

Senate Bill 122

By: Senators Whitehead, Sr. of the 24th, Grant of the 25th and Cagle of the 49th

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia  
 2 Annotated, relating to general provisions relative to solid waste management, so as to change  
 3 certain provisions relating to general provisions relative to solid waste management; to  
 4 change certain provisions relating to declaration of policy and legislative intent; to change  
 5 certain provisions relating to definitions; to change certain provisions relating to permits for  
 6 solid waste or special solid waste handling, disposal, or thermal treatment technology  
 7 facilities and inspection of solid waste generators; to change certain provisions local,  
 8 multijurisdictional, or regional solid waste plans; to change certain provisions relating to  
 9 limits on the number of solid waste facilities within a given area; to change certain provisions  
 10 relating to tire disposal restrictions; to change certain provisions relating to yard trimming  
 11 disposal restrictions; to provide an effective date; to repeal conflicting laws; and for other  
 12 purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,  
 16 relating to general provisions relative to solid waste management, is amended by striking  
 17 subsection (a) of Code Section 12-8-21, relating to declaration of policy and legislative  
 18 intent, and inserting in lieu thereof the following:

19 "(a) It is declared to be the policy of the State of Georgia, in furtherance of its  
 20 responsibility to protect the public health, safety, and well-being of its citizens and to  
 21 protect and enhance the quality of its environment, to institute and maintain a  
 22 comprehensive state-wide program for solid waste management ~~which will~~ and to prevent  
 23 and abate litter, so as to assure that solid waste ~~facilities, whether publicly or privately~~  
 24 ~~operated, do~~ does not adversely affect the health, safety, and well-being of the public and  
 25 that solid waste facilities, whether publicly or privately owned, do not degrade the quality  
 26 of the environment by reason of their location, design, method of operation, or other means

1 and which, to the extent feasible and practical, makes maximum utilization of the resources  
2 contained in solid waste."

3 **SECTION 2.**

4 Said part is further amended by striking subsection (c) of Code Section 12-8-21, relating to  
5 declaration of policy and legislative intent, and inserting in lieu thereof the following:

6 "(c) It is the intent of the General Assembly that every effort be undertaken to reduce on  
7 a state-wide per capita basis the amount of municipal solid waste being received at disposal  
8 facilities ~~during fiscal year 1992 by 25 percent by July 1, 1996; provided, however, that~~  
9 ~~counties and municipalities that establish an annual measurement of municipal solid waste~~  
10 ~~being received at disposal facilities prior to the end of fiscal year 1992 shall be given credit~~  
11 ~~for reductions achieved based on that measurement period prior to fiscal year 1992;~~  
12 ~~provided, further, that municipal solid waste received at any waste to energy facility which~~  
13 ~~was in operation on January 1, 1991, is exempted from this subsection."~~

14 **SECTION 3.**

15 Said part is further amended in Code Section 12-8-22, relating to definitions, by inserting a  
16 new paragraph to read as follows:

17 "(5.1) 'Construction or demolition waste' means waste building materials and rubble  
18 resulting from construction, remodeling, repair, or demolition operations on pavements,  
19 houses, commercial buildings, and other structures. Such waste includes but is not  
20 limited to waste containing asbestos, wood, bricks, metal, concrete, wallboard, paper,  
21 cardboard, and other nonputrescible wastes associated with construction and demolition  
22 activities which have a low potential for ground-water contamination. Inert waste landfill  
23 materials approved by the board for disposal in landfills permitted by rule and regulation  
24 are also included in this definition if disposed in a construction or demolition waste  
25 landfill."

26 **SECTION 4.**

27 Said part is further amended by striking paragraph (12) of Code Section 12-8-22, relating to  
28 definitions, and inserting in lieu thereof the following:

29 "(12) 'Hazardous constituent' means any substance listed as a hazardous constituent in  
30 regulations promulgated pursuant to the federal act by the administrator of the United  
31 States Environmental Protection Agency which are in force and effect on February 1,  
32 ~~1992~~ 2004, codified as Appendix VIII to 40 C.F.R. Part 261 — Identification and Listing  
33 of Hazardous Waste."

**SECTION 5.**

Said part is further amended in Code Section 12-8-22, relating to definitions, by inserting a new paragraph to read as follows:

"(15.1) 'Litter' has the meaning provided by Code Section 16-7-42."

**SECTION 6.**

Said part is further amended by striking paragraph (18) of Code Section 12-8-22, relating to definitions, and inserting in lieu thereof the following:

"(18) 'Municipal solid waste' means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings, construction or demolition waste, and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations."

**SECTION 7.**

Said part is further amended by striking paragraph (5) of subsection (e) of Code Section 12-8-24, relating to permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facilities and inspection of solid waste generators, and inserting in lieu thereof the following:

"(5) Modifications for vertical expansions issued under this Code section may be restricted in duration, but in no case shall be effective ~~beyond July 1, 1998~~, for municipal solid waste landfills not having liners and leachate collection systems, other than those landfills restricted to construction or demolition waste."

