

The Senate Natural Resources and the Environment Committee offered the following substitute to HB 495:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste  
2 management, so as to change certain provisions relating to permit modifications; to provide  
3 that all real property previously used as a manufacturing site or a landfill site shall be tested  
4 for hazardous contamination prior to the construction of any public or private school,  
5 recreational facility, or residential community development on such site; to condition the  
6 issuance of a construction permit on such testing; to provide a short title; to define a term;  
7 to provide for related matters; to provide effective dates; to repeal conflicting laws; and for  
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

10 Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste  
11 management, is amended in Code Section 12-8-24, relating to permits for solid waste or  
12 special solid waste handling, disposal, or thermal treatment technology facilities and  
13 inspection of solid waste generators, by striking in its entirety paragraph (1) of subsection  
14 (e) and inserting in lieu thereof the following:

15  
16 "(e)(1) The director may suspend, modify, or revoke any permit issued pursuant to this  
17 Code section if the holder of the permit is found to be in violation of any of the permit  
18 conditions or any order of the director or fails to perform solid waste handling in  
19 accordance with this part or rules promulgated under this part. The director may modify  
20 any permit issued pursuant to this Code section in accordance with rules promulgated by  
21 the board. All modifications of existing permits shall be classified by the board as either  
22 major or minor modifications. All modifications of existing permits to allow vertical or  
23 horizontal expansion of existing disposal facilities, except a facility operated by a utility  
24 regulated by the Public Service Commission, shall be classified as major permit  
25 modifications and shall not be granted by the director sooner than three years from the  
26 date any such facility commenced operation; provided, however, that a permit may be

1 ~~modified by the director to allow a vertical or horizontal expansion one time within three~~  
 2 ~~years from the date the facility commenced operation so long as the capacity of the~~  
 3 ~~facility is not increased more than 10 percent."~~

4 **SECTION 2.**

5 Said chapter is further amended by inserting at the end thereof a new Article 10 to read as  
 6 follows:

7 "ARTICLE 10

8 12-8-215.

9 This article shall be known and may be cited as the 'Public Safety Land Use Act.'

10 12-8-216.

11 As used in this article, the term 'person' means the State of Georgia or any agency or  
 12 institution thereof and any municipality, county, political subdivision, public or private  
 13 corporation, individual, partnership, association, or other entity in this state or any other  
 14 state.

15 12-8-217.

16 (a)(1) Each person shall be required to test or cause to be tested for hazardous soil  
 17 contamination all real property which has been used previously as a site for  
 18 manufacturing or as a landfill before such real property may be used for constructing a  
 19 new public or private school, a new outdoor recreational facility for public use, or a new  
 20 residential community development.

21 (2) Tax and land use records maintained by local governments shall be the source of  
 22 information to determine whether or not real property has been used for manufacturing  
 23 or a landfill as provided in paragraph (1) of this subsection.

24 (3) The data from the soil testing shall be given by the person applying for a local  
 25 building permit to the local government as part of the building permit application.

26 (b) No local government shall issue a building permit for a project described in subsection  
 27 (a) of this Code section unless the applicant provides proof that the property has been tested  
 28 and is free of harmful levels of hazardous contaminants in the soil.

29 (c) Local governments shall use Rule 391-3-19-.07(6) of the Board of Natural Resources  
 30 as the criteria to determine if the property is free of harmful levels of hazardous  
 31 contaminants in the soil.

1 (d) The director of the Environmental Protection Division of the department shall prepare  
2 a soil testing guidance document to be used by property owners and local governments.

3 (e) This article shall be self-enforcing and the Environmental Protection Division of the  
4 department is not authorized to enforce this article. Persons failing to comply with the  
5 provisions of this article shall not be subject to the penalties of Code Sections 12-8-81 and  
6 12-8-82."

7 **SECTION 3.**

8 (a) Section 1, this section, and Section 4 of this Act shall become effective on July 1, 2004.

9 (b) Section 2 of this Act shall become effective on July 1, 2005, except the guidance  
10 document required under subsection (d) of Code Section 12-8-217 shall be prepared by May  
11 1, 2005.

12 **SECTION 4.**

13 All laws and parts of laws in conflict with this Act are repealed.