**South Carolina General Assembly**

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**H. 3517**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Neilson, Bales, Clyburn, Crawford, Herbkersman, Hosey, Hutto, Jefferson, Long, J.M. Neal, E.H. Pitts, Toole and Williams

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Currently residing in the House Committee on **Agriculture, Natural Resources and Environmental Affairs**

Summary: Landfills

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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2/12/2009 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** [HJ](file:///h:\HJ%20Archive\2009\02-12-09.docx)‑12

**VERSIONS OF THIS BILL**

[2/12/2009](file:///p:\pprever\2009-10\3517_20090212.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑96‑115 SO AS TO ESTABLISH A STATEWIDE TIPPING FEE ON THE DISPOSAL OF SOLID WASTE IN A LANDFILL, TO IMPOSE ON A LANDFILL OWNER OR OPERATOR REQUIREMENTS FOR RECORDING SOLID WASTE TONNAGE RECEIVED AND TIPPING FEES RECEIVED, TO REQUIRE A LANDFILL OWNER OR OPERATOR QUARTERLY TO REPORT TONNAGE FEES RECEIVED TO THE DEPARTMENT AND TO DEPOSIT TIPPING FEES COLLECTED WITH THE DEPARTMENT; TO AMEND SECTION 44‑96‑40, RELATING TO CERTAIN DEFINITIONS, SO AS TO DEFINE A TIPPING FEE; AND TO AMEND SECTION 44‑96‑120, RELATING TO THE SOLID WASTE MANAGEMENT TRUST FUND, SO AS TO PROVIDE THE SOLID WASTE MANAGEMENT TRUST FUND MAY RECEIVE TIPPING FEE PROCEEDS FROM THE DEPARTMENT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 96, Title 44 of the 1976 Code is amended by adding:

“Section 44‑96‑115. (A) A tipping fee of five dollars for a ton of waste is imposed on the disposal of solid waste in a landfill permitted pursuant to this chapter.

(B) The owner or operator of a landfill permitted pursuant to this chapter:

(1) shall maintain a scale designed to determine solid waste tonnage and approved by the Department of Agriculture and the Department of Consumer Affairs;

(2) shall record waste tonnage at the time the waste is received;

(3) quarterly shall calculate and record tipping fees received pursuant to this section on a form developed and provided by the department;

(4) quarterly shall provide a copy of the completed form described in item (3) of this subsection to the department and deposit associated tipping fees collected with the department. The owner or operator must provide this report and fee payment to the department by the fifteenth day of the month following the end of the quarter for which the report was made and during which the associated fees were collected.

(C) The department shall deposit tipping fees collected to the Solid Waste Management Trust Fund.

SECTION 2. Section 44‑96‑40 of the 1976 Code is amended to read:

“Section 44‑96‑40. As used in this chapter:

(1) ‘Beverage’ means beer or malt beverages, mineral water, soda water, and similar carbonated soft drinks in liquid form, and all other liquids intended for human consumption, except for liquids marketed for and intended for consumption for medicinal purposes.

(2) ‘Beverage container’ means the individual, separate, and sealed glass, aluminum or other metal, or plastic bottle, can, jar, or carton containing beverage intended for human consumption.

(3) ‘Collection’ means the act of picking up solid waste materials from homes, businesses, governmental agencies, institutions, or industrial sites.

(4) ‘Compost’ means the humus‑like product of the process of composting waste.

(5) ‘Composting facility’ means ~~any~~a facility used to provide aerobic, thermophilic decomposition of the solid organic constituents of solid waste to produce a stable, humus‑like material.

(6) ‘Construction and demolition debris’ means discarded solid wastes resulting from construction, remodeling, repair and demolition of structures, road building, and land clearing. The wastes include, but are not limited to, bricks, concrete, and other masonry materials, soil, rock, lumber, road spoils, paving material, and tree and brush stumps, but does not include solid waste from agricultural or silvicultural operations.

(7) ‘County solid waste management plan’ means a solid waste management plan prepared, approved, and submitted by a single county pursuant to Section 44‑96‑80.

