMANUS and referred to the Committee on Appropriations.

A bill to amend 1981 PA 93, entitled
"Michigan right to farm act,"
by amending section 4 (MCL 286.474), as amended by 1999 PA 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) Subject to subsection (2), the director shall
2 investigate all complaints involving a farm or farm operation,
3 including, but not limited to, complaints involving the use of
4 manure and other nutrients, agricultural waste products, dust,
5 noise, odor, fumes, air pollution, surface water or groundwater
6 pollution, food and agricultural processing by-products, care of
7 farm animals and pest infestations. Within 7 business days of
8 receipt of the complaint, the director shall conduct an on-site
9 inspection of the farm or farm operation. The director shall
10 notify, in writing, the city, village, or township and the county

1 in which the farm or farm operation is located of the complaint.

2 (2) The commission and the director shall enter into a
3 memorandum of understanding with the director of the department of
4 ~~environmental quality~~ **NATURAL RESOURCES**. The investigation and
5 resolution of environmental complaints concerning farms or farm
6 operations shall be conducted in accordance with the memorandum of
7 understanding. However, the director shall notify the department of
8 ~~environmental quality~~ **NATURAL RESOURCES** of any potential violation
9 of the natural resources and environmental protection act, 1994 PA
10 451, MCL 324.101 to 324.90106, or a rule promulgated under that
11 act. Activities at a farm or farm operation are subject to
12 applicable provisions of the natural resources and environmental
13 protection act, 1994 PA 451, MCL 324.101 to 324.90106, and the
14 rules promulgated under that act. The commission and the director
15 shall develop procedures for the investigation and resolution for
16 other farm-related complaints.

17 (3) If the director finds upon investigation under subsection
18 (1) that the person responsible for a farm or farm operation is
19 using generally accepted agricultural and management practices, the
20 director shall notify, in writing, that person, the complainant,
21 and the city, village, or township and the county in which the farm
22 or farm operation is located of this finding. If the director
23 identifies that the source or potential sources of the problem were
24 caused by the use of other than generally accepted agricultural and
25 management practices, the director shall advise the person
26 responsible for the farm or farm operation that necessary changes
27 should be made to resolve or abate the problem and to conform with

1 generally accepted agricultural and management practices and that
2 if those changes cannot be implemented within 30 days, the person
3 responsible for the farm or farm operation shall submit to the
4 director an implementation plan including a schedule for completion
5 of the necessary changes. When the director conducts a follow-up
6 on-site inspection to verify whether those changes have been
7 implemented, the director shall notify, in writing, the city,
8 village, or township and the county in which the farm or farm
9 operation is located of the time and date of the follow-up on-site
10 inspection and shall allow a representative of the city, village,
11 or township and the county to be present during the follow-up on-
12 site inspection. If the changes have been implemented, the director
13 shall notify, in writing, the person responsible for the farm or
14 farm operation, the complainant, and the city, village, or township
15 and the county in which the farm or farm operation is located of
16 this determination. If the changes have not been implemented, the
17 director shall notify, in writing, the complainant and the city,
18 village, or township and the county in which the farm or farm
19 operation is located that the changes have not been implemented and
20 whether a plan for implementation has been submitted. Upon request,
21 the director shall provide a copy of the implementation plan to the
22 city, village, or township and the county in which the farm or farm
23 operation is located.

24 (4) A complainant who brings more than 3 unverified complaints
25 against the same farm or farm operation within 3 years may be
26 ordered, by the director, to pay to the department the full costs
27 of investigation of any fourth or subsequent unverified complaint

1 against the same farm or farm operation. As used in this
2 subsection, "unverified complaint" means a complaint in response to
3 which the director determines that the farm or farm operation is
4 using generally accepted agricultural and management practices.

5 (5) Except as provided in subsection (6), this act does not
6 affect the application of state statutes and federal statutes.

7 (6) Beginning June 1, 2000, except as otherwise provided in
8 this section, it is the express legislative intent that this act
9 preempt any local ordinance, regulation, or resolution that
10 purports to extend or revise in any manner the provisions of this
11 act or generally accepted agricultural and management practices
12 developed under this act. Except as otherwise provided in this
13 section, a local unit of government shall not enact, maintain, or
14 enforce an ordinance, regulation, or resolution that conflicts in
15 any manner with this act or generally accepted agricultural and
16 management practices developed under this act.

17 (7) A local unit of government may submit to the director a
18 proposed ordinance prescribing standards different from those
19 contained in generally accepted agricultural and management
20 practices if adverse effects on the environment or public health
21 will exist within the local unit of government. A proposed
22 ordinance under this subsection shall not conflict with existing
23 state laws or federal laws. At least 45 days prior to enactment of
24 the proposed ordinance, the local unit of government shall submit a
25 copy of the proposed ordinance to the director. Upon receipt of the
26 proposed ordinance, the director shall hold a public meeting in
27 that local unit of government to review the proposed ordinance. In

1 conducting its review, the director shall consult with the
2 departments of ~~environmental quality~~ **NATURAL RESOURCES** and
3 community health and shall consider any recommendations of the
4 county health department of the county where the adverse effects on
5 the environment or public health will allegedly exist. Within 30
6 days after the public meeting, the director shall make a
7 recommendation to the commission on whether the ordinance should be
8 approved. An ordinance enacted under this subsection shall not be
9 enforced by a local unit of government until approved by the
10 commission of agriculture.

11 (8) ~~By May 1, 2000, the~~ **THE** commission shall ~~issue proposed~~
12 **ADOPT** generally accepted agricultural and management practices for
13 site selection and odor controls at new and expanding animal
14 livestock facilities. ~~The commission shall adopt such generally~~
15 ~~accepted agricultural and management practices by June 1, 2000.~~ In
16 developing these generally accepted agricultural and management
17 practices, the commission shall do both of the following:

18 (a) Establish an advisory committee to provide recommendations
19 to the commission. The advisory committee shall include the
20 entities listed in section 2(d), 2 individuals representing
21 townships, 1 individual representing counties, and 2 individuals
22 representing agricultural industry organizations.

23 (b) For the generally accepted agricultural and management
24 practices for site selection, consider groundwater protection, soil
25 permeability, and other factors determined necessary or appropriate
26 by the commission.

27 (9) If generally accepted agricultural and management

1 practices require the person responsible for the operation of a
2 farm or farm operation to prepare a manure management plan, the
3 person responsible for the operation of the farm or farm operation
4 shall provide a copy of that manure management plan to the city,
5 village, or township or the county in which the farm or farm
6 operation is located, upon request. A manure management plan
7 provided under this subsection is exempt from disclosure under the
8 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

9 (10) The department shall do all of the following:

10 (a) Annually submit to the standing committees of the senate
11 and house of representatives with jurisdiction over issues
12 pertaining to agriculture and local government a report on the
13 implementation of this act.

14 (b) Make available on the department's website current
15 generally accepted agricultural and management practices.

16 (c) Establish a toll-free telephone number for receipt of
17 information on noncompliance with generally accepted agricultural
18 and management practices.

19 (11) As used in this section:

20 (a) "Adverse effects on the environment or public health"
21 means any unreasonable risk to human beings or the environment,
22 based on scientific evidence and taking into account the economic,
23 social, and environmental costs and benefits and specific
24 populations whose health may be adversely affected.

25 (b) "Commission" means the commission of agriculture.

26 (c) "Department" means the department of agriculture.

27 (d) "Director" means the director of the department or his or

1 her designee.

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No. 807

4 of the 95th Legislature is enacted into law.