

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE DRH70319-RTf-25 (03/05)

Short Title: Hazardous Waste Fees.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A PERSON WHO GENERATES, TRANSPORTS, TREATS, STORES, OR DISPOSES OF HAZARDOUS WASTE TO NOTIFY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES PRIOR TO COMMENCING THE ACTIVITY, TO REQUIRE GENERATORS OF HAZARDOUS WASTE TO PAY A SECURITY DEPOSIT TO THE DEPARTMENT TO ENSURE COMPLIANCE WITH CLOSURE REQUIREMENTS, TO CLARIFY WHICH HAZARDOUS WASTE FEES ARE PAYABLE ON AN ANNUAL BASIS AND WHICH ARE PAYABLE ON A FISCAL YEAR BASIS, TO CLARIFY WHEN HAZARDOUS WASTE FEES ARE DUE, AND TO IMPOSE A LATE PAYMENT FEE ON DELINQUENT HAZARDOUS WASTE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294.1 reads as rewritten:

"§ 130A-294.1. Fees applicable to generators and transporters of hazardous waste, and to hazardous waste storage, treatment, and disposal facilities; notification of hazardous waste activities required.

(a) It is the intent of the General Assembly that the fee system established by this section is solely to provide funding in addition to federal and State appropriations to support the State's hazardous waste management program.

(b) Funds collected pursuant to this section shall be used for personnel and other resources necessary to:

(1) Provide a high level of technical assistance and waste minimization effort for the hazardous waste management ~~program;~~program.

(2) Provide timely review of permit ~~applications;~~applications.

- 1 (3) Insure that permit decisions are made on a sound technical basis
2 and that permit decisions incorporate all conditions necessary to
3 accomplish the purposes of this ~~Part~~Part.
- 4 (4) Improve monitoring and compliance of the hazardous waste
5 management ~~program~~program.
- 6 (5) Increase the frequency of ~~inspections~~inspections.
- 7 (6) Provide chemical, biological, toxicological, and analytical
8 support for the hazardous waste management ~~program~~
9 ~~and~~program.
- 10 (7) Provide resources for emergency response to imminent hazards
11 associated with the hazardous waste management program.

12 (c) It is the intent of the General Assembly that the total funds collected per year
13 pursuant to this section not exceed thirty percent (30%) of the total funds budgeted from
14 all sources for the hazardous waste management program. This subsection shall not be
15 construed to limit the obligation of any person to pay any fee imposed by this section.

16 (d) The Hazardous Waste Management Account is established as a nonreverting
17 account within the Department. All fees collected under this section shall be credited to
18 the Account and shall be used for the purposes listed in subsection (b).

19 (d1) No person shall generate, transport, treat, store, or dispose of any hazardous
20 waste without first notifying the Department of the location and nature of the activity to
21 be conducted and the type and quantity of hazardous waste involved. Notification shall
22 be made on a form approved by the Department. A person who generates, transports,
23 treats, stores, or disposes of any hazardous waste and who has notified the Department
24 of that activity shall submit a supplemental notification to the Department within 30
25 days after any change in the location or nature of the activity or the type or quantity of
26 the hazardous waste involved. A supplemental notification shall be made on a form
27 approved by the Department and shall update any prior notification. A person who
28 operates a hazardous waste treatment, storage, or disposal facility and who intends to
29 close the facility shall notify the Department no later than 30 days before the facility is
30 to be closed.

31 (d2) Prior to generating any hazardous waste, a person shall pay a security deposit
32 to the Department. Only one security deposit shall be required for each facility that
33 generates hazardous waste. The amount of the security deposit shall be five thousand
34 dollars (\$5,000) for a generator described in subsection (e) of this section and shall be
35 two thousand five hundred dollars (\$2,500) for a generator described in subsection (f) of
36 this section. The Department shall hold the security deposit in trust for so long as the
37 generation of hazardous waste continues. When the facility that generates hazardous
38 waste is closed, the Department shall determine whether the closure complies with all
39 applicable standards. The Department shall refund the security deposit if the facility is
40 in compliance with closure standards. If the facility is not in compliance with closure
41 standards, the Department may apply the security deposit to the costs of any measures
42 to remediate or stabilize the facility that the Department determines to be necessary to
43 bring the facility into compliance with closure standards. The Department shall refund
44 any unused portion of the security deposit to the person who paid it or to the person's

1 successor in interest. This subsection shall not be construed to limit the liability of any
2 generator of hazardous waste who pays a security deposit for any costs that exceed the
3 amount of the security deposit.

4 (e) A person who generates either one kilogram or more of any acute hazardous
5 waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) ~~as revised 1 July 1987, (1 July~~
6 2002 Edition) or 1000 kilograms or more of hazardous waste, in any calendar month
7 during the year beginning 1 July and ending 30 June shall pay an annual fee of five
8 hundred dollars (\$500.00).

9 (f) A person who generates more than 100 kilograms or more of hazardous waste
10 in any calendar month during the year beginning 1 July and ending 30 June but less than
11 1000 kilograms of hazardous waste in each calendar month during that year shall pay an
12 annual fee of twenty-five dollars (\$25.00).

13 (g) A person who generates one kilogram or more of acute hazardous waste or
14 1000 kilograms or more of hazardous waste in any calendar month during ~~the a~~ calendar
15 year shall pay, in addition to ~~any fee the fee due~~ under subsections (e) and (f) of this
16 section, a tonnage fee of fifty cents (\$0.50) per ton or any part thereof of hazardous
17 waste generated during ~~that the~~ calendar year up to a maximum of 25,000 tons.

