

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1216
HOUSE BILL 1201

AN ACT TO REWRITE THE SOLID WASTE MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 13B of Chapter 130 of the General Statutes is hereby rewritten to read as follows:

"ARTICLE 13B.

"Solid Waste Management.

§ 130-166.16. Definitions. — As used in this Article, the term:

- (1) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
- (2) 'Federal act' means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.
- (3) 'Garbage' means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- (4) 'Hazardous waste', as determined by the commission, means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:
 - (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (5) 'Hazardous waste generation' means the act or process of producing hazardous waste.
- (6) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.
- (7) 'Hazardous waste facility' means a facility for the storage, collection, processing, treatment, recycling, recovery or disposal of hazardous waste.
- (8) 'Manifest' means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.
- (9) 'Natural resources' means all materials which have useful physical or chemical properties which exist, unused, in nature.
- (10) 'Open dump' means a solid waste disposal site which is not a sanitary landfill.
- (10a) 'Person' means an individual, corporation, company, association, partnership, unit of local government, or other legal entity.

(11) 'Recycling' means the process by which recovered resources are transformed into new products in such a manner that the original products lose their identity.

(12) 'Refuse' means all non-putrescible waste.

(13) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing such solid waste for recycling.

(14) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills promulgated under this Article.

(15) 'Sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

(16) 'Solid waste' means any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. Such term does not include:

- a. fowl and animal fecal waste;
- b. solid or dissolved material in
 1. domestic sewage and sludges generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity of more than 3000 gallons or which discharge effluents to the surface waters;
 2. irrigation return flows; and
 3. wastewater discharges and the sludges incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission; or
- c. oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
- d. any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through G.S. 104E-23; or
- e. mining refuse covered by the North Carolina Mining Act G.S. 74-46 through G.S. 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

(17) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

(18) 'Solid waste generation' means the act or process of producing solid waste.

(19) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

(20) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.

(21) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

(22) 'Treatment' means any method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of any solid waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of solid waste so as to render it nonhazardous.

"§ 130-166.17. Solid waste unit in Department of Human Resources. — For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of our natural resources, the Department of Human Resources shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal, and overall management of solid waste and the greatest possible recycling and recovery of resources, and the department shall employ and retain such qualified personnel as may be necessary. To the extent necessary, practicable and appropriate, the department shall consult and coordinate with other State agencies, units of local government, the federal government, industries and individuals in the promotion of sanitary processing, treatment, disposal and overall management of solid waste and the recycling and recovery of resources.

"§ 130-166.18. Solid waste management program. — (a) The Department of Human Resources is authorized and directed to engage in research, conduct investigations and surveys, make inspections, and establish a statewide solid waste management program. In establishing a program, the department shall have authority to:

- (1) develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;
- (2) advise, consult, cooperate, and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;
- (3) develop and promulgate standards for qualification as a 'recycling or resource recovering facility' or as 'recycling or resource recovering equipment' for the purpose of special tax classifications or treatments, and to certify as qualifying those applicants which meet the established standards. The standards shall be so developed as to qualify only those facilities and equipment exclusively used in the actual resource recovering or recycling process and shall exclude any incidental or supportive facilities and equipment; and
- (4) develop a permit system governing the establishment and operation of solid waste management facilities. In connection with the above, no such permit shall be granted for a solid waste management facility having discharges which are point sources, until the Department of Human Resources has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the same are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department of Human Resources denies a permit for a solid waste management facility, it shall state in writing the reason for such denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required in order that the applicant may obtain a permit.
- (5) delegate authority and responsibility to local governments, including counties, to perform all or any portion of a solid waste management program within the jurisdictional area of the local government; provided, that no

authority over or control of the operations or properties of one local government shall be delegated to any other local government.

(b) The commission shall promulgate and the department shall enforce rules for the establishment, location, operation, maintenance, use and discontinuance of solid waste management sites and facilities. Such rules shall be designed to accomplish the maintenance of safe and sanitary conditions in and around solid waste management sites and facilities, and shall be based on recognized public health practices and procedures, sanitary engineering research and studies, and current technological development in equipment and methods. Such rules shall not apply to the management of solid waste accumulated by an individual or individual family or household unit and disposed of on his own property.

(c) The commission shall promulgate and the department shall enforce rules concerning the management of hazardous waste. Such rules shall provide for:

- (1) establishing criteria for hazardous wastes, identifying the characteristics of hazardous waste and listing particular hazardous wastes;
- (2) record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;
- (3) proper labeling of hazardous waste containers;
- (4) use of appropriate containers for hazardous waste;
- (5) a manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;
- (6) proper transportation of hazardous waste;
- (7) treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;
- (8) location, design, ownership and construction of hazardous waste facilities;
- (9) plans to minimize unanticipated damage from any treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;
- (10) proper maintenance and operation of hazardous waste facilities, including requirements for ownership (including ownership by any person or the State), financial responsibility, training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;
- (11) monitoring by owners or operators of hazardous waste facilities;
- (12) inspection or copying of records required to be kept;
- (13) obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;
- (14) a permit system governing the establishment and operation of hazardous waste facilities; and
- (15) such additional requirements as may be necessary for the effective management of hazardous waste.

