

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1119

Short Title: Food Waste Reduction Act. (Public)

Sponsors: Representative Hawkins.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House

May 18, 2020

A BILL TO BE ENTITLED

AN ACT TO ENACT THE FOOD RECOVERY AND RECYCLING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 9.

"Food Donation and Food Scrap Recycling.

"§ 130A-310.80. Definitions.

Unless a different meaning is required by the context, the definitions of G.S. 130A 290 and the following definitions apply throughout this Part:

- (1) Designated food scraps generator. – A person who generates at a single location an annual average of two tons per week or more of food scraps based on a methodology established by the Department by rule, including supermarkets, large food service businesses, higher educational institutions, hotels, food processors, correctional facilities, and sports or entertainment venues. For a location with multiple independent food service businesses, such as a mall or college campus, the entity responsible for contracting for solid waste hauling services is responsible for managing food scraps from the independent businesses.
- (2) Food scraps. – Inedible food, trimmings from the preparation of food, and edible food that is not donated. Food scraps shall not include used cooking oil, grease or food from residential sources, or any food subject to a recall or seizure by the Department of Agriculture and Consumer Services or any other State agency due to the presence of pathogens, including but not limited to: *Listeria Monocytogenes*, confirmed *Clostridium Botulinum*, *E. coli* 0157:H7 and all salmonella in ready-to-eat foods.
- (3) Organics recycler. – A facility, permitted by the Department, that recycles food scraps through use as animal feed or a feed ingredient, rendering, land application, composting, aerobic digestion, anaerobic digestion, fermentation, or ethanol production under the law applicable to each type of organics recycler. The proportion of the product created from food scraps by a composting or digestion facility, including a wastewater treatment plant that operates a digestion facility, or other combined-stream treatment system, must



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1 be used in a beneficial manner as a soil amendment and shall not be disposed
2 of or incinerated.

3 (4) Single location. – Contiguous property under common ownership, which may
4 include one or more buildings.

5 (5) Transfer facility. – A solid waste management facility permitted under this
6 Article, whether owned or operated by a private or public entity, other than a
7 recyclables handling and recovery facility, used oil facility, or a construction
8 and demolition debris processing or disposal facility, where solid waste is
9 received for the purpose of subsequent transfer to another solid waste
10 management facility for processing, treating, disposal, recovery, or further
11 transfer.

12 **"§ 130A-310.82. Designated food scraps generator responsibilities.**

13 (a) Donation. – All designated food scraps generators shall separate their excess edible
14 food for donation for human consumption to the maximum extent practicable, and in accordance
15 with applicable laws and rules related to food donation.

16 (b) Diversion. – Except as provided in subsection (c) of this section, each designated food
17 scraps generator that is within twenty-five miles of an organics recycler, to the extent that the
18 recycler has capacity to accept all of such generator's food scraps based on the department's
19 yearly estimate of an organics recyclers' capacity pursuant to G.S. 130A-310.90(a), shall do all
20 of the following:

21 (1) Separate all food scraps remaining after meeting the requirements of
22 subsection (a) of this section from other solid waste.

23 (2) Ensure proper storage for food scraps on site which shall preclude such
24 materials from becoming odorous or attracting vectors, such as a container
25 that has a lid and a latch that keeps the lid closed and is resistant to tampering
26 by rodents or other wildlife and has sufficient capacity.

27 (3) Have information available and provide training for employees concerning the
28 proper methods to separate and store food scraps.

29 (4) Obtain a transporter that will deliver food scraps to an organics recycler,
30 self-haul its food scraps to an organics recycler, or provide for organics
31 recycling on-site via in vessel composting, aerobic or anaerobic digestion or
32 any other method of processing organic waste as the Department may specify
33 by rule, for some or all of the food waste it generates on its premises, provided
34 that the remainder is delivered to an organics recycler.

35 (c) Exception. – The provisions of subsection (b) of this section shall not apply to any
36 designated food scraps generator that has all of its food scraps processed in a composting facility
37 permitted by the Department to accept the kinds of food scraps generated by the designated food
38 scraps generator.

39 (d) Report. – All designated food scraps generators shall submit an annual report in an
40 electronic format to the Department on or before October 1, 2023, and annually thereafter. The
41 annual report shall summarize for the previous fiscal year the amount of edible food donated, the
42 amount of food scraps recycled, the organics recycler or recyclers and associated transporters
43 used, and any other information as required by the department.

44 (e) Waiver. – A designated food scraps generator may petition the Department for a
45 temporary waiver from some or all of the requirements of this Part. The petition shall include
46 evidence of undue hardship based on any of the following:

47 (1) The designated food scraps generator does not meet the two tons per week
48 threshold.

49 (2) The cost of processing organic waste is not reasonably competitive with the
50 cost of disposing of waste by landfill.

1 (3) The organics recycler does not have sufficient capacity, despite the
2 Department's calculation.

3 (4) Other unique circumstances of the designated food scraps generator.