(8)’Degradable’, with respect to ~~any~~a material, means that the material, after being discarded, is capable of decomposing to components other than heavy metals or other toxic substances after exposure to bacteria, light, or outdoor elements.

(9)’Department’ means the South Carolina Department of Health and Environmental Control.

(10) ‘Discharge’ means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of solid waste, including leachate, into or on ~~any~~ land or water.

(11) ‘Disposal’ means the discharge, deposition, injection, dumping, spilling or placing of ~~any~~a solid waste into or on ~~any~~ land or water, so that the substance or ~~any~~a constituent ~~thereof~~of it may enter the environment or be emitted into the air or discharged into ~~any waters~~water, including groundwater.

(12) ‘Energy recovery’ means the beneficial use, reuse, recycling, or reclamation of solid waste through the use of the waste to recover energy ~~therefrom~~from it.

(13) ‘Facility’ means ~~all~~ contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, including, but not limited to, one or more landfills, surface impoundments, or combination ~~thereof~~of these.

(14) ‘For hire motor carrier’ means a company operating a fleet of vehicles used exclusively in the transportation of freight for compensation.

(15) ‘Generation’ means the act or process of producing solid waste.

(16) ‘Groundwater’ means water beneath the land surface in the saturated zone.

(17) ‘Hazardous waste’ has the meaning provided in Section 44‑56‑20 of the South Carolina Hazardous Waste Management Act.

(18) ‘Incineration’ means the use of controlled flame combustion to thermally break down solid, liquid, or gaseous combustible wastes, producing residue that contains little or no combustible materials.

(19) ‘Industrial waste’ means solid waste that results from industrial processes including, but not limited to, factories and treatment plants.

(20) ‘Infectious waste’ has the meaning given in Section 44‑93‑20 of the South Carolina Infectious Waste Management Act.

(21) ‘Land‑clearing debris’ means solid waste ~~which~~that is generated solely from land‑clearing activities, but does not include solid waste from agricultural or silvicultural operations.

(22) ‘Landfill’means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.

(23) ‘Lead‑acid battery’ means ~~any~~a battery that consists of lead and sulfuric acid, is used as a power source, and has a capacity of six volts or more, except that this term shall not include a small sealed lead‑acid battery ~~which~~that means a lead‑acid battery weighing twenty‑five pounds or less, used in ~~non‑vehicular~~nonvehicular, non‑SLI (start lighting ignition) applications.

(24) ‘Lead‑acid battery collection facility’ means a facility authorized by the Department of Health and Environmental Control to accept lead‑acid batteries from the public for temporary storage prior to recycling.

(25) ‘Local government’ means a county, ~~any~~a municipality located wholly or partly within the county, and ~~any other~~another political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.

(26) ‘Materials Recovery Facility’ means a solid waste management facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or ~~any~~a combination of ~~such~~these materials.

(27) ‘Motor oil’ and ‘similar lubricants’ mean the fraction of crude oil or synthetic oil that is classified for use in the crankcase, transmission, gearbox, or differential of an internal combustion engine, including automobiles, buses, trucks, lawn mowers and other household power equipment, industrial machinery, and other mechanical devices that derive their power from internal combustion engines. The terms include re‑refined oil but do not include heavy greases and specialty industrial or machine oils, such as spindle oils, cutting oils, steam cylinder oils, industrial oils, electrical insulating oils, or solvents ~~which~~that are not sold at retail in this State.

(28) ‘Municipal solid waste landfill’ means ~~any~~a sanitary landfill or landfill unit, publicly or privately owned, that receives household waste. The landfill may also receive other types of solid waste, such as commercial waste, nonhazardous sludge, and industrial solid waste.

(29) ‘Office’ means the Office of Solid Waste Reduction and Recycling established within the Department of Health and Environmental Control pursuant to Section 44‑96‑110.

(30) ‘Owner/operator’ means the person who owns the land on which a solid waste management facility is located or the person who is responsible for the overall operation of the facility, or both.

(31) ‘Person’ means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

(32) ‘Plastic bottle’ means a plastic container intended for single use, which has a neck that is smaller than the body of the container, accepts a screw‑type, snap cap, or other closure, and has a capacity of sixteen fluid ounces or more, but less than five gallons.

