

Senate Bill 490

By: Senators Tolleson of the 20th and Bulloch of the 11th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 3 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,
2 relating to hazardous waste, so as to amend certain definitions relating to hazardous waste;
3 to update certain provisions to make such provisions consistent with federal regulations; to
4 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
5 other purposes.

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

7 **SECTION 1.**

8 Article 3 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to
9 hazardous waste, is amended in Part 1, relating to hazardous waste management, by revising
10 Code Section 12-8-62, relating to definitions, as follows:

11 "12-8-62.

12 As used in this part, the term:

13 (1) 'Board' means the Board of Natural Resources of the State of Georgia.

14 (2) 'Designated hazardous waste' means any solid waste identified as such in regulations
15 promulgated by the board. The board may identify as 'designated hazardous waste' any
16 solid waste which the board concludes is capable of posing a substantial present or
17 potential hazard to human health or the environment when improperly treated, stored,
18 transported, or disposed of or otherwise managed, based on the factors set forth in
19 regulations promulgated by the administrator of the United States Environmental
20 Protection Agency pursuant to the federal act which are codified as 40 C.F.R. Section
21 261.11(a)(3), in force and effect on February 1, ~~1996~~ 2010, if such solid waste contains
22 any substance which is listed on any one or more of the following lists:

23 (A) List of Hazardous Constituents, codified as 40 C.F.R. Part 261, Appendix VIII, in
24 force and effect on February 1, ~~1996~~ 2010;

25 (B) Ground-water Monitoring List, codified as 40 C.F.R. Part 264, Appendix IX, in
26 force and effect on February 1, ~~1996~~ 2010;

- 27 (C) List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R.
28 Table 302.4, and all appendices thereto, in force and effect on February 1, ~~1996~~ 2010;
- 29 (D) List of Regulated Pesticides, codified as 40 C.F.R. Part 180, in force and effect on
30 February 1, ~~1996~~ 2010;
- 31 (E) List of Extremely Hazardous Substances and Their Threshold Planning Quantities,
32 codified as 40 C.F.R. Part 355, Appendix A, in force and effect on February 1, ~~1996~~
33 2010; or
- 34 (F) List of Chemicals and Chemical Categories, codified as 40 C.F.R. Part 372.65 in
35 force and effect on February 1, ~~1996~~ 2010.
- 36 (3) 'Director' means the director of the Environmental Protection Division of the
37 Department of Natural Resources.
- 38 (4) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking, or
39 placing of any solid waste or hazardous waste into or on any land or water so that such
40 solid waste or hazardous waste or any constituent thereof may enter the environment or
41 be emitted into the air or discharged into any waters, including ground waters.
- 42 (5) 'Division' means the Environmental Protection Division of the Department of Natural
43 Resources.
- 44 (6) 'Federal act' means the federal Solid Waste Disposal Act, as amended, particularly
45 by the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C.
46 Section 6901, et seq.), as amended, particularly by but not limited to the Used Oil
47 Recycling Act of 1980 (Public Law 96-463), the Solid Waste Disposal Act Amendments
48 of 1980 (Public Law 96-482), the Comprehensive Environmental Response,
49 Compensation, and Liability Act of 1980 (Public Law 96-510), the Hazardous and Solid
50 Waste Amendments of 1984 (Public Law 98-616), and the Superfund Amendments and
51 Reauthorization Act of 1986 (Public Law 99-499), as amended.
- 52 (7) 'Final disposition' means the location, time, and method by which hazardous waste
53 loses its identity or enters the environment, including, but not limited to, disposal,
54 disposal site closure and post closure, resource recovery, and treatment.
- 55 (8) 'Guarantor' means any person, other than the owner or operator, who provides
56 evidence of financial responsibility for an owner or operator pursuant to this article.
- 57 (9) 'Hazardous constituent' means any substance listed as a hazardous constituent in
58 regulations promulgated by the administrator of the United States Environmental
59 Protection Agency pursuant to the federal act which are in force and effect on February
60 1, ~~1996~~ 2010, codified as Appendix VIII to 40 C.F.R. Part 261—Identification and
61 Listing of Hazardous Waste.
- 62 (10) 'Hazardous waste' means any solid waste which has been defined as a hazardous
63 waste in regulations promulgated by the administrator of the United States Environmental

64 Protection Agency pursuant to the federal act which are in force and effect on ~~January 1,~~
65 ~~2006~~ February 1, 2010, codified as 40 C.F.R. Section 261.3 and any designated
66 hazardous waste.

67 (11) 'Hazardous waste facility' means any property or facility that is intended or used for
68 storage, treatment, or disposal of hazardous waste.

69 (12) 'Hazardous waste generation' means the act or process of producing hazardous
70 waste.

71 (13) 'Hazardous waste management' means the systematic recognition and control of
72 hazardous wastes from generation to final disposition or disposal, including, but not
73 limited to, identification, containerization, labeling, storage, collection, source separation,
74 transfer, transportation, processing, treatment, facility closure, post closure, perpetual
75 care, resource recovery, and disposal.