4 A waiver shall be no longer than one year in duration provided, however, the Department
5 may renew such waiver.

6 **"§ 130A-310.84. Waste transporter responsibilities.**

7 (a) Any waste transporter that collects food scraps for recycling from a designated food
8 scraps generator shall dispose of the food scraps by either of the following:

9 (1) Delivery to a transfer facility that will deliver such food scraps to an organics
10 recycler unless the generator has received a temporary waiver under
11 G.S. 130A-310.82(e).

12 (2) Delivery directly to an organics recycler.

13 (b) Any waste transporter that collects food scraps from a designated food scraps
14 generator shall take all reasonable precautions to not deliver those food scraps to an incinerator
15 or a landfill nor commingle the material with any other solid waste unless such commingled
16 waste can be processed by an organics recycler or unless such generator has received a temporary
17 waiver under G.S. 130A-310.82(e).

18 **"§ 130A-310.86. Transfer facility.**

19 Any transfer facility that receives food scraps from a designated food scraps generator must
20 ensure that the food scraps are taken to an organics recycler unless such generator has received
21 a temporary waiver under G.S. 130A-310.82(e). A transfer facility shall take all reasonable
22 precautions to not commingle the material with any other solid waste unless such commingled
23 waste can be processed by an organics recycler.

24 **"§ 130A-310.88. Food scraps disposal prohibition.**

25 Incinerators and landfills permitted under this Article shall take all reasonable precautions to
26 not accept food scraps from designated food scraps generators required to send their food scraps
27 to an organics recycler as outlined under G.S. 130A-310.82 unless the designated food scraps
28 generator has received a temporary waiver under G.S. 130A-310.82(e).

29 **"§ 130A-310.90. Responsibilities of Department.**

30 (a) No later than January 1, 2022 and annually thereafter, the Department shall assess the
31 capacity of each organic recycler and notify designated food scraps generators if they are required
32 to comply with the provisions of G.S.130A-310.82(b) during the next fiscal year.

33 (b) The Department shall maintain on its website a list of all designated food scraps
34 generators, organics recyclers, and all waste transporters that manage source-separated organics.

35 (c) The Department shall develop and make available educational materials to assist
36 designated food scraps generators with compliance with this Part. The Department shall also
37 develop education materials on food waste minimization and encourage municipalities to
38 disseminate these materials both on their municipal websites and in any future mailings to their
39 residents.

40 (d) The Department shall regulate organics recyclers to ensure that their activities do not
41 impair water quality or otherwise harm human health and the environment.

42 **"§ 130A-310.92. Rules.**

43 The Department shall adopt rules or amend existing rules necessary to implement the
44 provisions of this Part, including, at a minimum, the following:

45 (1) The methodology the department will use to determine who is a designated
46 food scraps generator.

47 (2) The waiver process.

48 (3) Procedures to minimize odors and vectors.

49 (4) How designated food scraps generators shall comply with the provisions of
50 G.S. 130A-310.82(a) and G.S. 130A-310.82(b)(1).

51 **"§ 130A-310.94. Exclusions.**

1 (a) This Part shall not apply to any of the following:

2 (1) Hospitals, nursing homes, or adult care facilities.

3 (2) Local school administrative units, charter schools, regional schools, and other
4 elementary or secondary schools operated by the State Board of Education.

5 (b) Nothing in this section is intended to prevent the entities listed in subsection (a) of
6 this section from participating in the programs established by this Part on a voluntary basis.

7 **§ 130A-310.96. Report.**

8 No later than October 1, 2023, and annually thereafter, the Department shall submit an annual
9 report to the Environmental Review Commission describing the operation of the food donation
10 and food scraps recycling program including the amount of edible food donated, the amount of
11 food scraps recycled, sample educational materials, and number of waivers provided.

12 **SECTION 2.(a)** G.S. 130A-309.10(f) is amended by adding a new subdivision to
13 read:

14 "(16) Food scraps, except as provided in Part 9 of this Article."

15 **SECTION 2.(b)** G.S. 130A-309.10(f1) is amended by adding a new subdivision to
16 read:

17 "(16) Food scraps, except as provided in Part 9 of this Article."

18 **SECTION 3.** Two hundred thousand dollars (\$200,000) in recurring funds and fifty
19 thousand dollars (\$50,000) in nonrecurring funds for the 2020-2021 fiscal year is appropriated
20 from the General Fund to the Department of Environmental Quality and allocated to the Division
21 of Waste Management and the Division of Environmental Assistance and Customer Service to
22 implement the provisions of this act. The Department may establish up to four FTE positions
23 with the funds appropriated by this section.

24 **SECTION 4.** The provisions of this act shall be severable and if any portion thereof
25 or the applicability thereof to any person or circumstance is held invalid, the remainder of this
26 act and the application shall not be affected by that holding.

27 **SECTION 5.** Section 1 of this act becomes effective January 1, 2022. Section 2 of
28 this act is effective July 1, 2022. Section 3 of this act becomes effective July 1, 2020. The
29 remainder of this act is effective when it becomes law.