(d) The commission shall have the authority to promulgate and the department shall have the authority to enforce rules where appropriate for public participation in the development, revision, implementation and enforcement of any regulation, guideline, information or program under this Article.

(e) The rules promulgated under this section shall be no less stringent than the most recent regulations promulgated under the federal act and may be amended from time to time as necessary.

"§ 130-166.19. Receipt and distribution of funds. — The department may accept loans and grants from the federal government and other sources for carrying out the purposes of this Article, and shall adopt reasonable policies governing the administration and distribution of such funds to units of local government, other State agencies, and private agencies, institutions or individuals for studies, investigations, demonstrations, surveys, planning, training, and construction or establishment of solid waste management facilities.

"§ 130-166.20. Single agency designation. — The department is hereby designated as the single State agency for purposes of the federal act or any State or federal legislation which has been or may be enacted to promote the proper management of solid waste.

"§ 130-166.20A. Effect on laws applicable to water pollution control. — This Article shall not be construed as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes of North Carolina relative to the control of water pollution as now administered by the Environmental Management Commission nor shall the provisions of this Article be construed as being applicable to or in any way affecting the authority of the Environmental Management Commission to control the discharges of wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143, of the General Statutes of North Carolina.

"§ 130-166.21. Recordation of sanitary landfill site permits. — (a) Whenever the Department of Human Resources approves a sanitary landfill site, the owner of the landfill site shall be granted both an original permit and a copy certified by the secretary or his authorized representative. The permit shall include a legal description of the landfill site which would be sufficient as a description in an instrument of conveyance.

(b) Any person granted a sanitary landfill site permit shall file the certified copy of such permit in the register of deeds' office in the county or counties in which the landfill is located.

(c) The register of deeds shall record the certified copy and index it in the grantor index under the name of the owner of the landfill site.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (b).

"§ 130-166.21A. Sludge deposits at sanitary landfills. — Sludges generated by the treatment of wastewater discharges which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), or permits generated under G.S. 143-215.1 by the Environmental Management Commission shall not be deposited in or on a sanitary landfill permitted hereunder unless in compliance with the rules concerning solid waste promulgated under this Article.

"§ 130-166.21B. Imminent hazard. — (a) An imminent hazard shall exist when in the judgement of the secretary, as supported by findings of fact made by the secretary, a condition exists in the State concerning solid waste which poses a serious, immediate risk to public health.

(b) In order to eliminate an imminent hazard, the secretary may, without notice or hearing, issue an order requiring that immediate action be taken to protect the public health. Such order may be directed to a generator or transporter of solid waste or to the owner or operator of a solid waste management facility.

"§ 130-166.21C. Information received pursuant to this Article. — (a) For the purposes of this Article, upon a showing satisfactory to the department or any authorized representative of the department by any person that records, reports or information or particular part thereof, to which the department or any authorized representative of the department has access under G.S. 130-204, would divulge information entitled to protection under subsection (b), the department shall consider such information or particular portion thereof confidential in accordance with the purposes of that subsection, except that such record, report, document or information may be disclosed to other officers, employees or authorized representatives of the department concerned with carrying out this act, or when relevant in any proceeding under this act.

(b) For the purposes of this Article, whoever being an officer or employee of the department publishes, divulges, discloses or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with the department or any authorized representative of the department which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided in subsection (a) shall be guilty of a misdemeanor and fined not more than five hundred dollars (\$500.00) or imprisoned not more than two years or both; and shall be removed from office or employment.

"§ 130-166.21D. Construction. — (a) This Article shall be interpreted as enabling the State to obtain federal financial assistance in carrying out its solid waste management program and to obtain the authority needed to assume primary enforcement responsibility for that portion of the solid waste management program concerning the management of hazardous waste.

(b) That portion of the solid waste management program concerning hazardous waste maintained by the State under this Article shall be no more comprehensive than the hazardous waste program prescribed under the federal act and that the rules, regulations and standards promulgated hereunder shall:

- (1) be no more stringent than the rules, regulations and standards concerning hazardous waste prescribed under the federal act; and
- (2) not become effective prior to the effective date of the rules, regulations and standards concerning hazardous waste prescribed under the federal act.

Any rules, regulations, policy guidelines or opinions rendered under this bill, relating to Article 13B, shall be reviewed by the proper committees of the next regular session of the General Assembly."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.