(33) ‘Plastic container’ means ~~any~~a container having a wall thickness of not less than one one‑hundredth of an inch used to contain beverages, foods, or nonfood products and composed of synthetic polymeric materials.

(34) ‘Recovered materials’ means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. At least seventy‑five percent by weight of the materials received during the previous calendar year must be used, reused, recycled, or transferred to a different site for use, reuse, or recycling in order to qualify as a recovered material.

(35) ‘Recovered Materials Processing Facility’ means a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. The term does not include a solid waste processing facility; however, solid waste generated by a recovered material processing facility is subject to all applicable laws and regulations relating to the solid waste. The term does not include facilities ~~which~~that thermally treat solid waste principally for volume reduction or for reduction of contaminants. Records must be kept documenting the amount by weight of materials that are received at the facility and used, reused, or recycled or transferred to another site for use, reuse, or recycling. Records ~~must~~ also must be kept which clearly document the location of final disposition of the materials. Records must be made available for inspection by department personnel upon request.

(36) ‘Recyclable material’ means those materials ~~which~~that are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

(37) ‘Recycling’ means ~~any~~a process by which materials ~~which~~that would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products (including composting).

(38) ‘Region’ means a group of counties in South Carolina which is planning to or has prepared, approved, and submitted a regional solid waste management plan to the department pursuant to Section 44‑96‑80.

(39) ‘Regional solid waste management plan’ means a solid waste management plan prepared, approved, and submitted by a group of counties in South Carolina pursuant to Section 44‑96‑80.

(40) ‘Resource recovery’ means the process of obtaining material or energy resources from solid waste ~~which~~that no longer has any useful life in its present form and preparing the waste for recycling.

(41) ‘Resource recovery facility’ means a combination of structures, machinery, or devices utilized to separate, process, modify, convert, treat, or prepare collected solid waste so ~~that~~ component materials or substances or recoverable resources may be used as a raw material or energy source.

(42) ‘Reuse’ means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(43) ‘Rigid plastic container’ means ~~any~~a formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or form with a capacity of eight ounces or more, but less than five gallons.

(44) ‘Sanitary landfill’ means a land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards and meets the design and operation requirements of this chapter.

(45) ‘Secondary lead smelter’ means a facility ~~which~~that produces metallic lead from various forms of lead scrap, including used lead‑acid batteries.

(46) ‘Solid waste’ means ~~any~~ garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi‑solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by‑product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

(47) ‘Solid waste disposal facility’ means ~~any~~a solid waste management facility or part of a facility at which solid waste is intentionally placed into or on ~~any~~ land or water and at which waste will remain after closure.

(48) ‘Solid waste management’ means the systematic control of the generation, collection, source separation, storage, transportation, treatment, recovery, and disposal of solid waste.

(49) ‘Solid waste management facility’ means ~~any~~a solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities ~~which~~that use or ship recovered materials, except that portion of the facilities which is managing solid waste.

(50) ‘Solid Waste Management Grant Program’ means the grant program established and administered by the Office of Solid Waste Reduction and Recycling pursuant to Section 44‑96‑130.

(51) ‘Solid Waste Management Trust Fund’ means the trust fund established within the Department of Health and Environmental Control pursuant to Section 44‑96‑120.

(52) ‘Source reduction’ means the reduction of solid waste before it enters the solid waste stream by methods such as product redesign or reduced packaging.

(53) ‘Source separation’ means the act or process of removing a particular type of recyclable material from other waste at the point of generation or under control of the generator for the purposes of collection, disposition, and recycling.

(54) ‘Specific wastes’ means solid waste ~~which~~that requires separate management provisions, including plastics, used oil, waste tires, lead‑acid batteries, yard trash, compost, and white goods.

(55) ‘State solid waste management plan’ means the plan which the Department of Health and Environmental Control is required to submit to the General Assembly and to the Governor pursuant to Section 44‑96‑60.