**SECTION 8.**

Said part is further amended by striking subsection (g) of Code Section 12-8-24, relating to permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facilities and inspection of solid waste generators, and inserting in lieu thereof the following:

"(g) Prior to the issuance of any permit for a solid waste handling facility or the granting of any major modification of an existing solid waste handling permit, the director shall require written verification to be furnished by the applicant that the proposed facility complies with local zoning or land use ordinances, if any; and after July 1, 1992, that the proposed facility is consistent with the local, multijurisdictional, or regional solid waste management plan developed in accordance with standards promulgated pursuant to this

1 part subject to the provisions of Code Section 12-8-31.1 and that the host jurisdiction and  
 2 all jurisdictions generating solid waste destined for the applicants' facility can demonstrate  
 3 that they are part of an approved solid waste plan developed in accordance with standards  
 4 promulgated pursuant to this part ~~and are actively involved in and have a strategy for~~  
 5 ~~meeting the state-wide goal of waste reduction by July 1, 1996. Upon receipt of a permit~~  
 6 ~~application, the director shall review the local, multijurisdictional, or regional solid waste~~  
 7 ~~management plan to determine if the permit application is fully consistent with the plan.~~  
 8 ~~If the director identifies an inconsistency between the permit and the plan, the director shall~~  
 9 ~~notify the applicant and shall not act further upon the application until such time as the~~  
 10 ~~application is revised and the director determines the application to be fully consistent with~~  
 11 ~~the plan.~~ Prior to the issuance of any permit for a solid waste handling facility or the  
 12 granting of any major modification of an existing solid waste handling permit that will  
 13 handle solid waste from jurisdictions outside Georgia, the out-of-state solid waste  
 14 generating jurisdictions shall provide documentation that they have a strategy for and are  
 15 actively involved in meeting planning requirements and a waste reduction goal that are  
 16 substantially equivalent to the planning requirements and waste reduction goal contained  
 17 in this part."

#### 18 SECTION 8A.

19 Said part is further amended in Code Section 12-8-25.4, relating to limits on the number of  
 20 solid waste facilities within a given area, by adding a new subsection to read as follows:

21 "(f) Subsection (b) of this Code section shall not apply to any landfill restricted to  
 22 construction or demolition waste which would otherwise be in compliance with any  
 23 applicable local ordinances for land use and zoning."

#### 24 SECTION 9.

25 Said part is further amended by striking subsection (e) of Code Section 12-8-31.1, relating  
 26 to local, multijurisdictional, or regional solid waste plans, and inserting in lieu thereof the  
 27 following:

28 "(e) ~~After July 1, 1992, no~~ No permit, grant, or loan shall be issued for any municipal solid  
 29 waste disposal facility or any solid waste handling equipment or recycling equipment used  
 30 in conjunction therewith in a county or region which is not consistent with a local,  
 31 multijurisdictional, or regional solid waste management plan. Each application for a permit,  
 32 grant, or loan ~~issued after July 1, 1992,~~ shall include the following:

- 33 (1) Certification that the facility for which a permit is sought complies with local land  
 34 use and zoning requirements, if any;

1 (2) Verification that the facility for which a permit is sought meets the ten-year capacity  
 2 needs identified in the local, multijurisdictional, or regional solid waste management  
 3 plan; and

4 (3) Demonstration that the host jurisdiction and all jurisdictions generating solid waste  
 5 destined for the applicant's facility are part of an approved solid waste management plan  
 6 developed in accordance with standards promulgated pursuant to this part, ~~and are~~  
 7 ~~actively involved in, and have a strategy for, meeting the state-wide goal for reduction~~  
 8 ~~of solid waste disposal by July 1, 1996.~~

9 Upon receipt of a permit application, the director shall review the local, multijurisdictional,  
 10 or regional solid waste management plan to determine if the permit application is fully  
 11 consistent with the plan. If the director identifies an inconsistency between the permit and  
 12 the plan, the director shall notify the applicant and shall not act further upon the application  
 13 until such time as the application is revised and the director determines the application to  
 14 be fully consistent with the plan."

#### 15 SECTION 10.

16 Said part is further amended by striking subsection (c) of Code Section 12-8-37.1, relating  
 17 to authorization for state grants, and inserting in lieu thereof the following:

18 "(c) The corpus of the solid waste trust fund established in Code Section 12-8-27.1 may  
 19 be used to make grants and loans to cities and counties, any combination of cities and  
 20 counties, authorities, state agencies, or the Georgia Recycling Market Development  
 21 Council for the cleanup of solid waste disposal facilities, including those used for the  
 22 disposal of scrap tires; for the development and implementation of solid waste enforcement  
 23 programs for the prevention and abatement of illegal dumping of solid waste, including  
 24 without limitation the prevention and abatement of litter; for the funding of grants or loans,  
 25 in accordance with procedures developed by the division; for the implementation of  
 26 innovative technologies for the recycling and reuse of solid waste, including without  
 27 limitation scrap tires; and for educational and other efforts to promote waste reduction,  
 28 recycling, and recycling market development."

