

Senate Bill 490

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

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"12-8-62.

As used in this part, the term:

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

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

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

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

(C) List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R. Table 302.4, and all appendices thereto, in force and effect on February 1, ~~1996~~ 2010;

(D) List of Regulated Pesticides, codified as 40 C.F.R. Part 180, in force and effect on February 1, ~~1996~~ 2010;

(E) List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 C.F.R. Part 355, Appendix A, in force and effect on February 1, ~~1996~~ 2010; or

(F) List of Chemicals and Chemical Categories, codified as 40 C.F.R. Part 372.65 in force and effect on February 1, ~~1996~~ 2010.

(3) 'Director' means the director of the Environmental Protection Division of the Department of Natural Resources.

(4) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(5) 'Division' means the Environmental Protection Division of the Department of Natural Resources.

(6) 'Federal act' means the federal Solid Waste Disposal Act, as amended, particularly by the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. Section 6901, et seq.), as amended, particularly by but not limited to the Used Oil Recycling Act of 1980 (Public Law 96-463), the Solid Waste Disposal Act Amendments of 1980 (Public Law 96-482), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510), the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616), and the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499), as amended.

(7) 'Final disposition' means the location, time, and method by which hazardous waste loses its identity or enters the environment, including, but not limited to, disposal, disposal site closure and post closure, resource recovery, and treatment.

(8) 'Guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to this article.

(9) 'Hazardous constituent' means any substance listed as a hazardous constituent in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on February 1, ~~1996~~ 2010, codified as Appendix VIII to 40 C.F.R. Part 261—Identification and Listing of Hazardous Waste.

(10) 'Hazardous waste' means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Off-site waste recycling; or

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

SECTION 2.

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

"12-8-92.

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

(1) 'Corrective action contractor' means any person contracting with the division to perform any activities authorized to be paid from the hazardous waste trust fund.

(2) 'Environment' means:

(A) The navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act; and

(B) Any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

(3) 'Facility' means:

(A) Any building, structure, installation, equipment, pipe or pipeline, pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

(B) Any site or area where a hazardous waste, hazardous constituent, or hazardous substance has been deposited, stored, disposed of, placed, or has otherwise come to be located.

This term does not include any consumer product in consumer use but does include any vessel.

(4) 'Hazardous substance' means any substance listed on the List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R., Part 302, Table 302.4, in force and effect on February 1, ~~1996~~ 2010, or any substance listed on the List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 C.F.R., Part 355, Appendix A, in force and effect on ~~January 1, 2006~~ February 1, 2010.

(5) 'Inventory' means the hazardous site inventory compiled and updated by the division pursuant to Code Section 12-8-97.

(6) 'Onshore facility' means any facility of any kind including, but not limited to, motor vehicles and rolling stock located in, on, or under any land or nonnavigable waters within the United States.

(7) 'Owner' or 'operator' means:

(A) In the case of a vessel, any person owning, operating, or chartering by demise such vessel;

(B) In the case of an onshore facility or an offshore facility, any person owning or operating such facility; and

(C) In the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of

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

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

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

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

(A) The owner or operator of a facility;

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

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

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

(10) 'Pollution prevention' means:

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

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

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

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

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

SECTION 3.

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

SECTION 4.

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