(56) ‘Storage’ means the containment of solid waste, either on a temporary basis or for a period of years, in ~~such~~a manner ~~as~~that does not ~~to~~ constitute disposal of ~~such~~the solid waste; ~~provided, however,~~except that storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, if the solid waste in ~~such~~the containers is collected at least once a week, shall not constitute ‘storage’ for purposes of this chapter. The term does not apply to containers provided by or under the authority of a county for the collection and temporary storage of solid waste prior to disposal.

(57) ‘Surface water’ means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within territorial limits, and ~~all~~ other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private.

(58) ‘Tipping fee’ means a charge levied for the disposal of a given quantity of waste at a landfill or other waste processing facility.

(59) ‘Tire’ means the continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle, trailer, or motorcycle as defined in Section 56‑3‑20(2), (4), and (13). It does not include an industrial press‑on tire, with a metal or solid compound rim, which may be retooled.

~~(59)~~(60) ‘Tire retailing business’ means the retail sale of tires in ~~any~~a quantity for any use or purpose by the purchaser other than for resale.

~~(60)~~(61) ‘Transport’ means the movement of solid waste from the point of generation to any intermediate point and finally to the point of ultimate processing, treatment, storage, or disposal.

~~(61)~~(62) ‘Transporter’ means a person engaged in the off‑site transportation of solid waste by air, rail, highway, or water.

~~(62)~~(63) ‘Treatment’ means ~~any~~a technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to storage, recovery, or recycling, safe for disposal, or reduced in volume or concentration.

~~(63)~~(64) ‘Used oil’ means oil that has been refined from crude oil or synthetic oil and that has been used and, as a result of that use, is contaminated by physical or chemical impurities.

~~(64)~~(65) ‘Used oil collection center’ means a facility which, in the course of business, accepts used oil for subsequent disposal or recycling.

~~(65)~~(66) ‘Used oil energy recovery facility’ means a facility that burns more than six thousand gallons of used oil annually for energy recovery.

~~(66)~~(67) ‘Used oil recycling facility’ means a facility that recycles more than six thousand gallons of used oil annually.

~~(67)~~(68) ‘Waste tire’ means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

~~(68)~~(69)(a) ‘Waste tire collection facility’ means a permitted facility used for the storage of waste tires or processed tires before recycling, processing, or disposal.

(b) ‘Waste tire disposal facility’ means a permitted facility where processed waste tires are placed on the land in a manner which constitutes disposal.

(c) ‘Waste tire processing facility’ means a permitted facility where equipment is used to cut, shred, burn for volume reduction, or to otherwise alter whole waste tires. The term includes mobile waste tire processing equipment.

(d) ‘Waste tire recycling facility’ means a permitted facility where waste tires are used as a fuel source or returned to use in the form of products or raw materials.

~~(69)~~(70) ‘Waste tire hauler’ means a person engaged in the picking up or transporting of waste tires for the purpose of storage, processing, or disposal.

~~(70)~~(71) ‘Waste tire site’ means an establishment, site, or place of business, without a collector or processor permit, that is maintained, operated, used, or allowed to be used for the disposal, storing, or depositing of unprocessed used tires, but does not include a truck service facility which meets the following requirements:

(a) all vehicles serviced are owned or leased by the owner or operator of the service facility;

(b) no more than two hundred waste tires are accumulated for a period of not more than thirty days at a time;

(c) the facility does not accept any tires from sources other than its own; and

(d) all waste tires are stored under a covered structure.

~~(71)~~(72) ‘Waste tire treatment site’ means a permitted site used to produce or manufacture usable materials, including fuel, from waste tires.

~~(72)~~(73) ‘Waters of the State’ means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

~~(73)~~(74) ‘White goods’ include refrigerators, ranges, water heaters, freezers, dishwashers, trash compactors, washers, dryers, air conditioners, and commercial large appliances.

~~(74)~~(75) ‘Yard trash’ means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.”

SECTION 3. Section 44‑96‑120(B)(3) of the 1976 Code is amended to read:

“(3) funds generated by the ~~out‑of‑state disposal fee authorized pursuant to Section 44‑96‑80~~tipping fee pursuant to Section 44‑96‑115;”

SECTION 4. This act takes effect upon approval by the Governor.

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