#### 29 SECTION 11.

30 Said part is further amended by striking paragraph (1) of subsection (c) of Code Section  
 31 12-8-40.1, relating to tire disposal restrictions, and inserting in lieu thereof the following:

32 "(c)(1) No person shall collect or transport scrap tires for the purpose of processing or  
 33 disposal, process scrap tires, or purport to be in the business of ~~collecting or transporting~~  
 34 collecting, transporting, or processing scrap tires unless the person has a scrap tire carrier  
 35 or processor permit issued by the division. For purposes of this paragraph, the term

1 'process scrap tires' means any method, system, or other treatment designed to change the  
 2 physical form, size, or chemical content of scrap tires for beneficial use.'

### 3 SECTION 12.

4 Said part is further amended by striking paragraph (3) of subsection (h) of Code Section  
 5 12-8-40.1, relating to tire disposal restrictions, and inserting in lieu thereof the following:

6 "(3) The tire fees authorized in this subsection shall cease to be collected on June 30,  
 7 ~~2005~~ 2008. The director shall make an annual report to the House Committee on Natural  
 8 Resources and the Environment and the Senate Natural Resources and Environment  
 9 Committee regarding the status of the ~~scrap tire program~~ activities funded by the solid  
 10 waste trust fund.'

### 11 SECTION 13.

12 Said part is further amended by striking subsection (k) of Code Section 12-8-40.1, relating  
 13 to tire disposal restrictions, and inserting in lieu thereof the following:

14 "(k) The director shall be authorized to order the cessation of operation of any scrap tire  
 15 carrier or processor who is found not to be operating in compliance with this part or rules  
 16 adopted pursuant to this part and the seizure of all property used in such unlawful  
 17 operations; provided, however, that the scrap tire carrier or processor shall be afforded a  
 18 hearing within 48 hours before an administrative law judge of the Department of Natural  
 19 Resources upon such order of the director."

### 20 SECTION 14.

21 Said part is further amended by striking subsection (l) of Code Section 12-8-40.1, relating  
 22 to tire disposal restrictions, and inserting in lieu thereof the following:

23 "(l)(1) A performance bond or letter of credit shall be provided to the director by a scrap  
 24 tire carrier or processor prior to issuance of a permit for collecting or processing scrap  
 25 tires to ensure compliance with the provisions of this part.

26 (2) The bond or letter of credit required in this subsection shall be:

27 (A) Conditioned upon compliance with this part, any rules adopted pursuant to this  
 28 part, and the carrier's or processor's permit; and

29 (B) In such amount as determined by the director necessary to ensure compliance, ~~but~~  
 30 ~~in any event not to exceed \$10,000.00~~ in accordance with rules and regulations  
 31 promulgated by the board to determine the appropriate amount of financial assurance.

32 (3) Such performance bond or letter of credit shall be payable to the director and issued  
 33 by an insurance company authorized to issue such bonds in this state or from a bank or  
 34 other financial institution authorized to issue irrevocable letters of credit.

1 (4) Upon a determination by the director that a scrap tire carrier or processor has failed  
 2 to meet the provisions of this part, rules promulgated pursuant to this part, or its permit,  
 3 the director may, after written notice of such failure:

4 (A) Forfeit or draw that amount of such bond or letter of credit that the director  
 5 determines necessary to correct the violation;

6 (B) Expend such amount for such purposes; and

7 (C) Require the replacement of that amount of such bond or letter of credit forfeited  
 8 or drawn upon.

9 (5) Any moneys received by the director in accordance with paragraph (4) of this  
 10 subsection shall be deposited into the solid waste trust fund established in Code Section  
 11 12-8-27.1."

### 12 SECTION 15.

13 Said part is further amended by striking subsection (a) of Code Section 12-8-40.2, relating  
 14 to yard trimming disposal restrictions, and inserting in lieu thereof the following:

15 "(a) ~~Effective September 1, 1996, each~~ Each city, county, or solid waste management  
 16 authority shall impose restrictions on yard trimmings which are generated in or may  
 17 ultimately be disposed of in its area of jurisdiction. These restrictions shall include but are  
 18 not limited to:

19 (1) A requirement that yard trimmings not be placed in or mixed with municipal solid  
 20 waste, except at landfills restricted to construction or demolition waste;

21 (2) A ban on the disposal of yard trimmings at municipal solid waste disposal facilities  
 22 having liners and leachate collection systems or requiring vertical expansion within its  
 23 jurisdiction;

24 (3) A requirement that yard trimmings be sorted and stored for collection in such a  
 25 manner as to facilitate collection, composting, or other handling; and

26 (4) A requirement that yard trimmings be sorted and stockpiled or chipped, composted,  
 27 used as mulch, or otherwise beneficially reused or recycled to the maximum extent  
 28 feasible."

### 29 SECTION 16.

30 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 31 without such approval.

### 32 SECTION 17.

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