18 (h) A person who generates less than one kilogram of acute hazardous waste and
19 ~~less than~~ 100 kilograms or less of hazardous waste in each calendar month during ~~the~~
20 any year beginning 1 July and ending 30 June shall not be liable for payment of a fee
21 under subsections (e) and (f) of this section for that year.

22 (i) Hazardous waste generated as a result of any type of remedial action or by
23 collection by a local government of hazardous waste from households shall not be
24 subject to a tonnage fee under subsections (g) and (l) of this section.

25 (j) A person who transports hazardous waste shall pay an annual fee of six
26 hundred dollars (\$600.00).

27 (k) A storage, treatment, or disposal facility shall pay an annual activity fee of
28 one thousand two hundred dollars (\$1,200) for each activity.

29 (l) A commercial hazardous waste storage, treatment, or disposal facility shall
30 ~~pay annually, pay,~~ in addition to the fees applicable to all hazardous waste storage,
31 treatment, or disposal facilities, a single tonnage ~~charge fee~~ of one dollar and
32 seventy-five cents (\$1.75) per ton or any part thereof of hazardous waste stored, treated,
33 or disposed of at the ~~facility. facility~~ during each calendar year. A manufacturing
34 facility that receives hazardous waste generated from the use of a product typical of its
35 manufacturing process for the purpose of recycling is exempt from this tonnage
36 ~~charge fee.~~ A facility must have a permit issued under this Article ~~which that~~ includes
37 the recycling activity and specifies the type and amount of waste ~~allowed to be received~~
38 that the facility is allowed to receive from off-site for recycling.

39 (m) An applicant for a permit for a hazardous waste storage, treatment, or
40 disposal facility that proposes to operate as a commercial facility shall pay an
41 application fee for each proposed activity as follows:

- | | |
|---------------------------|-----------|
| 42 (1) Storage facility | \$10,000; |
| 43 (2) Treatment facility | \$15,000; |
| 44 (3) Disposal facility | \$25,000. |

1 (n) The Commission may adopt rules setting fees for modifications to permits.
2 ~~Such~~ ~~These~~ fees shall not exceed fifty percent (50%) of the application fee.

3 (o) ~~Annual fees established under this section are due no later than 31 July for the~~
4 ~~fiscal year beginning 1 July in the same year. Tonnage fees established under this~~
5 ~~section are due no later than 31 July for the previous calendar year.~~ A generator of
6 hazardous waste shall pay the annual fee due under subsections (e) and (f) of this
7 section no later than 31 August of the fiscal year for which the fee is due or within 30
8 days after generating the quantity of hazardous waste that requires payment of the fee.
9 A generator of acute hazardous waste shall pay the tonnage fee due under subsection (g)
10 of this section no later than 31 March or the year following the calendar year for which
11 the fee is due. A transporter of hazardous waste shall pay the annual fee due under
12 subsection (j) of this section no later than 31 August of the fiscal year for which the fee
13 is due or within 30 days after transporting hazardous waste. A hazardous waste
14 treatment, storage, or disposal facility shall pay the annual activity fee due under
15 subsection (k) of this section no later than 31 August of the fiscal year for which the fee
16 is due or within 30 days after treating, storing, or disposing of hazardous waste. A
17 commercial hazardous waste treatment, storage, or disposal facility shall pay the
18 tonnage fee due under subsection (l) of this section no later than 31 March or the year
19 following the calendar year for which the fee is due. An applicant for a permit or for
20 modification of a permit for a hazardous waste treatment, storage, or disposal facility
21 shall pay the application fee due under subsection (m) of this section at the time the
22 application is submitted to the Department. A late payment charge of one and one-half
23 percent (1.5%) shall be added to any fee due under this section for each month or part
24 thereof during which the fee, or any portion thereof, remains unpaid.

25 (p) The Department shall make an annual report to the General Assembly and its
26 Fiscal Research Division on the cost of the hazardous waste management program. The
27 report shall include, but is not limited to, beginning fund balance, fees collected under
28 this section, anticipated revenue from all sources, total expenditures (by activities and
29 categories) for the hazardous waste management program, ending fund balance, any
30 recommended adjustments in the annual and tonnage fees which may be necessary to
31 assure the continued availability of funds sufficient to pay the State's share of the cost of
32 the hazardous waste management program, and any other information requested by the
33 General Assembly. In recommending adjustments in annual and tonnage fees, the
34 Department may propose fees for hazardous waste generators, and for hazardous waste
35 treatment facilities which treat waste generated on-site, which are designed to encourage
36 reductions in the volume or quantity and toxicity of hazardous waste."

37 **SECTION 2.** Section 1 of this act becomes effective 1 July 2003. The
38 security deposit required under G.S. 130A-294.1(d2), as enacted by Section 1 of this
39 act, shall apply to any person who operates a facility that generates hazardous waste on
40 or after 1 October 2003. A generator of hazardous waste shall pay the tonnage fee due
41 under G.S. 130A-294.1(g), as amended by Section 1 of this act, for the 2002 calendar
42 year no later than 31 August 2003. A commercial hazardous waste treatment, storage, or
43 disposal facility shall pay the tonnage fee due under G.S. 130A-294.1(l), as amended by
44 Section 1 of this act, for the 2002 calendar year no later than 31 August 2003.