76 (14) 'Land disposal' means any placement of hazardous waste in a landfill, surface
77 impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt
78 bed formation, or underground mine or cave.

79 (15) 'Large quantity generator' means a hazardous waste generator who generates 2.2
80 pounds or more of acute hazardous waste or 2,200 pounds or more of hazardous waste
81 in one month, as defined in the Rules for Hazardous Waste Management, Chapter
82 391-3-11, of the Board of Natural Resources.

83 (16) 'Manifest' means a form or document used for identifying the quantity and
84 composition, and the origin, routing and destination, of hazardous waste during its
85 transportation from the point of generation, through any intermediate points, to the point
86 of disposal, treatment, or storage.

87 (17) 'Organization' means a legal entity, other than a government agency or authority,
88 established or organized for any purpose, and such term includes a corporation, company,
89 association, firm, partnership, joint stock company, foundation, institution, trust, society,
90 union, or any other association of persons.

91 (18) 'Person' means an individual, trust, firm, joint stock company, corporation
92 (including a government corporation), partnership, association, municipality,
93 commission, or political subdivision, or any agency, board, department, or bureau of this
94 state or of any other state or of the federal government.

95 (19) 'Serious bodily injury' means a bodily injury which involves a substantial risk of
96 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
97 protracted loss or impairment of the function of a bodily member, organ, or mental
98 faculty.

99 (20) 'Solid waste' means solid waste as defined by regulations promulgated by the
100 administrator of the United States Environmental Protection Agency pursuant to the

101 federal act which are in force and effect on February 1, ~~1996~~ 2010, codified as 40 C.F.R.
 102 Sections 261.1, 261.2(a)-(d), and 261.4(a).

103 (21) 'Storage' means the containment or holding of hazardous waste, either on a
 104 temporary basis or for a period of years, in such a manner as not to constitute disposal of
 105 such hazardous waste.

106 (22) 'Transport' means the movement of hazardous waste from the point of generation
 107 to any point of final disposition, storage, or disposal, including any intermediate point.

108 (23) 'Treatment' means any method, technique, or process, including neutralization,
 109 designed to change the physical, chemical, or biological character or composition of any
 110 hazardous waste so as to neutralize such waste or so as to render such waste
 111 nonhazardous, safe for transport, amenable for recovery, amenable for storage, or reduced
 112 in volume. Such term includes any activity or processing designed to change the physical
 113 form or chemical composition of hazardous waste so as to render it nonhazardous.

114 (24) 'Waste reduction' means a practice, other than dewatering, dilution, or evaporation,
 115 by an environmental waste generator, including changes in production technology,
 116 materials, processes, operations or procedures or use of in-process, in-line, or closed loop
 117 recycling according to standard engineering practices, that reduces the environmental and
 118 health hazards associated with waste without diluting or concentrating the waste before
 119 release, handling, storage, transport, treatment, or disposal of the waste. The term does
 120 not include a practice applied to environmental waste after it is generated and exits a
 121 production or commercial operation. Waste reduction shall not in any way be inferred
 122 to promote, include, or require:

123 (A) Waste burning in industrial furnaces, boilers, or cement kilns;

124 (B) Transfer of an environmental waste from one environmental medium to another
 125 environmental medium (otherwise known as waste shifting);

126 (C) Conversion of a potential waste into another form for use in a production process
 127 or operation without serving any substantial productive function;

128 (D) Off-site waste recycling; or

129 (E) Any other method of end-of-pipe management of environmental wastes."

130 **SECTION 2.**

131 Said article is further amended in Part 2, relating to hazardous site response, by revising
 132 Code Section 12-8-92, relating to definitions, as follows:

133 "12-8-92.

134 Unless otherwise defined in this part, the definition of all terms included in Code Section
 135 12-8-62 shall be applicable to this part. As used in this part, the term:

- 136 (1) 'Corrective action contractor' means any person contracting with the division to
137 perform any activities authorized to be paid from the hazardous waste trust fund.
- 138 (2) 'Environment' means:
- 139 (A) The navigable waters, the waters of the contiguous zone, and the ocean waters of
140 which the natural resources are under the exclusive management authority of the United
141 States under the Magnuson Fishery Conservation and Management Act; and
- 142 (B) Any other surface water, ground water, drinking water supply, land surface or
143 subsurface strata, or ambient air within the United States or under the jurisdiction of the
144 United States.
- 145 (3) 'Facility' means:
- 146 (A) Any building, structure, installation, equipment, pipe or pipeline, pipe into a sewer
147 or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch,
148 landfill, storage container, motor vehicle, rolling stock, or aircraft; or
- 149 (B) Any site or area where a hazardous waste, hazardous constituent, or hazardous
150 substance has been deposited, stored, disposed of, placed, or has otherwise come to be
151 located.
- 152 This term does not include any consumer product in consumer use but does include any
153 vessel.
- 154 (4) 'Hazardous substance' means any substance listed on the List of Hazardous
155 Substances and Reportable Quantities, codified as 40 C.F.R., Part 302, Table 302.4, in
156 force and effect on February 1, ~~1996~~ 2010, or any substance listed on the List of
157 Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as
158 40 C.F.R., Part 355, Appendix A, in force and effect on ~~January 1, 2006~~ February 1,
159 2010.
- 160 (5) 'Inventory' means the hazardous site inventory compiled and updated by the division
161 pursuant to Code Section 12-8-97.
- 162 (6) 'Onshore facility' means any facility of any kind including, but not limited to, motor
163 vehicles and rolling stock located in, on, or under any land or nonnavigable waters within
164 the United States.
- 165 (7) 'Owner' or 'operator' means:
- 166 (A) In the case of a vessel, any person owning, operating, or chartering by demise such
167 vessel;
- 168 (B) In the case of an onshore facility or an offshore facility, any person owning or
169 operating such facility; and
- 170 (C) In the case of any facility, title or control of which was conveyed due to
171 bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of

172 state or local government, any person who owned, operated, or otherwise controlled
173 activities at such facility immediately beforehand.

174 Such term does not include a person who holds indicia of ownership primarily to protect
175 said person's security interest in the facility or who acts in good faith solely in a fiduciary
176 capacity and who did not actively participate in the management, disposal, or release of
177 hazardous wastes, hazardous constituents, or hazardous substances from the facility.
178 Such term does not include a unit of state or local government which acquired ownership
179 or control involuntarily through bankruptcy, tax delinquency, abandonment, or other
180 circumstances in which the government involuntarily acquires title by virtue of its
181 function as sovereign; provided, however, that this exclusion shall not apply to any state
182 or local government which has caused or contributed to the release of a hazardous waste,
183 hazardous constituent, or hazardous substance from the facility.

184 (8) 'Person' means an individual, trust, firm, joint-stock company, corporation,
185 partnership, association, authority, county, municipality, commission, political
186 subdivision of this state, or any agency, board, department, or bureau of any other state
187 or of the federal government.

188 (9) 'Person who has contributed or who is contributing to a release' means:

189 (A) The owner or operator of a facility;

190 (B) Any person who at the time of disposal of any hazardous waste, hazardous
191 constituent, or hazardous substance owned or operated any facility at which such
192 hazardous waste, hazardous constituent, or hazardous substance was disposed of;

193 (C) Any person who by contract, agreement, or otherwise arranged for disposal or
194 treatment of or arranged with a transporter for transport for disposal or treatment of
195 hazardous wastes, hazardous constituents, or hazardous substances owned or possessed
196 by such person or by any other party or entity at any facility owned or operated by
197 another party or entity and containing such hazardous wastes, hazardous constituents,
198 or hazardous substances. A person who arranged for the recycling of recovered
199 materials consisting solely of scrap paper, scrap plastic, scrap glass, scrap textiles, scrap
200 rubber other than whole tires, scrap metal or spent lead-acid, nickel-acid,
201 nickel-cadmium, and other batteries, and not consisting of any residue from a pollution
202 control device, shall not be deemed to have arranged for treatment or disposal under
203 this subparagraph; and

204 (D) Any person who accepts or accepted any hazardous wastes, hazardous constituents,
205 or hazardous substances for transport to disposal or treatment facilities or sites selected
206 by such person, from or at which facility or site there is a release of a hazardous waste,
207 a hazardous constituent, or a hazardous substance.

208 (10) 'Pollution prevention' means:

209 (A) The elimination at the source of the use, generation, or release of hazardous
210 constituents, hazardous substances, or hazardous wastes; or

211 (B) Reduction at the source in the quantity and toxicity of such substances.

212 (11) 'Release' means any intentional or unintentional act or omission resulting in the
213 spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping,
214 leaching, dumping, or disposing into the environment, including without limitation the
215 abandonment or discarding of barrels, containers, and other closed receptacles, of any
216 hazardous waste, hazardous constituent, or hazardous substance; provided, however, that
217 such term shall not include any release which results in exposure to persons solely within
218 a workplace, with respect to a claim which such persons may assert against the employer
219 of such persons; emissions from the engine exhaust of any motor vehicle, rolling stock,
220 aircraft, vessel, or pipeline pumping station; or the normal application of fertilizer.

221 (12) 'Site' means that portion of the owner's contiguous property and any other owner's
222 property affected by a release exceeding a reportable quantity.

223 (13) 'Small quantity generator' means a hazardous waste generator who generates greater
224 than 220 pounds but less than 2,200 pounds of hazardous waste in one month, as
225 provided by rules promulgated by the board in accordance with this article."

226 **SECTION 3.**

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

229 **SECTION 4.**

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