

MIRS News

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More 'Out-of-State' Trash Talk

On Monday, House Democrats are scheduled to announce a "sweeping plan" they claim would "stem the tide of " out-of-state trash coming into Michigan. The plan appears to be similar to the one Sen. Liz **BRATER** (D-Ann Arbor) is already introducing in the Senate.

The crux of the House Democratic plan would be to hit waste companies with the nation's highest (\$7.50 per ton tax) dumping charge, revoking certification for a year if out-of-state jurisdictions send banned and dangerous items to Michigan landfills, strengthening enforcement and banning landfill expansions until 2010.

In 2010, the City of Toronto is supposed to have its municipal incinerator completed and would (if all goes as planned) no longer be sending trash to outside sites.

Meanwhile, the waste management industry argues that the Democratic plan is, well, a waste.

According to Michigan Waste Industries Association (MWIA) President Dan **BATTS**, the majority of the new tax burden would fall to Michigan families and businesses to pay, as they produce more than 75 percent of the waste buried in state landfills.

The crux of the MWIA argument would appear to be that, under the Commerce clause of the U.S. Constitution, out-of-state trash could not be treated any differently than in-state trash. Therefore, the new regulations would apply to the trash of Michigan citizens as well as those from out-of-state.

"Slapping an excessive \$7.50 per ton tax on trash would hit Michigan residents hard, strain municipal budgets, and put Michigan businesses at a serious competitive disadvantage during these fragile economic times," Batts said. "The proposal by House Democrats to raise the cost of doing business in Michigan now is completely out of step with the obvious need to improve the state's business climate and create new jobs and investment."

But Democrats point to Pennsylvania which they say slashed out-of-state trash by 14 percent, or 1.5 million tons, in the second year after it began charging waste companies \$7.25 per ton.

"We need to strengthen our current laws and keep fighting until we stop the flow of garbage into Michigan from Canada and elsewhere," said Rep. Kathleen **LAW** (D-Gibraltar), a leader in the Legislature's battle against out-of-state trash. "As long as Michigan remains the cheapest place to dump, Michigan will always be the trash heap of the neighborhood." Michigan is the third largest U.S. importer of trash behind Pennsylvania and Virginia.

In response, the Michigan waste industry argues that the "new tax" plan comes on the heels of several attempts by some lawmakers to raise trash taxes in an attempt to stem the flow of out of state waste. These plans have failed due to legal and constitutional concerns. A full legal analysis of the constitutional concerns is available at <http://www.michamber.com/nr/studies/WhitePaperDR.pdf>.

The second plank of the Democratic plan states that out-of-state jurisdictions (cities and states) that send banned items such as car batteries and motor oil to a Michigan landfill three times in a year will have their certification revoked. Those caught sending dangerous items, such as

radioactive medical waste and blood, just once will be banned for a year from dumping in Michigan.

The third plank of the Democratic proposal is to extend the current ban on landfill expansion that is set to end Jan. 1, 2006. They want it to be moved back to 2010, and apply a stringent permit approval process for waste companies seeking exemptions from the ban.

The fourth plank of the plan would be to apply tougher and more flexible enforcement tools, by establishing non-criminal civil infractions for solid waste violations. The plan calls for civil fines of up to \$5,000 for most transport and disposal violations. The fine is \$10,000 for repeat offenders. Those who knowingly deliver or dispose returnable containers or tires will face a fine of up to \$500. Democratic authors of the plan say it will speed punishing violators.

Michigan Chamber of Commerce claims the Democratic plan would force Michigan businesses to pay a lot more for their trash collection and handling, since waste handlers would have no choice but to pass the cost of the tax along. In-state manufacturers that generate large volumes of trash will see their trash removal costs skyrocket.

"The rhetoric on this issue simply doesn't match the facts, which show the vast majority of waste deposited in Michigan landfills actually comes from within Michigan," said Michigan Chamber of Commerce official Doug **ROBERTS**, Jr. "Any new service charges and fees will ultimately be borne primarily by the businesses and people of Michigan and add to our overall statewide tax burden."

MWIA officials say they are working with business, manufacturing and community representatives, and other MDEQ officials to develop a proposal aimed at spurring increased recycling rates by allowing local communities to determine the best program for their residents. The plan would also allow voters in Michigan communities to approve funding for their own programs.